

1 have remembered if I got a call from Senator Glenn, if
2 there'd been a problem with it. I certainly don't remember
3 any problem.

4 Q Well, there was a problem in the sense that the
5 Ohio-insured S&Ls were going down the drain.

6 A Well, I don't mean that. I mean if there were a
7 problem in the way he addressed it to me, but I don't
8 remember that.

9 Q So if he simply made an ordinary and usual
10 request for your assistance, you wouldn't remember it?

11 A Not at all. It wouldn't be a problem.

12 Q I want to go, next, to the events leading up to
13 the April 2nd meeting.

14 You said, in response to Mr. Bennett's question
15 this afternoon, having had a chance to look at the Arthur
16 Young letter, that the statements made in that letter would
17 indeed have been a sufficient basis for a Senator to make an
18 inquiry --

19 A Make an inquiry.

20 Q -- concerning the Board's conduct. Isn't that
21 correct?

22 A Yes.

23 Q Did you know, prior to reading that letter and
24 prior to the beginning of this hearing, that in fact Senator
25 Glenn had met with Mr. Atchison to inquire into these

1 matters before deciding to come to the April 2nd meeting?

2 A No.

3 Q Did you learn that for the first time when these
4 hearings began?

5 A I think I've just learned of that right now.

6 Q You testified this morning, and I think I've got
7 your words straight, that you were told to come alone to the
8 April 2nd meeting.

9 A That's right.

10 Q But you also don't remember who it is that told
11 you to do that?

12 A That's correct.

13 Q And yet this was a matter, was it not, according
14 to your testimony, that was of serious concern to you?

15 A That's correct.

16 Q It never happened before?

17 A Never happened before.

18 Q Did you make any inquiry, at the time, to
19 determine how this message had been conveyed?

20 A I really don't recall. I may have. I just don't
21 recall that. I knew I was supposed to go to his office at
22 6:00 o'clock.

23 Q Is it typical that, as you ran the Board then,
24 that a message would simply be conveyed to you and you would
25 abide by the instructions that were being given?

- 1 A Well, if Senators wanted to see me, I would go.
- 2 Q And typically did that instruction to attend a
3 meeting come through a staffer or would it come to you,
4 directly?
- 5 A It would come through a staffer.
- 6 Q And typically, who would that staffer be?
- 7 A Well, it would be either one of the people that
8 worked in my office or Mary Ellen Taylor or Arlan Withers
9 who both had some responsibilities in the Congressional
10 relation area.
- 11 Q And did you ask any one of those people at the
12 time whether or not it was they who'd received directions
13 for you to come without staff?
- 14 A I really can't remember. It didn't seem
15 important. I had already heard, and I recall that I would
16 be getting a call. I figured this was it.
- 17 Q It didn't seem important, you said.
- 18 A No, that I would be getting a call.
- 19 Q And the issue of coming without staff, that was
20 important to you?
- 21 A It never happened to me.
- 22 Q It was important to you, was it not?
- 23 A Yes.
- 24 Q And you made no inquiry that you can recall?
- 25 A I can't recall, no.

1 Q Did you talk to Mr. Black about it, ask for his
2 advice?

3 A I may have. His advice? Well, this was my
4 policy. My policy was to respond. If members of Congress
5 or Senate wanted to talk with me, I'd talk with them.

6 Q You didn't hesitate to go, despite the fact that
7 you'd been told not to bring staff?

8 A I didn't hesitate to go. I was a big boy. And
9 if Senators wanted to talk to me, then I went.

10 Q You said on a few occasions, over the course of
11 your testimony this morning, and perhaps this afternoon,
12 that you were concerned because -- and I think I've got your
13 words right -- there were just the five of us. There were
14 four of them and there was me.

15 Q That's correct.

16 Q Why did that concern you?

17 A There was no one else to know what happened, what
18 was said. And I just assumed, then, that the idea
19 withdrawing the regulation, asking for the regulation to be
20 withdrawn would be embarrassing to them.

21 Q But you didn't know that going into the meeting,
22 did you?

23 A No, no, not going in.

24 Q And so it's after the fact that you concluded
25 that there must have been some other reason for not having

1 staff there?

2 A Well, it began to descend on me like a dove, you
3 know, about 15 minutes into it, five minutes, ten minutes.

4 Q And the reason that you were concerned was that
5 there would be no one else independently to tell what
6 happened, is that correct?

7 A Right.

8 Q And did you think that that was the reason why
9 you'd been instructed not to come with staff?

10 A Yes.

11 Q Indeed, when Mr. Bennett questioned you in your
12 deposition, you used the words, --

13 A If it ever got out.

14 Q Pardon me?

15 A Only if it ever got out.

16 Q If it ever got out.

17 A Right.

18 Q And when Mr. Bennett questioned you during your
19 deposition, I'm sure you'll recall, you used the words, they
20 might have deniability. Is that right?

21 A Yes, right.

22 Q That these four Senators could, just because you
23 were there alone, say, it never happened, right?

24 A Right. Absolutely.

25 Q John Glenn, if he were asked, would lie about

1 what happened. Was that your concern?

2 A Well, as a matter of fact, he didn't.

3 Apparently, he just said he didn't remember.

4 Q Right.

5 A But he could have, right.

6 Q Could have, but he didn't.

7 A But he didn't.

8 Q Now, these same four Senators who might lie and
9 take advantage of deniability showed up a week later at a
10 meeting with four staff members of the Board, one of whom
11 was assiduously taking notes, isn't that correct?

12 A That's right.

13 Q So that these four Senators who might otherwise
14 have been afraid that someone might reveal what they were
15 saying appeared at a meeting only a week later, with a full
16 record having been produced after the fact?

17 A Well, it was instructive to listen to Ms.
18 Sedlmayr say that she had the same concern, that this might
19 get out, although she said, I might misrepresent it.

20 Q I'm not sure I understand you.

21 A But, anyway -- what was your question?

22 Q My question was, these same four Senators who you
23 were concerned might be wanting to conceal --

24 A Well, they were still Senators.

25 Q Let me ask my question, then you can answer it.

1 A Okay.

2 Q These same four Senators you were concerned might
3 want to conceal what they were saying to you, these are the
4 same four who, together with one other, appeared a week
5 later with four staff members. And of that meeting, at
6 least, we have a full transcript, isn't that correct?

7 A That's right.

8 Q Did you ever have meetings alone when you were at
9 the White House with representatives of other agencies?

10 A They came by my office, yes.

11 Q And you weren't worried then about whether there
12 was deniability, were you?

13 A Well, I don't think five Cabinet members ever
14 came and asked me to do something that I didn't want to do
15 or shouldn't do. I was a regulator, by the way; I was not a
16 member of the White House Staff.

17 Q I understand. I'm just trying to take you back
18 to some of your prior experience, and ask whether you had
19 concerns, when you met one on one with Executive Branch
20 agencies, that one of them might want deniability and not
21 bring staff.

22 Did that ever concern you?

23 A No, it never concerned me, and I never had any
24 meeting like this, anyway.

25 Q You testified at some length, both in your prior

1 appearances and today, about your -- I don't know how to put
2 it -- your intentional ignorance with respect to Lincoln, as
3 you went into the April 2nd meeting, and your decision not
4 to know any more than you absolutely had to, which I think
5 were your words this morning.

6 Let me understand exactly why you made that
7 decision.

8 Q Because I'd been accused of having a vendetta and
9 a feud for a long time, and it wasn't true.

10 And secondly, only a few days before that
11 meeting, Lincoln had petitioned to have me recused from
12 anything having to do with Lincoln and, I felt, for no good
13 reason, really. I didn't have a vendetta anyway.

14 A And so the fact that someone had accused you of a
15 vendetta persuaded you simply to step back from Lincoln and
16 not have anything further to do with it?

17 A Well, no. If they had brought the issue to me,
18 then I would have had to take a position.

19 But the way our system is structured, and I think
20 any regulatory agency in Washington, is that we have people
21 out in the field, and they're the primary day to day
22 regulators of an institution. I have very good people out
23 there.

24 There was no reason why The Chairman of the
25 Federal Home Loan Bank Board had to have a peculiar interest

1 in this institution.

2 Q Now, you knew that you were going to be asked
3 questions about Lincoln, did you not?

4 A Oh, I suspected I would.

5 Q More than suspected. You pretty well knew you
6 were going to be asked.

7 A Well, yes, I thought there was a pretty good
8 chance.

9 Q Pretty good chance.

10 A Right.

11 Q And typically, I'd imagine, in the course of your
12 function as Chairman of the Board, you must have been asked
13 to go to any number of meetings or indeed appear at public
14 hearings, when you knew what the subject matter was, isn't
15 that correct?

16 A I'm sorry. Please repeat that.

17 Q You were undoubtedly asked to attend any number
18 of meetings with Congressmen or Senators or indeed even
19 appear at public hearings, and you knew in advance what the
20 subject matter was, right?

21 Is that correct?

22 A Generally speaking, that would be true. I'm sure
23 there were times when I didn't.

24 Q And typically what would happen, I would guess,
25 having some sense of the world you lived in, was that you'd

1 ask a staff member to brief you on the subject of the
2 meeting you were about to have, is that correct?

3 A It often happened that way.

4 Q Because you really wouldn't want to go into a
5 meeting, typically, and not know the answers. Is that
6 correct?

7 A Well, generally speaking, I think that's a fair
8 statement.

9 Q And you didn't ask anybody to brief you on this
10 occasion, did you?

11 A No. I had many other things happening at the
12 time. I had a lot of other things on my mind besides this.

13 Q And what did you intend to do in response to the
14 questions you were asked, as you prepared to go to that
15 meeting?

16 A I had no idea what they were going to ask. It
17 might have had to do with Lincoln. I mean, it could have
18 been almost anything.

19 Q And what did you intend to do in response to any
20 questions that might be asked you about Lincoln?

21 A I didn't intend to do anything before I got
22 there.

23 Q I see. But you went in ignorant, intentionally
24 so.

25 How did you intend to respond to any questions

1 that were asked to you about Lincoln?

2 A I responded in the way I did.

3 Q So you intended, going in, to simply refer them
4 to the regulators in San Francisco?

5 A No, that's not correct. I didn't go in with that
6 intent. I didn't know what they were going to ask.

7 Q Well, let me try my question one more time.

8 Assuming that they were to ask you any questions
9 about Lincoln, how did you intend to respond?

10 A I didn't know before I got there.

11 Q You were just going to wing it?

12 A Sure.

13 Q Did you tell --

14 A By the way. You said "wing it."

15 Q That's all right. Go ahead.

16 A Well, just a minute.

17 He said "wing it." I'm not sure I would
18 characterize it that way. I was just going to be there.

19 Q You were going to be there, and what was going to
20 happen when they asked you a question that you didn't know
21 the answer to?

22 A Well, I'd have to tell them I didn't know the
23 answer, which I did.

24 Q And would you offer to get them the answer?

25 A Well, I did my best. I said the people who could

1 answer would be the people in San Francisco.

2 Q you said that one of your principal concerns, as
3 you went into this meeting, was the fact that you had the
4 recap legislation pending on the Hill, and that was the most
5 important thing in your life at that point. Is that
6 correct?

7 A That's correct.

8 Q And I think you said this morning that the last
9 thing in the world that you wanted to do was make any
10 Senators angry?

11 A That's right.

12 Q Even though, in fact, most of the Senators in
13 that room really weren't Banking Oversight Senators?

14 A But they each had a vote.

15 Q Each had a vote.

16 And the last thing you wanted to do was make them
17 angry.

18 But you did make them angry, didn't you?

19 A I don't know. I don't know whether I made them
20 angry or not.

21 Q Well, you've testified, have you not, that John
22 Glenn, for one, was very angry with you because you didn't
23 have any answers to his questions?

24 A Well, but I didn't want to make them angry.

25 Q I understand.

1 But you did?

2 Mr. Garment. I'm not going to make a lot of
3 technical objections, Mr. Chairman. You can be sure of
4 that, but I think this is beginning to get into the
5 argumentative area.

6 Chairman Heflin. I believe it has a good deal of
7 relevancy.

8 Go ahead. Overruled.

9 Mr. Ruff. Thank you, Mr. Chairman.

10 By Mr. Ruff:

11 Q Did you know how the Senators in that meeting
12 ultimately voted on the recap legislation?

13 A I don't know today.

14 Q If I told you they all voted in favor of the
15 recap legislation, would you think that was accurate?

16 A Well, that, you know, the recap legislation that
17 we were lobbying for is not what came out of the Senate. We
18 wanted \$15 billion and we didn't get \$15 billion. I think
19 it went to \$7.5, half that amount. And finally, at some
20 point, I think probably after I left, it got up to \$10
21 billion, a little bit more than ten.

22 Q And \$800 million, right?

23 A So, right, but the \$800 million was for
24 reconstituting the emergency reserve.

25 Q So you didn't get everything you wanted?

1 A No. But you have to understand, I was lobbying
2 for \$15 billion.

3 Q I understand. And you didn't get everything you
4 wanted?

5 A I didn't get anything I wanted. -- I mean, this
6 only occurred well after I left.

7 Q In August, wasn't it?

8 A Or weeks after I left.

9 Q Weeks, yes.

10 Let me take you very briefly to the set up of the
11 office as you came in for this meeting.

12 I think you indicated that you were sitting
13 across from Senator DeConcini. And then to his right were
14 Senators McCain and Cranston.

15 A To his left. I'm sorry, to his left. I got that
16 wrong.

17 Q To his left. Okay.

18 And so, to his right --

19 A To left, left, left, left around.

20 Q And where was Senator Glenn, then, so I have an
21 absolute --

22 A He was the closest to me. He was to my right,
23 immediately to my right.

24 Q I see.

25 And when Senator DeConcini, as you've testified,

1 made his statement about the Direct Investment Regulation,
2 and made his statement about the home loans, what, if
3 anything, did the other Senators say about that issue?

4 A They didn't say anything. They didn't object.
5 They didn't say anything. They just let it go.

6 Q Did they grunt?

7 A I didn't hear a grunt.

8 Q Did they nod?

9 A I thought I saw a nod, but maybe I didn't. I can
10 see out of the side of my eyes, you know. I can see over
11 there.

12 Q From whom did you see a nod?

13 A I don't remember. The point is, there was no
14 objection.

15 Q So nobody said, gee, we're opposed to that.

16 A Nobody said, he's speaking for himself. We don't
17 agree with him, or that's his position, no. And he kept
18 using the term "we."

19 Q When you say, kept using it, how many times would
20 you say he used it?

21 A Oh, every time he said anything, it was "we."

22 Q And over what period of time are we talking
23 about?

24 A Well, during the meeting.

25 Q You testified I think, both this morning and this

1 afternoon, that you launched into a discussion of the
2 history of the Direct Investment Rule in order to explain to
3 Senator DeConcini the background leading up to your
4 implementation of the Reg?

5 A Well, I went over quickly the fact that we had
6 proposed the Direct Investment Regulation way back in 1984,
7 that we had adopted the Regulation in early '85, that we'd
8 always complied with the requirements of administrative law
9 every step of the way.

10 Q And in fact, this whole discussion of the history
11 of the Direct Investment Regulation, and what you describe
12 as Senator DeConcini's proposal to you, took what? two or
13 three minutes?

14 A Yes, about that.

15 Q And you were there for an hour, is that correct?

16 A Yes, that's correct.

17 Q And so in your response to Senator DeConcini 's
18 letter, which Mr. Bennett asked you to read a while ago, in
19 which I think you say to Senator DeConcini, we did not talk
20 for an hour about what I didn't know about Lincoln; in fact,
21 you talked for 57 minutes. Is that correct?

22 A Well, I said the meeting was an hour. I can't
23 remember what I said there, but --. I'd have to refer back
24 to that, because I don't know the point you're trying to
25 make. Something doesn't sound right here.

1 Mr. Garment. Mr. Ruff, why don't you try the
2 question again?

3 Mr. Ruff. Mr. Chairman, I'm really not
4 interested in Mr. Garment's response to my question.

5 Mr. Garment. I'm not answering your question.
6 I'm simply asking you to pose the question again. I
7 couldn't understand it sufficiently to object to it.

8 Chairman Heflin. If you have objections or
9 comments, direct them to the Chair, rather than between
10 yourselves.

11 Mr. Ruff. I think the record will just have to
12 stand where it is, Mr. Chairman.

13 By Mr. Ruff:

14 Q Going back to the issue of your intent not to
15 know anything more than you absolutely had to about Lincoln,
16 in fact, you'd had some communication, had you not, with Mr.
17 Cirona in the fall of '86?

18 A Yes.

19 Q About Lincoln?

20 A And I brought that up in the first meeting.

21 Q And you told the Senators about that?

22 A Well, I said that I had -- we were talking about
23 this vendetta business, that I had gotten a report from my
24 principal supervisory agent months ago.

25 Q And did you tell them what was in that report?

1 A No, I didn't go into it. Just that we were not
2 harassing Lincoln.

3 Q Did you recall, as you were in that meeting, the
4 substance of your communication with Mr. Cirona?

5 A I hadn't read the memo for a long time.

6 Q You didn't read it in preparation for the
7 meeting?

8 A No, no.

9 Q Did you tell the Senators anything more about the
10 nature of the Lincoln audit, why it had taken so long?

11 A No, I just -- no, I didn't.

12 Q Did you tell the Senators anything about
13 appraisals and how appraisals were being handled by Lincoln?

14 A I said I couldn't answer the questions, that the
15 only people who could were in San Francisco.

16 Q And I think you were quite candid, earlier in the
17 day, in saying that the impetus for that meeting with the
18 San Francisco regulators in fact came from you in that
19 question. That's right, isn't it?

20 A Well, I said that it would be fair to say that it
21 came from me, because i couldn't answer the questions, not
22 that I went there with the idea of pushing it off onto the
23 San Francisco regulators at all.

24 I didn't know what was going to happen in that
25 meeting, other than the subject of Lincoln might come up.

1 But it never occurred to me, when I went to the meeting
2 that, in the end, there might be a second meeting with San
3 Francisco regulators.

4 Q As you left the April 2nd meeting and went back
5 to your office to talk to your staff, did you consider,
6 yourself, taking any notes to memorialize the meeting?

7 A No, I normally didn't take notes. My staff
8 generally took the notes because they were always there.
9 This time, I didn't have staff and I didn't take notes. I
10 thought it would be unseemly with four United States
11 Senators to be, you know, sitting down and taking notes on
12 something like this for the head of an agency.

13 Q And so when you got back to where your staff was,
14 did you ask them to take notes about what you were about to
15 tell them?

16 A No, it wouldn't have occurred to me to ask them
17 to take notes. I mean, I wasn't thinking of something
18 happening three and a half, two and a half years later, like
19 this.

20 Q Well, you testified that you were concerned about
21 deniability, that there wasn't -- I think you used the words
22 earlier -- any paper trail.

23 A Yes, but I never, it never, it certainly didn't
24 occur to me that we would ever be talking about it in this
25 kind of forum.

1 Q Well, I presume that it occurred to you when you
2 spoke to Mr. Black about his taking notes at the second
3 meeting?

4 A That it would be the subject of a forum like
5 this? No.

6 Q Not a forum like this, but that it might be a
7 subject of inquiry at some later date?

8 A Not really, no.,

9 Q Why, then, did you ask Mr. Black to debrief you
10 and to prepare his notes of this meeting?

11 A Well, because Mr. Black was good at taking notes
12 and he was one of the brightest people in my whole --
13 probably the brightest person in my whole system. And I was
14 very interested to learn what his thoughts were.

15 Q Did you consider, as you left that April 2nd
16 meeting, simply getting the answers to the questions that
17 had been asked you and conveying them, yourself, back to one
18 or more of the Senators?

19 A I missed the first part of the question.

20 Q Did you consider, after you left the April 2nd
21 meeting, yourself, getting the answers to the questions that
22 had been asked, an conveying them back to one or more of the
23 Senators?

24 A No.

25 Q Can I ask you why not?

1 A Well, it occurred to me that at that time, they
2 might be meeting with the San Francisco regulators.

3 Q Well, you had not yet set up this meeting
4 immediately after.

5 A Well, but at the end of the meeting, Senator
6 DeConcini said he would get back to me.

7 Q I see.

8 And did you weigh the question of whether or not
9 there would be an alternative to putting the four regulators
10 together with these Senators?

11 A I don't think I did.

12 Perhaps I should have, but I didn't.

13 Q Had there ever previously been an occasion in
14 your tenure as Chairman of the Board, when a Congressman or
15 a Senator had asked you for information that you didn't have
16 at the time the question was asked?

17 A Yes, there were a lot of questions like that.

18 Q Lots of those.

19 I mean, you've been in enough Congressional
20 hearings to know that there's always that moment when you
21 say, I'll have to get back to you, Mr. Chairman, right?

22 A Or I'll provide it for the record.

23 Q Right. And so you're used to the process of
24 going back and being briefed, and providing supplemental
25 information, are you not?

1 A Well, normally it wouldn't happen that way.
2 Normally, the Staff would just handle it, and I'd go on to
3 something else.
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1 Q But, at lest they might write a letter for you
2 containing the information that had been asked by the
3 Chairman of the Hearing Committee, for example?
4 A Maybe not. Maybe. Maybe not.
5 Q It didn't happen here though.
6 A No.
7 Q Did you consider transmitting the information in
8 that fashion?
9 A I don't think so.
10 Q Has there ever been an occasion in your service
11 on the Board when you asked your staff to appear in your
12 stead with a Congressman or a Senator?
13 A I had my staff appear on a number of occasions at
14 hearings of the Federal -- hearings in which the Federal
15 Home Loan Bank Board was invited, yes. I didn't always
16 testify, most of the time.
17 Q Typically, it was they who were invited to
18 testify? Is that correct?
19 A No, it was me.
20 Q Invitation to the Board and you decided to go?
21 A It came to me and on some rather much more
22 technical things, I thought it would be better to have some
23 more technically-oriented people on the staff testify.
24 Q Did you talk to Mr. Black or Mr. Patriarca or Mr.
25 Cirona, Mr. Sanchez about your concerns as to the tenor and

1 substance of the April 2nd meeting before they went off to
2 the April 9th meeting?

3 A I think I did to Bill Black.

4 Q What did you tell him?

5 A I think the tenor that you're asking for was
6 frustration and unhappiness on my part.

7 Q And did you tell them about what you had told us
8 today, about Senator DeConcini's statements to you?

9 A Oh, yes.

10 Q And did you tell him that he should be prepared
11 to respond to any similar requests that might be made?

12 A I don't recall saying anything like that. It was
13 obvious if they were going to meet with the Senators there
14 would be questions. They are big boys. I mean, you know,
15 they can handle these things very, very well, probably
16 better than I could.

17 Q You didn't give them any guidance as to how to
18 respond to these questions?

19 A Absolutely not. How could I give them guidance
20 when I didn't know -- I didn't know the answers to these
21 questions?

22 Q I'm not talking about the questions about the
23 length of the audit or the appraisals. You say you were
24 most concerned about this request that the Direct Investment
25 Regulation be withdrawn.

1 Did you give them any guidance as to how to respond if
2 that issue came up again?

3 A No. No need to.

4 SENATOR HEFLIN: Mr. Ruff, let me interrupt you. How
5 long do you anticipate you will continue? It's a question
6 as to whether we'll take a break now.

7 MR. RUFF: Why don't we take a break now.

8 Perhaps 10 or 15 more minutes, but I'd just as soon
9 break now, Mr. Chairman.

10 SENATOR HEFLIN: Standing in 10 minutes recess.

11 I think there is some issue about scheduling it,
12 counsel for the Senators are interested in. If you can come
13 to the room to the back here, we'll discuss it.

14 (Recess.)

15 SENATOR HEFLIN: I believe we have a quorum.

16 All right, sir, will you proceed.

17 MR. RUFF: Thank you, Mr. Chairman.

18 I have just a couple more questions, Mr. Gray, and I'll
19 try not to make that a lawyer's promise.

20 BY MR. RUFF:

21 Q I take it that you're fairly familiar with the
22 so-called transcript, that is, Mr. Black's typewritten
23 version of the events that occurred on April 9th?

24 A Fairly.

25 Q You'll recall, I'm sure, as you think back on