

Securities and Exchange Commission

HISTORICAL SOCIETY

Interview with Randall Fons, March 12, 2024, conducted by Historian Kenneth Durr

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KD: This is an interview with Randall Fons for the SEC Historical Society's Virtual Museum and Archive on the history of Financial Regulation. Today is March 12th, 2024, and I'm Kenneth Durr. Randy, thanks for meeting with me today.

RF: It's my pleasure. This will be fun.

KD: Well, I always like to start by going back a little bit and getting some background. Let's talk about where you're from, where you went to undergrad, that sort of thing.

RF: Okay, so I am from Wisconsin. I'm a proud badger because I went to the University of Wisconsin in Madison. I started off always knowing I was going to law school, so I started off in political science and then almost immediately transferred to accounting, so I ultimately got my Bachelor of Business Administration in accounting.

KD: So, you knew you were going to law school, but you studied accounting. What's behind that?

RF: You know what? To be honest with you, again, I started with poli sci because I figured that was sort of the classic route, and to be completely honest, I couldn't get into the poli sci courses because they were all full. I knew a couple of folks who were pursuing accounting degrees, and my brain works in sort of that kind of logic, and so I went into accounting and actually it was probably the best thing that happened.

KD: Right, fortuitous. Then law school, where did you go to law school?

RF: I went to the University of Colorado. I had been out to Colorado several times on my spring breaks rather than going to Panama City, Florida or Texas or those sorts of places. My friends and I always came out to Colorado and went skiing and really, really sort of fell in love with the state, so ultimately applied there and ended up at CU.

KD: Did you take any securities law at all when you were studying?

RF: I did. I took two different classes that sort of touched on it. One was a corporations class, which wasn't really securities per se, but it went into sort of how corporations work, the organizational structures, a lot of those sorts of things. And then I did take a securities specific class with a great professor, Ted Fiflis, who worked on the Ma Bell breakup from many, many years ago. He told great stories, and frankly, ultimately it was his stories in that class that got me interested in securities.

KD: Okay. Did you go straight to the SEC from law school?

RF: I got out of law school—I'm going to age myself now—I got out of law school in 1987, and I spent one year clerking for the presiding judge in the Wisconsin State Court of Appeals in Milwaukee. I was there for a year, and while I was there, I sent an application into the SEC in Chicago to join their staff. I honestly don't remember whether I was specific enough to ask for enforcement or examination, but Anita Nagler, who was running enforcement at the time, got back ahold of me and I went down for an interview and ultimately got a job a year out of law school.

KD: Did you interview with Anita Nagler?

RF: I did. I interviewed with Anita Nagler, Mary Keefe. I honestly don't know whether you've spoken with her or not ... She ultimately became the regional director ... Joyce Glenn, who was an assistant regional director at the time, and a few others.

KD: What was your impression coming out of law school, being fairly new at the game? What did you think of the Chicago regional office?

RF: So, I thought a couple things. One, the management of the office was really, to my mind, exceptional. Again, what do I know just coming out of law school about exceptional management? But I always felt very, very supported, and I know that's a little bit trite, but there really was an atmosphere of all you have to do is ask and you'll get what you need, whether it is as mundane as somebody going to find supplies to somebody to sit down and talk through the issues of how you're supposed to be dealing with work, whether that's cases or just you're a young dopey kid coming into a big office, how does this work life sort of thing go? I went straight to law school out of college, so I didn't have any real-life work experience other than high school and college jobs, and so I didn't know really how it all worked, and I found the support structure there to be amazing.

Again, that's beyond just the cases, right, where people would sit down, and you talk them through. I remember, for example, my first call that I needed to make to somebody who appeared to be running a scam. I was nervous as all got out. My branch chief was gone. Anita Nagler was directly overseeing a couple of branches then just because of short-term staffing issues. She was

way, way too busy to be dealing with me, and so I walked into Mary Keefe's office and Mary sat down with me, said, "Okay, here's what's going to happen, and you're going to do the call now." It was great, I think the management structure was fabulous. The responsibility that was given to new people coming in was a little overwhelming maybe at the time, but probably overwhelming because I was new and young and didn't have any idea what was going on. But you come in and they're like, "Okay, on your desk there are files for four cases. Go take a look at them, see if you can figure out what's going on, see what sort of questions you've got, and we'll go from there."

KD: You're a staff attorney at this point? Is that right?

RF: Yes.

KD: Was there a kind of case that staff attorneys would normally get? Chicago's a big regional office, second to New York. Some big stuff's happening. Would the staff attorneys get the pump and dump cases, things like that?

RF: Well, I think that the staff attorneys got pretty much a selection of the entire array of cases that were going on from the pump and dumps to—one of my early cases was an investment advisor that was running a scam and we needed to go in and get a TRO. So again, I went with Anita Nagler into the court and my knees were shaking, but we went in and got the TRO. Chicago, as you know, is a big office. They've also got a lot of public companies there, so there were always public company financial reporting type cases going on. Chicago had, I think, outside of New York, probably the largest examination program. I think it was also one of the most experienced examination programs, and one of the programs that throughout my tenure at the SEC, both before and after OCIE, Chicago was very much relied on to be part of the big examination sweeps or nationwide programmatic type planning and training and strategizing and those sorts of things. So, we had a lot of referrals that came out of the exam program, and I think the staff attorneys pretty much saw the entire array of the cases that were coming through.

KD: Talk about moving up. What were the rungs in the ladder that you ascended as you worked through the Chicago office?

RF: Sure. With the Chicago office, and then when I became regional director down in Miami, I had, I think at the time, all of the positions that an attorney could have in enforcement. I started off as a staff attorney. I was a staff attorney for, I'm going to guess, three years. Then I became a branch chief, which I understand really doesn't exist in the way it used to anymore, which I think is frankly a shame because that was where I learned more about the SEC and conducting investigations and how to do work than any other position that I ever had.

KD: Why?

RF: Because you're starting off managing a group of people. At the time I was managing four staff attorneys and a staff accountant. You are running from case to case learning facts, needing

to know the law, being the first level—I'm going to say the first level of authority that is dealing not only above in the SEC, but also out with the individuals and entities that are part of an investigation, whether it's the entity that you're looking at, the individual who may have conducted the fraud witnesses, all of those sorts of things and their lawyers. And you're doing it on a much more frenetic level, I think, than as a staff attorney.

So, you're managing people. You are managing probably 25 cases at a time with all the machinations that sort of entails. You're first stepping into how the SEC works as a bureaucracy, and I don't mean that in a negative way, but just it's a system you're spending more time working. At the time, the group in Washington DC was called BROA, the Branch of Regional Office Assistance. They would work with the regional offices on getting the cases up and through the Commission approval process. That later turned into the chief counsel's office for the Division of Enforcement.

So, the responsibility that you are given is multiplied I can't even tell you how manyfold. And so, you really do sink or swim in that, and those responsibilities, again, go from management to personnel to knowing the law, to dealing with outside lawyers, to understanding facts and conducting an investigation. It's always been my favorite job at the Commission. It was one where I learned the most, and it was great.

So, I went from branch chief into the trial unit. I spent, I don't remember how long, I would say a couple of years in the trial unit. Now, the trial unit would take cases that came up through investigations and work them in Chicago. Unlike a lot of other offices, in Chicago the staff attorney who brought the case and got the approval from the Commission would be a significant part of the trial team. In many other offices, there would be much more of a clean handoff between the investigators and the trial unit folks who would actually go into court and litigate the case. But in Chicago, they thought, and I agreed with it, that it was important to bring the staff attorneys into the case and have them become part of that team and actually litigate the case with someone who's got more experience. So that was a great experience.

So, I was there for a little bit. I then became an assistant regional director, and as assistant regional director, I would oversee two branches of the enforcement investigators. That, too, you really do start to deal more with Washington DC when you're what we call the ARDs at the time. From there, I became the associate regional director, which was the person who was charged with overseeing all of the enforcement program in Chicago from the various branches through the trial unit, sort of the whole shebang, which is a Wisconsin term.

So, I was the associate regional director at the time in charge of enforcement. Then the enforcement program in Chicago—because of funding at the SEC a lot of the offices were able to expand in, I can't remember, I'm going to say, 1996-ish. So, the enforcement group grew to where it could not be practically overseen by one person. So, there was a second associate regional director position that was opened up. Bob Burson took that spot, and so I became the

senior associate regional director, whatever that means, versus the junior associate regional director. But he and I split responsibility for enforcement then.

KD: Okay. So, you've taken a high-level view of your career through that period. Let's talk about some of the landmarks. One is pretty early. You've got the Market Reform Act, the Securities Enforcement Penny Stock Reform Act. Did those change the way that you did business in Chicago?

RF: So yes, the short answer is yes. There's the long answer. I think those acts were very, I'll call them investor friendly, maybe investor helpful. I also think the enforcement staff to do its job, if you think that enforcement's job is sort of protecting the integrity of the securities market through an enforcement process, now that you can protect the integrity of the securities market through rulemaking, through all sorts of other things, but I was obviously focused on enforcement. And what some of those provisions allowed was for greater enforcement of accountability within the securities industry. It allowed for more flexibility and higher levels of sanctions, that violators of the securities laws would be subject to penalties, for example, in the administrative proceeding process, penalties against individuals who were not regulated entities, which weren't easily sought prior to some of those provisions, cease and desist orders, which weren't available prior to some of those provisions.

And so what I think it did is it expanded enforcement's ability to go out and find the folks who were accountable for violations, and I don't want to say bring them to justice, that seems very melodramatic, but sort of bring the SEC's oversight into those market participants or to those market participants that wasn't available before. I thought that that was very, very valuable. It also did, though, provide some flexibility where we didn't have to, for non-regulated entities, always seek injunctive actions, which is the highest level that we can go, or that the SEC could go at the time, in terms of seeking enforcement action against non-regulated entities. And so, by allowing administrative proceedings or cease and desist proceedings or those sorts of things to be brought against non-regulated individuals, it not only expanded the universe, but it also allowed the SEC and the enforcement staff to better tailor what it was seeking in terms of enforcement actions based on the activities and the harm and those sorts of things. So, it increased our workload for sure, but it gave us some flexibility.

KD: This is an important period for the regions. There was sort of an old guard. People still talk about it today—the old regional leaders who had a lot of autonomy. You're discussing national developments, and of course in '93, we have a big shakeup. How were the regional offices changing? I know your perspective was particularly on Chicago, but was the home office getting more influence during this period?

RF: I'm glad you said old guard because I didn't want to say that, but I was actually thinking about how do I best describe that group of, at the time, they were called regional administrators, and I couldn't come up with a better phrase. They truly were there for a long time, generally speaking, not all of them, but there was a group that had been there for a long time. They were

very, very experienced. They did have a lot of autonomy to decide not only what was going on within their offices, but to help direct enforcement priorities nationwide, et cetera. Bill Goldsberry ran Chicago when I got there. I hadn't mentioned his name before, which I'm a little embarrassed at, but he did actually run the office. He was one of that group, Bob Davenport in Denver, Jack Bookey in Seattle, Rich Wessel in Atlanta. There were a whole host of folks who had been there a long time.

The funny story, which is very short fortunately for this recording, that I tell is when I went to Denver. Denver has historically had the Rocky Mountain Securities Conference where it's a very well-known very well-attended securities conference for practitioners and people in the industry. And when I got there, Bob Davenport continued to work to put that together, and one day I was meeting with him as I was trying to put together the conference. And I said, "We don't have this. We've got to figure this out, and I need some research on these particular issues," and some of the history and all that.

And Bob said, "Well, just call the general counsel's office and tell them to put it together for you." And to be honest with you, I looked at him like he was from Mars because the general counsel's office when I was certainly regional director and probably before, did not do those things for the regions, but they did back with the old guard, because I believe that they were much more in the mix of how the Commission worked.

Now, this was before OCIE and the examination program. Actually, many of them were there before Washington DC had its own enforcement group. And so, a lot of what they were doing, they were doing because nobody in Washington was doing it, and that gave them a lot of autonomy. Sorry, that was a little bit of history.

KD: No, that's good. That's great.

RF: I mean, you really could sense the change as that group of regional administrators were leaving. And a lot of that happened under Arthur Levitt. I think Arthur Levitt came in with a view of how he wanted the SEC to run and how he wanted the regions to interact with the home office and where a lot of the decision making was to be based.

So it was under Arthur that a lot of those regional directors—well, they were regional directors at the time, retired and a new group came in. The new group largely, although not necessarily formally at first, reported up through the Division of Enforcement, Bill McLucas at the time. And that was when I think there was a big shift in how the decisions were made with regard to not only what was happening at the SEC as a whole, but out in the regions. I think it was a slow process. I don't think that it was sudden, it was one day everyone ran their own kingdom and then the next, it wasn't.

And I think that slow process actually allowed it to work. Now, when I say work, there were still pushback from the regions back to DC when authority would be sort of questioned or taken back

or whatever. There were, conflicts may be too strong a word, but those sorts of things. But I think Bill McLucas actually did a good job in how that transition went as good a job as I think he could have given the major shift that was going on.

KD: Yes. You talk about this being a process, but there was an inflection point in 1993, when everything was shaken up and reorganized. Talk about the effect of that, how it felt in Chicago to have all this happening, and secondarily with Chicago, did Chicago deal with it differently or have a different experience?

RF: I think Chicago dealt with it differently because I think Chicago at the time was one of the fewer offices that did not have a branch office, which is now district offices. When I got there in 1988, they were just closing the Detroit branch office. Chicago had a Cleveland branch office before then, but for my entire tenure in Chicago, it did not have another office as part of its region, unlike virtually all the other offices, right? Atlanta and Miami were tied. Denver, Salt Lake City, Fort Worth were tied. LA and San Francisco were tied, New York, obviously. So, Chicago I think was one of the only ... It may have been the only, I'd have to go back and think ... office that didn't have a branch or a district. So, I think that it was probably least affected in many ways. Miami and Atlanta switched, which was the region and which was the district. Seattle closed as part of this process. So, there were a lot of significant changes, more significant changes, I think in some of the other offices than there were in Chicago.

Chicago had to deal with the movement of authority from Chicago to Washington DC. The other offices had to deal with that movement as well. But at the same time, many of them were dealing with different reporting structures because of how the regional offices were flipping from regions to districts and vice versa. And I think that actually caused a lot more, probably consternation is not too strong of a word, in some of those other offices.

The other thing is I think that Mary Keefe became the regional director in Chicago as much of this was going on, and I think that Mary was able to, I think, really effectively allow that transition to occur in Chicago. Mary is a very, very smart person. She was very, very protective of the Chicago office and the Chicago staff. So, the transition there wasn't without bumps. And I don't mean to say that anybody was fighting with each other. There's always going to be bumps, but I think she very effectively navigated through the transition.

It was probably just as difficult on the other levels of management because of how they would have to deal with Washington and BROA, which again became the chief counsel's office. At that time because of the transition, I think that the other substantive divisions, right, the division of what was then market regulation and investment management and the general counsel's office and those, I think that they took the opportunity, for lack of a better word, to put more of their thumb on the scales of how cases were going to be brought and how arguments were going to be made. So, I think that their input into enforcement cases at least probably caused a little bit more friction than it used to, because it used to be that the regions would say to the substantive divisions, "We understand your theories, but this is what we're going to be doing." And I think in

this transition, that reversed itself, where the substantive divisions would say, “We understand your theories. We don’t like it. Our view is broader than yours, so we get to decide how you’re going to do this.”

KD: Interesting. I haven’t heard it explained exactly that way before. That’s great. Before we leave that period, did you work with Jim Clarkson at all?

RF: I worked with Jim Clarkson. Yes, absolutely. Probably from the time I became associate regional director, so that was when I began running the enforcement group in Chicago. I started becoming very, very close with Jim. As I became regional director, I became much more close. Jim was truly a unique person, I think, in that he was again, very, very smart. That his history with the Commission and his institutional knowledge of not only the Commission and the people, but the enforcement program was really, really invaluable. More importantly, as I was getting up in management between associate and as I was starting to become a regional director, he and I had almost no conversations any more about substantive enforcement, programmatic issues, there were cases. And I can’t even begin to imagine the number of conversations he and I had about how to manage the offices and the programs within the confines of the SEC structure, and within this transition of autonomy from those offices to the home office. He was truly invaluable in that.

KD: Great. I’m glad we touched on that. The structure is very important, but one of the things that people think about and talk about are the cases that you mentioned. So, let’s talk about some of those. I have different types of cases. Piper Capital Management was one you were involved in.

RF: So, Piper was one of them, I still have a baseball cap that says Piper on it because we had a six-week trial on that—or hearing, it was an administrative hearing up in Minneapolis on that. And our team got baseball caps for that. Piper was a really, really super interesting case. It involved an investment advisor and in that investment advisor’s mutual funds that were mispricing underlying assets in order to essentially boost the net asset value. We brought the case against several individuals and against the investment advisor itself. It was a very important case at the time, I think, in part because it was a very complicated case in terms of how do we figure out what is going on within the market. These were collateralized mortgage obligations that the fund was holding. CMOs at the time were a very, I’m going to call them a hot topic. But they were a hot topic because there was the potential for so much abuse within that market. I mentioned that Chicago had an examination team that would refer cases out, that case was a result of an exam that was referred over to enforcement.

So ultimately, we ended up bringing a case, because they were mispricing the CMOs, against, I can’t remember, six individuals, seven individuals, something like that, and the entity. After doing the investigation, we were able to track down tape recordings of various conversations between the folks. We had to take testimony and then bring to the stand a number of people who were inside the firm, where we had to pull from them the very nuanced information that they

would have for us to be able to establish that they had mispriced, by essentially in some cases a penny. It wasn't necessarily so much the penny that was the issue. It was the manipulation of what was a very, very illiquid market at the time in order to meet their goals of publicizing what was in effect a fraudulent net asset value. So, it was a great case. I think it really showed that the SEC was going to be actively involved in going into very complicated areas to address markets. I don't want to say they were in the shadows because that sounds very nefarious, but they were not very transparent is probably the better way to look at it. And that the SEC was going to go in and say, "Transparent or not, we're going to figure out what's going on because there's just too much opportunity for abuse here."

KD: Okay. From a complicated case, there were some market manipulation cases as well, Hibbard Brown was one. Is this a more straightforward kind of thing?

RF: So, Hibbard Brown and F.N. Wolf were a couple of cases that, again, they came out of our examination program. Those firms were actually located in New York, although the Chicago office brought the case. They were straightforward in that they were market manipulations that were the type that were going on far too often with lower-level broker dealers in the very low cap area. This was a time back in the late '80s or early '90s when market manipulations of not quite penny stocks were running rampant. And there was a population of broker dealers primarily but not exclusively in New York, that were just running manipulations and buying and selling securities to get those prices to where they wanted them to be and then dumping them. That really needed a significant enforcement effort in order to stop it. In order to publicize the fact that this was going on and people needed to be cautious when they're going to these firms. And in order to really send a message to the industry that if you do this, we are going to put you out of business. That was one that there wasn't really a whole lot of room for negotiation with those types of cases, because the SEC and the enforcement group I think were very appropriately saying, "If you're doing this, you just don't belong here." So again, those were great cases. I talk about enforcement cases to people who want to do enforcement and say, "This is another great example where we found a paper trading ticket." Because that's what they used to use, and we saw things that were scratched out and we're like, wait a minute, this doesn't make any sense. So, we took it to a forensic somebody who analyzed the scratch on the ball of the ballpoint pen to figure out what was written under there. And that was actually a significant part of our evidence that we were able to put in. So, it's that kind of getting your hands dirty thing that was really a lot of fun in enforcement.

KD: Did you work closely with the New York office?

RF: Generally speaking, Chicago's relationship with the New York office was very, very good. Dick Walker was there at the time and Mary Keefe, and so I think that they worked hard at making sure that there was a good working relationship. On any particular case we didn't necessarily work hand in hand with the New York office, but in deciding who's going to be taking what cases based on resources and those sorts of things, Chicago, New York actually worked very, very well.

KD: Okay, so you kind of figure it out up front.

RF: Yes.

KD: Okay.

RF: Yes.

KD: A very different case, AEI. Tell me about that.

RF: I love this reminiscing. It's so much fun for me. AEI in itself, if anyone were to look at that case, they would say, "What? I don't get it." And I also don't understand why I care about AEI. But AEI was a case that again, was important not because of the underlying money that was won or lost by investors, but because it was at least the Chicago office and the SEC addressing a very specific bigger problem. The background of AEI was it was an intrastate broker dealer. Back in the '80s and early '90s, maybe early '90s, but certainly in the '80s, the state of Ohio was one of the last remaining states that allowed for intrastate securities broker dealers. The rules were that they had to only operate within the state. They can only sell to state residents and the companies that they were selling the stocks of, pardon my grammar, also had to have their operations intrastate.

So those were the rules. And Ohio's Law said, "If you comply with that, you as a broker dealer do not have to be registered with," what was then the NASD now FINRA, "and you can operate solely under Ohio law." Well, the result of that was that there was a lot less oversight and regulation of those intrastate broker dealers. Now, AEI was one of those broker dealers. An interesting piece of that was that AEI was founded by the former Cleveland branch office manager of the SEC, who was at in the Cleveland office and ran it for several years. And then unfortunately turned to the dark side. So he ran AEI, recruited some brokers to come over, and essentially they were running an interstate fraud and through this intrastate broker dealer. The SEC, and particularly the SEC in Chicago has seen this sort of thing in Ohio several times and tried to have conversations with the Ohio regulators and the Ohio lawmakers, to get that law changed because the Chicago office could see that there was a lot of fraud going on.

There was a lot of pushback, et cetera, and so the law was never changed. AEI was one of the cases that was brought to show what was going on within these interstate broker dealers. And I hesitate to say it, but I'll say it anyway, and to sort of shame Ohio into changing its laws because fraud was running rampant. And the office thought that that's probably not a good thing.

KD: Did that happen?

RF: Ohio did actually change its law, prohibited interstate broker dealers and required all their broker dealers to register with FINRA, NASD at the time, therefore become national, therefore be subject to the entire regulatory structure.

KD: We talked about landmarks a little while ago. You would've still been in Chicago when OCIE was created. Now, I understand that you're very much involved in enforcement, but you're also moving up and looking at management issues. How important was that? Do you remember that particular landmark and how it changed things in the Chicago office?

RF: Yes, so a couple of things happened as a result of OCIE. Some of them were not bad, but all of them, again, sort of created bumps in terms of how things were happening. You're right I was much, much more focused on enforcement, but again, in Chicago we received on the enforcement side a lot of referrals from the examination program. With the advent of OCIE—OCIE took a little bit of time to sort of get its feet under itself in terms of how it was going to be managing the examination programs. But I think the transition involved a couple of things. One, with the offices as a whole largely going up and reporting up through the Division of Enforcement, so the regional directors at the time were largely going up through enforcement. The regional directors at the time that were coming in rose up through enforcement for the most part or came from law enforcement or outside—private practice and enforcement. So, they were very informed on all things enforcement.

With OCIE coming in and having the examination group report, quote unquote, “their substantive work” up through OCIE, I think that there came a separation in everybody's knowledge of what was going on in the office that maybe wasn't there before, because the regional directors were focusing more on enforcement. It was their reporting structure. And with somebody else, i.e. OCIE, overseeing the examination program, I think that the regional directors could spend more time on enforcement and could spend less time thinking about the examination program because somebody else was thinking about it. So, I think that that actually was not a good thing. I think that it would've been better to continue to have the regional directors more involved in the examination program. They were still involved, but again, the reporting structure was such that they could reasonably say, “I don't have time to deal with that right now. They're going up through OCIE anyway, it's all fine.”

The other thing that happened is that the regional directors lost the ability to manage the workings of the examination program. Not only in and of itself, but also vis-a-vis the enforcement program because priorities were set by OCIE and not necessarily on a region-by-region basis. What the regional director could see was not necessarily going to be the focus of what the examination folks were going to do because OCIE had more national prerogatives rather than regional prerogatives. And I think that that affected what was going on in the region. But I think it also affected the relationship between the examination group and the enforcement group even within a region because everybody was not always sitting in the same pew as it were with regard to how priorities should be set, how resources should be allocated between the two

groups. And how they'll work together to make sure that the appropriate referrals are coming and being investigated in the appropriate way by enforcement, et cetera.

I think it put a little bit of a split in between the two programs, which there was always enough of a split there. And we can talk about that maybe a little bit later, but I think that that created a little bit wider divide between the programs.

KD: Yes, it sounds like they're both gravitating more towards the national—enforcement and exams nationally.

RF: Right.

KD: Well, let's get you out of Chicago. You had some other experiences. Talk about moving to the Southeast region, how that opportunity opened up, what it was like going to this entirely different place.

RF: So I went to the Southeast region, at that point it was after the reorganization. And so, Miami became the regional office, and Atlanta, which used to be the regional office, became the district office for Miami. I went down there in the beginning of 1998, January of 1998, and if you're ever going to move to Miami, January is the best time to go. The weather was gorgeous, and the weather in Chicago was less gorgeous. So, I think it was an interesting transition, and I think it was an interesting transition for a couple of reasons. One, it was a brand-new position for me. It was a level of responsibility I hadn't had before. And so there was a lot of adjustment for me to learn how to do what needed to be done. Up until that time when I was running enforcement in Chicago, I had Mary Keefe.

She and I had and still have a very close relationship. But she and I, at least from my perspective, really worked hand in glove to figure out how to oversee and manage the Chicago office. Going to Miami, of course, I lost that, thank God for Jim Clarkson again. So, I was sort of fumbling my way through trying to figure out how to manage two offices actually on my own. The second thing was that offices were very, very different as well. One of the differences I mentioned before was that in Chicago, if you had an enforcement staff attorney who brought a case that went to litigation, that staff attorney would move along with the litigation and join the team. In Miami, that was not the case. Now, the result of that you wouldn't think would necessarily be that catastrophic or eventful.

You just transfer the case over and it's not that big of a deal. But the other result of that was that there was another division that needed to be dealt with. So, we've always had the gap between examinations and enforcement. Now, even in enforcement, there was a gap between the enforcement investigative staff and the trial unit staff. I'm very, very big on minimizing whatever gaps are among staff of any level, any program, anything to try to bring everybody together. That gap in Miami was actually a disruptive one. And so, from an office management place, it added more challenges to it. In addition, we had the Atlanta office, which used to be a regional office,

was now a district office. Rich Wessel was the regional administrator under the old system. He was part of that quote unquote, “old guard.” He was now a district director who was reporting to this young punk who just came in from Chicago.

Now, thankfully, Rich was incredibly generous, incredibly gracious, very, very open to, if this is what the Commission has decided to do, then this is what we’re going to do. And I’m going to work as hard as I can within that system to do the best work that I can. He was really, really very, very fabulous to work with. There were probably frankly more, I’m going to call them issues, again that probably overstates, maybe more friction with the staff that reported to him, all of a sudden being in the district and reporting up through Miami, than there was with Rich. And I think Rich tried to quell that, but I get it. There used to be X and now they’re Y, and change is hard, sort of thing. So moving into that and trying to navigate that, trying to navigate the newer organization within Miami versus Chicago, presented some challenges. Substantively, there were lots of changes as well. The securities industry population in Miami in particular was vastly different than the market participants in Chicago and in the Midwest.

We used to laugh about the Boca Raton population of broker dealers. From an examination standpoint, the east coast of Florida was rife with all sorts of fraudulent penny stock promoters, that kind of thing. I happened to live up in Boca Raton. Chuck Senator was my predecessor down there. I had no knowledge at all of South Florida. He lived in Boca Raton. When I was going down there, I said, “Chuck, where should I live?” He said, “Boca Raton.” I said, “Fine.” So we lived in Boca Raton. We used to joke that it made it convenient because I could just drop off subpoenas on the way home, because that was the market that was going on down there. South Florida was known to be sort of a, again, to use a Wisconsin term, schlocky broker dealer market. They also didn’t have the big public companies that Chicago had.

So the result was that when I got down there, Chuck Senator, again my predecessor, had spent a lot of time and energy, probably, appropriately working on sort of retail frauds, bad brokers, off-market frauds, Ponzi schemes, those sorts of things were a big focus of the enforcement efforts and of the examination efforts as well. They brought a lot of TROs before I got out there. A lot of, I’ll call them quick hits, that probably minimizes their importance, but faster, more retail, probably less complicated cases than I was used to in Chicago. Again, I’m not saying that’s a bad thing because that was a lot of the population that was going on or sort of the market participation that was going on down there. But it was a pretty significant substantive change in the work from Chicago.

KD: Did the exam staff turn this stuff up?

RF: The exam staff turned a lot of it up. Again, the broker dealers that were down on that southeast coast didn’t have the best reputation. And so, the examiner spent a lot of time going out into those areas to see what was going on and brought a lot of that kind of thing up. Obviously, the off-market, not so much, not necessarily the Ponzi schemes. But a lot of that penny stock

manipulation, sort of retail fraud and pump and dump type thing came through the examination process.

KD: And this would've been the first time that you were really in charge of an exam team?

RF: Correct.

KD: Talk about the challenges. And you mentioned gaps earlier, and there's always the exam/enforcement gap. But talk about how you dealt with that and what you learned.

RF: So again, my theory has always been that minimizing those sorts of gaps can only benefit. One of the things that I did, when I was in Chicago I went out on a couple of exams. They were cause exams. We found one of my TROs that way, et cetera. When I went down to Miami and I experienced very quickly what some of those gaps were, and I also saw that the enforcement program was running. Dave Nelson was the person who was running the enforcement program at the time. He was doing a very, very good job doing that. It seemed to me to be covered and would run along, at least temporarily. If I were trying to deal with other things, which I was, and one of the things I wanted to deal with, as you mentioned, is that gap. So, one of the first things I did is I went out on a couple of examinations, not cause exams, just routine exams to, number one, get a better understanding of the examination process. As I mentioned, I'd been out on a couple of cause ones before, but those are a lot different than routine. And even with those, I was certainly not an experienced examiner who understood the processes and how they're done and how things are selected and how you interact with the reputable regulated entities, those sorts of things.

I thought that by going out on those exams, I would be able to hopefully establish a decent working relationship between myself and the examination staff and show them what I think is not something that all examiners have always felt, which is their work is respected by the people who run the offices but also get to—again, as trite or management 101 as it sounds—get to know them individually as people, understand what's going on, understand their work, know whether they've got families at home and all of those sorts of things. To be able to actually have a working relationship with them and then to be able to try and help bridge that gap between the enforcement staff and the examination staff because I've been there on both sides working with it, et cetera.

I did that a couple of times in Miami. I would do it again in a heartbeat. In fact, I'd probably do it more than I did. The press of business becomes whatever the press of business becomes, and I regret not doing it more, but I think that that was an important thing to do to try and get that gap closed a little bit.

KD: Yes. Let's talk about the nature of some of the things you're looking at. This is a period when internet fraud is starting to take off. The web is just really ramping up. Talk about how that changed things.

RF: It's interesting because I've forgotten that that was about the time that the internet—it seems like the internet has been with us forever, but I guess it hasn't been. You're absolutely right that the internet was sort of coming of age then. We lament the disinformation that there is in the world now with the internet. But I think back then, a couple of things were happening. Bad guys were discovering that the internet was a great way to get information out there, mostly disinformation because they were bad guys. Primarily in pump and dump type things. You could blast out a quote unquote "press release" that said this penny stock company just discovered uranium in Colombia and you could get it out to the world at absolutely no cost. It used to be that you had to have banks of telephones with people cold calling and saying, look, we just found uranium in Colombia.

This is a great stock and now you could do it instantly and cover the world in terms of getting that out. So it was a much, much cheaper way to push bad information out for people who were defrauding. The internet gave it a patina of reliability, which I guess to my second point is, number one, it was easier to get information out. It was cheap, dirt cheap, to get bad information out. And number two, I think investors were much, much less sophisticated in discerning what information was reliable and what wasn't. If it came across on the computer, on the internet, the joke is it was on the internet, so it must be true. Well back then, actually, that wasn't necessarily a standing joke. That was like, well, I saw it on my computer and it's on the internet and there's a press release, and so therefore I'm going to buy this particular investment.

The result of that was, again, when I went down there, there were a lot of these quote unquote "quick hits." A lot of TROs. Not only was the SEC doing it, not only was the Miami office doing it, but the states were doing it as well. They were coming in and issuing quick cease and desist orders. And again, I don't mean to diminish their efforts, but there were lots and lots of orders that were coming out, and it greatly affected the kinds of cases that were being brought at the SEC. Again, more so in Miami than in Chicago because of the population of investors and market participants and bad guys, but it reprioritized a lot of what was going on. More so from an enforcement standpoint, although from an exam standpoint as well, because there were broker dealers who discovered the internet, too.

KD: How do you keep this from turning into a game of whack-a-mole where you're shutting down one website and one scam and another one's popping up?

RF: So that's a very, very difficult thing to do. I think that a couple of things helped to do that. One, you bring all those cases, you do the TROs, you start increasing the sanctions, you start working better with the other regulators to get a focus in terms of how you're going to approach the cases. You try to divide and conquer a little bit more with your state regulators, with FINRA, to cover the waterfront, as it were. But you're still going to have whack-a-mole if you're not putting people in jail, so of course you try and get the criminal authorities involved. The state of Florida was pretty good at getting involved in some of those.

The US attorney's office down there was not quite as focused on it, but they had a lot of other issues that they needed to deal with because they lived in South Florida, too. The other thing that I think Arthur Levitt did a good job of is, he really organized and promoted the public education, the investor education aspect or priority of the SEC. He spent a lot of time doing town hall meetings and those types of things, and really getting people out there to try and take care of that second issue that I raised, which is if it's on the internet, it must be true. His focus was obviously much broader than just the internet, but I do think that his efforts in really establishing the public education focus of a group of folks at the Commission was actually probably more beneficial than I gave him credit for back then.

KD: Let's move to some cases. You had, one of the big ones was WR Grace. Well-known company.

RF: Very, very well-known company. Let me actually combine that with the case that we brought against PricewaterhouseCoopers at the same time. The reason I combine it is because I want to say this without seeming like I'm taking too much quote unquote "credit," but one of the things that I wanted to do when I got down to Miami was allow the staff or keep the staff working on retail fraud, because again, retail fraud in South Florida was a very, very big deal. It always had been a very, very big deal, so I didn't want to take away from that. Or at least continuing to focus some fair amount of resources on that. But as I mentioned before, I have an accounting degree. My mind works that way. I've always had an interest in those sorts of issues. My favorite cases were financial reporting cases, although I probably shouldn't have admitted that because being an accountant and a lawyer, I have few enough friends anyway. If people find out I actually really like it, I'll have even fewer.

But what I did want to do, going down to Florida is say, yes, we need to continue to do that, but we need to now expand back out. We've been coming in and focusing on these retail frauds and those sorts of things. I really want to figure out how to expand back out because the more complicated public company, financial reporting, auditing cases still exist here. Even though there's not necessarily the population of public companies, those companies and those problems still exist here. So, we need to be willing, and in my case, excited, to go out and try and find those cases and bring those cases as well. I think WR Grace and PricewaterhouseCoopers were two of those cases that came from that type of effort. WR Grace was a very, obviously, well-known company. It was a classic financial reporting case.

It was one of the first bigger financial reporting cases that the Miami office had brought in quite some time, and so we were really very, actually pretty proud of that one. The PricewaterhouseCoopers case was a case involving the auditing firm where the partners in the auditing firm, either individually or through their retirement accounts or whatever, thousands of stocks were owned by the partners of the firm when the firm was auditing the public companies that issued those shares. It was pretty much a complete and utter breakdown of the internal controls at PricewaterhouseCoopers, and the result was that they had a conflict of interest in auditing the issuers of the shares that their partners owned. So it was really a very, very big

problem for the auditing firm and frankly, for the companies because if the auditors were found to have been not objective or have this conflict of interest, it could result in the audits of those public companies essentially being tossed, which means the companies would not be in compliance with the requirement to have audits.

So, it was a huge, huge deal. But it was also a very significant investigation. It was a very time-intensive investigation. It was a very complicated question. We worked a lot with Lynn Turner in the Office of the Chief Accountant at that point. But I think that and WR Grace were two good examples of cases where I liked to see that the staff in the enforcement group was willing to spend a long time trudging through complicated cases and getting to a result that was an important result. It was not consistent with the quick hits that had been going on, and frankly, it was not consistent with the Division of Enforcement's or the Commission's view of how many cases did we bring this year, which I always thought was a little bit over-prioritized. But it was much more consistent, I think, with what I thought was important, which was important cases that affect a lot of people, a lot of investors, that affect the markets as a whole. We need to spend whatever time we need to spend getting these things done.

KD: PwC, big national firm. How did this end up down in the Southeast Regional Office?

RF: The reason was because the original issue of the ownership by the partners was discovered, I think it was, in Fort Lauderdale where the original issue was discovered where several partners there owned stocks, not necessarily in the companies that they were auditing, because that would've been just over the top, but did own stocks of companies that PwC audited. So because it was discovered down there, the southeast region was able to keep it.

KD: Were those examiners that discovered it?

RF: They were not. I can't remember how it was discovered, but it did not come through an examination because there weren't any regulated entities that were involved in that. The only other thing I'll say about that case, and this is just for entertainment, it's not substantive at all, is when I was down there, we had a hurricane that was coming through South Florida. At the same time, we had a conference call with Lynn Turner and the Office of the Chief Accountant to talk about what we should be doing with this case and what resolution we should be trying to negotiate and those sorts of things.

And I called the DC office earlier that day and said, "Hey, guys, we have a hurricane coming through. I'm closing the office and sending everybody home. We need to reschedule this call." And the result out of Washington, and this shows that we lost all autonomy was, "No, we're going to be having this call, so you guys stick around." So I sent the entire office home except Dave Nelson and Glenn Gordon, who ultimately ran the enforcement group down there, and I sat through the hurricane and had our conference call and then got stranded overnight.

KD: Oh, geez. But you did what you had to do.

RF: But we did what we had to do. We brought the case. It was great.

KD: And we didn't say much about WR Grace. This is just a simple financial reporting case, I guess. They're not keeping the right records? How did that work?

RF: Yes. It really was a matter of the finances that they were reporting were not accurately reflecting what was going on within the company. WR Grace, I think, stands out for Miami because it sort of established the shift from the retail fraud to the more, I'm going to call it sophisticated. Again, that seems to diminish the retail fraud, and I don't intend to do that, but it established the shift from the retail fraud to the larger public company accounting, more technical financial reporting. It was a big, big company. It was an important company, and it was an important case because it showed how financial reporting problems and fraud can work its way through a very, very well-established, very, very well-respected company. But again, at the risk of minimizing it, the underlying facts of the financial reporting problem weren't headline type things. The headline was that it was WR Grace and it was a shift in how we were doing things.

KD: Okay, great. You had your own shift. You were in Florida for a couple of years, two or three years?

RF: Yes.

KD: And then you got the opportunity to go to Denver.

RF: Yes.

KD: Sounds like you would've been attracted to that given your past skiing proclivities.

RF: Well, I think that that's right. Dan Shea was running Denver at the time. He and I were at a conference. He said, "Randy, I'm going to leave the SEC and go into private practice. I would love for you to come out to Denver." And I said, "Dan, I would love to come out to Denver, and so would my wife and children." And so, he and I talked a couple of times, and then we went back to Arthur Levitt and Arthur Levitt said, "Fine, go. I don't care. Whatever you want." That's not quite how it happened, but, nevertheless. So, I was in Miami for two and a half years and then went out to Denver to oversee Denver, Salt Lake City, and Fort Worth.

KD: Okay. Well, let's describe the regional office. I talked to Bob Davenport years ago. He was great, with this description of Denver as being the wild west, literally and figuratively. Tell me how that office worked, how it was different from Miami, different from Chicago.

RF: So, it was the Wild West. A couple of things. One, Denver was known at the time, back in the eighties and early nineties, as the penny stock capital of the world. They had some broker dealers out here and in Salt Lake City that were just notorious for penny stock manipulations and

fraud and investor fraud and retail fraud, and they were just horrible. Blinder Robinson was out here. They were named Blind 'Em & Rob 'Em for a reason. So again, Bob, I think spent a lot of time working on that issue. I think one of the biggest differences between Denver and Miami and Chicago was based on that population and based on Bob's, I think very gallant efforts to try and tamp that problem down, I've never seen in any other office a [better] working relationship between an SEC office and the NASD, then FINRA, than I saw when I came to Denver.

Bob Davenport worked very, very hard and established an incredible working relationship with, at that point, the NASD. There were not jurisdictional challenges or fighting over who gets to do what case or those sorts of things, and I think it's in part because there was just so much work to be done in that broker-dealer area that they didn't need to argue over who was going to do what because there was more than enough for everybody. But I also think that the SEC and the NASD just decided that they were going to make a concerted effort to really, really work together like no other office. They would meet regularly. They would assign folks to work with other folks. It was actually amazing to see. Because the focus of the Denver office changed after that, when I say after that, I mean when Dan Shea got in there, because Dan followed Bob Davenport and then I followed Dan.

Dan, again, I think appropriately saw that the landscape was changing. I think that Bob Davenport and the NASD were very, very effective in stamping out a lot of the penny stock fraud, and so Dan could come in and start moving things around a little bit in terms of priorities. The result was that there wasn't that almost daily coordination between the two agencies. At the same time, the head of the NASD, whose name I'm just spacing on, so forgive me. It's Frank, and I can't remember his last name, was leaving as well. So, there was management movement and there was less coordinated work that needed to be done. I still think that the relationship was very, very good even when I got there, but it wasn't that day-to-day thing. That was a huge difference between the other two offices and Denver.

Denver had to focus on regulated entities and broker dealers and had to work very well with the NASD and did a really, really good job doing that. When I got to Denver, they too had a lot of retail fraud because the fraudsters who were in the penny stock places just went out and started doing their own stuff. So, to keep it short, a lot like Miami, the number of quicker cases, TROs, that kind of thing, was higher than I had in Chicago. It was closer to what was happening when I went to Miami, and so again, we did a little bit of work to broaden the mix of cases I think after I got there. Again, that could have been the wrong decision, I don't know, but it's what we did.

KD: So, in broadening the mix, again, you're looking at public companies more?

RF: We were looking at public companies. When I got there, we were also part of the market timing cases, so the mutual funds who were allowing their big investors to come in and day trade the mutual fund shares in violation of their prospectuses in order to allow them to market time was a big issue back then. In Denver, we had a couple of big cases. Both of these were found by the examination staff. One against Janus and one against Invesco, and those were two very

significant cases in that market timing area. So, we still had a pretty significant regulated entity enforcement program. It just wasn't as focused on the retail fraud of the penny stockbroker-dealers of the past.

KD: Right. Let's talk about Janus Capital and Invesco. As you said, these are typical of something that's happening nationwide. Talk about finding those cases and how you developed them.

RF: A couple of things. I'm going to bring a couple of themes in all at the same time. I mentioned that when I went to Miami, one of the first things I did was I went out on a couple of exams. I did the same thing when I came to Denver because the gap between the examination staff and the enforcement staff in Denver was very similar to the way it was in a lot of different offices, so I'm not poking at these offices particularly, it's just the way it was. So, I did the same thing. But the other thing that we were able to do with Invesco and with Janus (because both of those cases came out of the examination program) is I tried to incorporate more examination staff into the regulated entity investigations.

Typically, again, not so much in Chicago, but in Miami and in Denver and Fort Worth historically, the examination staff, once the referral was made, would largely drop out of an enforcement investigation and not be very involved. One of the things I tried to do to bridge the gap was to keep the examination staff on to the extent they could give their examination responsibilities in the investigations. So, we had examiners going into testimony, enforcement testimony, because they, frankly, knew what they were talking about, and the enforcement staff didn't necessarily know what they were talking about. The examiners, because they weren't trained as investigators, wouldn't necessarily take the lead on testimony or asking questions of counsel or those sorts of things, but they would be part of the testimony. They would confer with the enforcement staff. They could ask questions if they thought of questions, and some of the examiners were more comfortable doing that than others.

But Invesco and Janus were two great examples of where we allow, allow is the wrong word—took advantage of the examiner's experience. Knowledge of the rules of how frankly trading within mutual-fund systems and inside-investment advisors works. To be able to pull those cases together, so that at the end of the day, when the enforcement staff was sitting in front of the commissioners at the table recommending a case, they actually knew what they were talking about. And could fill in the nuances of why things happen the way they happen, and why the enforcement staff was recommending what it did.

Those were really, really gratifying cases, not only because they addressed a big issue and not only because they were "big names" and not only because the resolutions were significant. But at least in Denver, it allowed for a subject experience or inter-technical experience, working relationship that I think actually turned out really, really well.

KD: Okay. I want to pick that up in a minute, but before I do, one more structural discussion. My understanding is that Salt Lake was really an adjunct to Denver. It was just really picking up all of these small cases and moving with them. Is that correct?

RF: I think that that's largely true. Salt Lake was obviously a very, very small office and didn't have a ton of resources for itself. Ken Israel ran the office at the time, and I think that Ken was very interested in, and effective at, and good at saying, "Yes, we are part of this Denver organization. We happen to be in Salt Lake. We have some autonomy. We want to do our own things and all that, but we're frankly not big enough to stand alone."

KD: Yes. Fort Worth on the other hand, like Atlanta, had once been the big show down there that had been years ago, but was there a legacy that you encountered from that?

RF: There probably still is a legacy that the people who are running the various offices, although it's its own office now, yes. Hal Degenhart ran the office at the time. I think that Fort Worth, probably more so than Atlanta, was a little more taken aback by becoming the district as opposed to the region than some of the other offices may have been. I always used to joke that I wrote that off as well. Of course, it's because they're the Republic of Texas, and to be honest and maybe a little unfair, I do think there's just a part of that.

I think that the challenge of incorporating Fort Worth into the Denver region or that central region, as it was termed then, was probably a little bit greater than incorporating Atlanta, for example, into the southeast region. I think we got there, and I think that there were probably more bumps. There was probably a little bit more friction. There were probably, I hate to say it this way, but things going on in Fort Worth that I didn't have any idea, as I said, in Denver and probably should have.

KD: What were the nature of the cases? Did Fort Worth have different kinds of cases?

RF: When I got to Denver, I don't think that Fort Worth's caseload was significantly different than Denver's. I think that changing or modifying Fort Worth's caseload to the longer term, more complicated or sophisticated investigations from the retail fraud, was not as smooth or quick. It wasn't quick anywhere, but I think that Fort Worth probably resisted that evolution more so than Denver did. I think that Fort Worth was less inclined to buck the "we-need-more-numbers" theme that was coming out of Washington, DC than I probably was. And so, I think that transitioning to some of the longer term, more sophisticated investigations took a little longer with Fort Worth.

KD: It's interesting because this becomes very important to the SEC a few years on, after you'd retired, this whole idea of numbers. You implied that you had to buck it. Tell me a little bit about that.

RF: I mean, in any organization there's going to be metrics that need to be used. Some of those metrics are easy. Some of them are more difficult to use as you are rating the performance of individuals or offices. An easy one to use by the SEC as a Commission, by the Division of Enforcement, more so than OCIE—I think that OCIE was much better at this. But one of the easiest ones to use because it's very easy to put into an annual report or to highlight at SEC Speaks, is the number of cases that we brought as an agency. And there's a lot of pressure for that, right, because it is easy and because it's objective and because everybody understands what's going on and it can be a bullet point. There's a lot of pressure to focus on the number of cases.

Now, I will say that at the same time, the division directors at least, when I say division I mean enforcement division, were very good about highlighting the outstanding significant cases. Just as an example, when I was in Miami, we brought PWC. We brought WR Grace. The result of those things was, number one, those were hits against our numbers because they took a long time. We probably could have done more, but the result of those was that the Miami office got the Capital Markets Award because of those more sophisticated cases.

There's always this push and pull between numbers versus what I'm going to call quality. That's unfair, but I'm going to call it that anyway, but there was absolutely pressure. I felt it. Every office head would feel it. There was absolutely pressure to keep just the number of cases up. That's why if anyone were to go and look at the SEC website and see the number of cases brought in September before the fiscal year ends. The number of cases that is brought in September authorized by the Commission and filed is, I don't know, I mean two times more, three times more than any other month of the year because they just want to get those cases through. Again, I understand it. I'm sounding overly critical, but there was a lot of pressure on numbers.

KD: Yes. Fascinating. Well, let's talk about the big one when you were in Denver, which is Qwest. Just give me the overall, how this one emerged, how you handled it, and who you worked with because you're working with US attorneys here.

RF: Right. Qwest was one of the biggest cases that I had seen. I was with the Commission for 18 years, and Qwest was probably one of the biggest cases that I had seen during that time just in terms of what was going on within the company. The manpower and woman power that was put on the case from different agencies, the importance of the case to send messages of aggressive enforcement action when the fraud is real, all of those sorts of things.

Backing up just a bit. Qwest was brought, it was a financial reporting case. It was also an insider-trading case. There was all sorts of stuff that was going on from various accountants within the finance department, all the way up through the chief executive officer. Qwest was brought at a time when the Commission was bringing a few of the really big financial-reporting cases by public companies. Enron and the case, can't remember the name of it. It was a healthcare firm

down in the southeast, but there were a couple of very, very large financial-reporting cases and Qwest fit right into that.

Essentially what was happening is Qwest at the time was a provider using data cables and all of those sorts of things. And they were laying millions of miles of cable all around the world and all this kind of stuff. Frankly, they were just abusing the system of how to account for that in order to meet expectations, goose their earnings, lower their liabilities. Be able to project outrageous forecasts, all of those sorts of things.

Like I said, it touched most of the major business lines. Business line is the wrong word. Groups within Qwest. Finance, the C-suite. The actual portions of the company that laid the cable, everybody within the company. And so, the case itself was years long and was very, very difficult and very, very complicated because we were dealing with intangible assets and valuations and how the whole thing was working and it was a mess.

Ultimately resolved. We brought the case against Qwest. We brought it against, I'm going to say, nine or ten other people. I can't remember exactly. From accountants to again, the CEO, who ultimately went to prison for insider trading, all of those sorts of things and it was a really, really interesting case. We ended up on the dais with the Attorney General at the time, to announce the case in Washington, DC, US Attorney General, John Ashcroft. The other important part of it was we worked with the US Attorney's Office in Denver closer than anything, again, I had seen at least in my experience at the SEC. The case was so big and the activity was so egregious that the US Attorney's office and the FBI were very, very interested in what was going on.

They had established a team at the FBI, along with a couple of assistant US attorneys, to focus almost exclusively on Qwest. Oftentimes, when that happens, the SEC and the US Attorney's Office and the FBI can really start running into conflict because they're stepping on each other's toes or getting in each other's way or whatever. Qwest was the best case that I had seen in terms of cooperation between the SEC and the federal-criminal authorities.

We had constant meetings. The FBI and the assistant US attorneys would come over to our office, which again is a nothing thing. But it shows that they're not trying to dominate by saying, "We're the criminal folks. We're the important ones. You guys come to us." They would come over. We would meet for hours on end poring through theories and witnesses and ideas as to what was going on and why and who would know and those sorts of things.

They would share what they could, because of course the criminal authorities can't share everything. And we would share what we had and come up with strategies as to how to best pursue the case. Not jointly, because you can't really do it jointly, but certainly hand in hand to make sure that it went well, to make sure we weren't messing each other up. That we were able to consistently understand what was going on. That defense lawyers weren't playing us off of each other. It was amazing, to be honest with you, to see that kind of cooperation. I had never seen it before, so it was very gratifying.

KD: Talk about your team. Who did you bring in from Denver? Did the Home Office send folks down as well or out as well?

RF: No, the Home Office didn't. That's the short answer to your second question is the Home Office didn't. This is not unusual. The Home Office is not involved in any particular case unless the investigation is known on a national basis and is in the news. The Home Office largely let, I don't know if it's still true, the regions and the districts run their own investigations. The questions they would ask would always come too little and too late because it would be at the end when we would all say, "Here's what we're doing." And they said, "Oh, you screwed it up." But they didn't often, almost ever send out staff or resources.

Our team was entirely within Denver. We had a couple of accountants. Because of course the enforcement staff is both attorneys and accountants, so we had a couple of accountants. We probably had four staff attorneys. We had a branch chief at the time, an assistant regional director. All of them were working, I don't want to say full-time, especially the assistant regional director. But a lot of the staff was pretty much working full-time for month after month after month after month on the case.

The funny thing was at the time, the office was in what was then known as the Qwest building because the Qwest name was at the top of the building. They occupied the top X number of floors. Again, we used to joke that we would just jump on the elevator, run upstairs and drop off the various subpoenas that we needed to drop off.

KD: Anything else we should talk about in the Qwest case?

RF: I don't think so. It was really, truly a highlight of my career at the SEC, but it was great.

KD: Was it resolved by the time you left the Commission?

RF: Yes, we brought all the actions. We settled what we settled. I don't think we had any litigation come out of it. I think we settled all of our actions. Joe Nacchio, who was the CEO at the time, went on to try his insider-trading case and went to prison for that, but everything else was resolved by the time I left.

KD: Great. Anything else we should talk about from your experience in the regions that we've missed?

RF: I don't think so. I was there for 18 years. It was amazing. I enjoyed virtually every minute of it. It was challenging. It was fun to wear the white hat. It was incredibly supportive. I cannot say enough about the experience.

KD: We'll talk about moving on. You went to Morrison & Foerster for a while.

RF: Very quickly I left in, I don't remember when I left, 2006.

KD: 2006. Yes.

RF: 2006, and then went to Morrison & Foerster for 10 years. I went over as a partner. I joined the securities-litigation enforcement, white-collar group. A wonderful group. I spent the next 10 years exclusively 95 percent doing government-enforcement type work, broadly defined. I spent a lot of time conducting internal investigations for public companies and regulated entities looking into issues that came up.

Some of those internal investigations were the result of the SEC coming in and having an investigation of its own and the company saying, "Tell you what, we'll do our own and we'll let you know." Those are really, really fascinating cases. I represented accounting firms. I represented regulated entities in front of FINRA. I represented auditors in front of the PCAOB. My experience at the SEC, I think, is what allowed me to dive into all those various different things, because I had an understanding of the way regulators and law enforcement works. I absolutely could not have done that without spending the prior 18 years at the SEC. I wouldn't have known what I was doing, number one, and number two, nobody would've trusted me.

The other thing that I always tell people is that having the experience that the SEC not only lets you know how to do things, but I actually think it can make you a very, very effective advocate once you're on the private-practice side. Because with the experience you have at the SEC, you know how to deal with the SEC. When saying things, you know what they're saying. When they want things, you know how to deal with what they want, and how to get your client in the place where they can be compliant.

There's no miscommunications. You can figure out how to negotiate. You know what's important. You know how to talk to the folks. Again, as silly as that sounds, it's a really, really big deal. Because when I was at the SEC, I used to always appreciate it when a former staffer would come in and we'd have conversations. Because we knew we were saying the same things and understood the same things and had expectations set.

You could really run into problems and miscommunications if you were dealing with someone who didn't have much experience dealing with the SEC, let alone working at the SEC, which was the best. I also found that when I was at Morrison & Foerster, because I could talk with folks and not have miscommunications. Things went much, much more smoothly as you're dealing with the staff and what they want to do, that it was a real advantage.

KD: Terrific. I want to highlight one last thing. I understand that while you were at Morrison & Foerster you got involved with something called the Rocky Mountain Children's Law Center.

RF: Very, very quickly because anybody who's watching this may not be that interested. But very, very quickly when I was at Morrison & Foerster, I was looking for things to do with my

legal experience that I thought could be helpful to the world at large. One of the things, I was also looking for places to send some money to, so I sent some money to the Rocky Mountain Children's Law Center. Because they are child advocates working within the child-welfare system, and with teens and other youth that had a history, so I sent them some money.

Then, let's see, the development director called me up and said, "Hey, thanks for sending some money. Can I take you to lunch?" We went to lunch. That was my first mistake. She said, "What do you want to do?" I said, "How can I help?" They put me on to act as a counsel. They brought me in to act as counsel when I was at Morrison & Foerster. To help them in a case that was going to the Colorado Supreme Court, to argue about the rights of a foster child to a familial tie and all of those sorts of things.

It was a great experience. I loved it. I came back. The executive director met, asked me to be on the board. That was my big downfall because I joined the board of a nonprofit. I was on the board for three years doing what I thought were great things. They had a management issue in that they were looking to hire somebody to oversee all of the legal operations. Because I was a lawyer on the board, the executive director asked me to draft a position description. I drafted the position description and as I was drafting, I was like, "Oh, I could probably do this." I drafted it up and I took it to the board, and the board looked at me and said, "Hey, do you want to do this?" I'm like, "I don't really know." But ultimately, I ended up saying, "Sure."

I became the deputy executive director there overseeing the operations of the agency, and I spent six years doing that, which was incredibly fun. Working with very, very young lawyers and social workers in the context of child welfare or youth and kids and families that needed legal help, to be able to manage whatever was going on in their lives.

The one thing I'll say that I'm most proud of is we started this thing called the Baby Court in Colorado. We copied a Baby Court that's been around for a little bit in a few other states where it's a dependency and neglect court, so think foster care. But the court is solely working with children who are zero to three-years-old because their developmental needs are very different than a 15-year-old in the system.

We established this court. We've now got three different dockets running, one in Pueblo and a couple others. One up here by Denver and Arapahoe County. Two in Pueblo, now that I think about it, and it's going great and that may be the proudest accomplishment of my life.

KD: Well, terrific. Anything else we should talk about before we wrap up?

RF: That is, it. I've talked for a long time.

KD: Well, thank you. Thank you for doing that. It's been fascinating. You've told me a number of things I had missed along the way over many years, so thank you.

RF: It was my pleasure. I appreciate your getting ahold of me. This has been a ton of fun. I feel like an old man reminiscing now, but it's been great.