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## FCIC Minutes for Telephonic Business Meeting on 12-6-2010 - Agenda Item 3

Phillip Angelides

Gretchen Kinney Newsom

Bill Thomas

Brooksley Born

Byron Stephen Georgiou

*See next page for additional authors*

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**Author/Creator**

Phillip Angelides, Gretchen Kinney Newsom, Bill Thomas, Brooksley Born, Byron Stephen Georgiou, Bob Graham, Keith Hennessey, Douglas Holtz-Eakin, Heather Murren, John W. Thompson, Peter J. Wallison, Wendy Edelberg, Gary Cohen, Scott Ganz, and Michael L. Mayo



**Financial Crisis Inquiry Commission  
Agenda Item 3 for FCIC Meeting of December 15, 2010  
Minutes of Telephonic Business Meeting of  
December 6, 2010**

**Agenda Item 1: Call to Order**

Chairman Angelides called the meeting to order at 5:14pm ET.

**Agenda Item 2: Roll Call**

Chairman Angelides asked Gretchen Newsom to call the roll of the Commissioners. Present were Phil Angelides, Bill Thomas, Brooksley Born, Byron Georgiou, Bob Graham, Keith Hennessey, Doug Holtz-Eakin, Heather Murren, John W. Thompson, and Peter Wallison.

Also participating in the meeting were: Wendy Edelberg, Executive Director; Gary Cohen, General Counsel; Gretchen Newsom, assistant to Chairman Angelides; Scott Ganz, assistant to Vice Chairman Thomas; and Courtney Mayo, assistant to the Vice Chair.

**Agenda Item 3: Approval of Minutes of Telephonic Business Meeting, November 17, 2010**

Chairman Angelides introduced the minutes from the FCIC business meeting of November 17, 2010.

MOTION: Georgiou moved and Thompson seconded a motion to adopt the meeting minutes with the correction of a clerical error (Thomas voted NAY and Graham voted AYE on Agenda Item 7), and to include the transcript of Agenda Items 7 and 8 as part of the record (See Attachments 1 and 2).

APPROVED: 10-0

**Agenda Item 4: Chairman's and Vice Chairman's Report**

Chairman Angelides advised the Commission of upcoming actions and meetings to take place, namely that the Commission meetings on December 15<sup>th</sup> and 16<sup>th</sup> would focus on the review and discussion of the report in addition to taking action on Commission business such as the clearance of documents. He also informed the Commission that the vote on the approval of the report would likely take place on December 22<sup>nd</sup>, with the notice of the meeting and current draft of the report being sent to the Commission on December 15<sup>th</sup>.

Chairman Angelides relayed the advice of Gary Cohen, General Counsel, that an additional subsequent vote to reaffirm approval of the report might be warranted on approximately January 6<sup>th</sup> after copy editing is completed.

Vice Chairman Thomas advised the Commission that he would bring forth suggested edits for vote and consideration at the following day's Commission meeting. The process of drafting the report and the incorporation of the Vice Chairman's and Chairman's comments were discussed. Staff was asked to look at the Commission's statute and evaluate whether the Commission had covered the areas and topics of investigation outlined therein. The process of copy editing and the involvement of the Commission was discussed. It was determined Commissioners are to receive redline copies of the report throughout the copyediting process.

Chairman Angelides noted recent correspondence addressed to the Commission from Congressman Issa of the House Committee on Government and Oversight. Mr. Cohen informed the Commission that it is his opinion that outside special counsel should be retained to address the requests of this Committee. Chairman Angelides informed the Commission that Mr. Cohen will bring this request to the Commission for approval in the near future.

#### **Agenda Item 5: Executive Director's Report and Progress on Report**

Executive Director Wendy Edelberg informed the Commission of the progress the staff has made on drafting the report and when to expect outstanding chapters for review.

#### **Agenda Item 6: Procedures re: Dissents and Additional Views**

Chairman Angelides introduced the draft revisions to the Commission procedures regarding dissents and additional views. The timeline for the report to be sent to the publisher and the GPO for printing was discussed. The definition of the report and its components was discussed. Commissioners Hennessey and Wallison presented their estimates on the numbers of words for their dissents.

The Commission recessed briefly. Upon re-commencement, the absences of Commissioners Holtz-Eakin and Georgiou were noted (Commissioner Holtz-Eakin re-joined the meeting after the motion was made as outlined below). Chairman Angelides noted that there was general consensus to strike 4D of the draft procedures.

MOTION: Graham moved and Thompson seconded a motion to adopt the draft procedures as outlined in Agenda Item 6, to allot 9 pages inclusive of text, charts, and footnotes per Commissioner for dissents or additional views per Section 3B of the draft procedures, and to strike section 4D of the draft procedures (See Attachment 3)

APPROVED: 5-4

AYE: 5- *Angelides, Born; Graham, Murren, Thompson*

NAY: 4 – *Thomas, Hennessey, Holtz-Eakin, Wallison*  
ABSENT: 1- *Georgiou*

Staff were directed to inquire with the publisher the possibility of using a smaller type or font for publishing the dissents/additional views. Commissioner Wallison requested a motion precluding or limiting the Commission's ability to edit or amend dissents or additional views. Chairman Angelides agreed to have this item reviewed and drafted by Mr. Cohen in consultation with Mr. Wallison and taken up for consideration at the upcoming meeting or possibly taken up for vote sooner by email.

**Agenda Item 7: Comments and Questions**

The focus for the meeting on December 7<sup>th</sup> was discussed. It was requested that if there are major points of disagreement with the current drafts presented to the Commission that these be brought forth for discussion.

**Agenda Item 8: Other Items of Business**

No other items of business were brought up by the Commissioners.

**Agenda Item 9: Adjournment**

MOTION: Born moved and Thompson seconded a motion to adjourn the meeting.

APPROVED: 9-0 (Commissioner Georgiou was absent)

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**Financial Crisis Inquiry Commission  
Agenda Item 3 for FCIC Meeting of December 15, 2010  
Minutes of Telephonic Business Meeting of  
December 6, 2010**

**ATTACHMENT 1  
APPROVED Minutes of Telephonic Business Meeting of  
November 17, 2010**

**Agenda Item 1: Call to Order**

Chairman Angelides called the telephonic business meeting to order at 12:02pm ET.

**Agenda Item 2: Roll Call**

Chairman Angelides asked Gretchen Newsom to call the roll of the Commissioners. Present were Phil Angelides, Bill Thomas, Brooksley Born, Byron Georgiou, Heather Murren, John W. Thompson, and Peter Wallison. Commissioner Bob Graham joined the call during Agenda Item 4 and Commissioner Keith Hennessey joined the call during Agenda Item 5. Commissioner Doug Holtz-Eakin was absent.

Also participating in the meeting were: Wendy Edelberg, Executive Director; Gary Cohen, General Counsel; Gretchen Newsom, assistant to Chairman Angelides, Rob Bachmann, assistant to the Chair; Scott Ganz, assistant to Vice Chairman Thomas; and Courtney Mayo, assistant to the Vice Chair.

**Agenda Item 3: Approval of Minutes of Meeting, November 4, 2010**

Chairman Angelides introduced the minutes from the FCIC meeting of November 4, 2010.

MOTION: Murren moved and Born seconded a motion to adopt the meeting minutes (See Attachments 1-3).

APPROVED: 7-0 (Commissioners Graham, Hennessey and Holtz-Eakin were absent.)

**Agenda Item 4: Chairman's and Vice Chairman's Report**

Chairman Angelides and Vice Chairman Thomas informed the Commission that their respective reports would be covered within the agenda items of the meeting. Chairman Angelides later informed the Commission to mark their calendars for Commission meetings on December 6<sup>th</sup> and 7<sup>th</sup> and December 15<sup>th</sup> and 16<sup>th</sup>.

#### **Agenda Item 5: Executive Director's Report and Progress on Report**

Executive Director Wendy Edelberg informed the Commission that staff members are hard at work producing chapters of the report for Commission review. Commissioners have already received the entirety of Section III for their review and feedback, and Section I will be forthcoming by the end of the week, followed soon by Section A.

#### **Agenda Item 6: Document and Interview Review/Clearance Process**

Chairman Angelides and General Counsel Gary Cohen introduced Mr. Cohen's memo on suggested procedures for review and approval with respect to the public release of confidential documents and materials in the Report, the E-Book, and the Website. Discussion ensued among Commissioners on this matter. Mr. Cohen clarified that if there are unresolved matters concerning the release of confidential documents and materials that have been objected to by the submitting party and have not been resolved, these matters will come before the Commission for review and action prior to public release. It was further clarified that no confidential items can be publicly released except in accordance with Commission rules and, where there are confidentiality agreements, under the terms of those agreements. Mr. Cohen was directed to inform the Commission in a timely and regular fashion of items that have been objected to, and Commissioners were asked to inquire about the status of documents that hold specific interest to themselves through Mr. Cohen.

Mr. Cohen also briefly touched upon issues related to the archiving of Commission documents and informed the Commission that a detailed memo will come before the Commission for consideration.

MOTION: Born moved and Thompson seconded a motion to approve review and clearance process as outlined in Gary Cohen's memo (attached).

APPROVED: 9-0 (Commissioner Holtz-Eakin was absent.)

#### **Agenda Item 7: Timing of Submission and Release of Report to Congress**

Chairman Angelides informed the Commission of his opinion that in order to wrap up ongoing FCIC investigations and research and to document our work properly, accurately, and thoroughly in a report that meets our obligations, he believes it is necessary for the Commission to delay the issuance of our report and to deliver the report in January. Chairman Angelides recommended proposed changes to Commission rules

to effectuate the issuance of the report in January. Discussion and debate of this matter ensued among Commissioners (see Attachment 4 for a transcript of this discussion).

**MOTION:** Born moved and Graham seconded a motion that the Commission determines that it shall deliver its report in January 2011, and that the Commission adopt the changes to the rules proposed by the Chairman as the Commission received under Agenda Item 7(attached) and further move that the Chairman be authorized to inform the President and Congress of this action immediately and that the information be made public.

**APPROVED:** 6-3 (Commissioner Holtz-Eakin was absent.)

*AYE: 6- Angelides; Born; Georgiou; Graham  
Murren; Thompson*

*NAY: 3 – Thomas, Hennessey, Wallison*

*ABSENT: 1- Holtz-Eakin*

For the record, Commissioner Hennessey informed the Commission that Commissioner Holtz-Eakin indicated to Commissioner Hennessey that he opposes the measure to delay the issuance of the report.

### **Agenda Item 8: Procedures re: Separate and Additional Views**

Chairman Angelides introduced a draft process for consideration by the Commission on a process for incorporating and publishing additional or dissenting views. A discussion among Commissioners ensued on this matter (see Attachment 4 for a transcript of this discussion).

Commissioner Born requested that the Commission postpone action on this matter until the following meeting wherein the Commission would consider revisions to the proposal. Vice Chairman Thomas agreed that he and Commissioners Hennessey, Holtz-Eakin, and Wallison would return to the Commission with an estimate for a word budget on separate or dissenting views for the commercial report within a few days.

### **Agenda Item 9: Update on Archive Process**

This agenda item was already covered during earlier discussion.

### **Agenda Item 10: Discussion of the Report**

This agenda item was already covered during earlier discussion. Additional comments and discussion was requested and none was offered.

### **Agenda Item 11: Comments and Questions**



No comments were brought up or questions asked by the Commissioners.

**Agenda Item 12: Other Items of Business**

No other items of business were brought up by the Commissioners.

**Agenda Item 13: Adjournment**

Chairman Angelides requested a motion to adjourn the meeting at 10:29am.

MOTION: Georgiou moved and Graham seconded a motion to adjourn the meeting.

APPROVED: 9-0 (Commissioner Holtz-Eakin was absent)



**Financial Crisis Inquiry Commission  
Agenda Item 3 for FCIC Meeting of December 15, 2010  
Minutes of Telephonic Business Meeting of  
December 6, 2010**

**ATTACHMENT 2  
APPROVED Transcript of Discussion of Agenda Items 7 and 8 of the Business Meeting on  
November 17, 2010**

**United States of America**

**Financial Crisis Inquiry Commission**

**Business Meeting**

**(Partial Transcript**

**Re Agenda Item 7 and Item 8)**

**Wednesday, November 17, 2010**

**\*\*\* Confidential \*\*\***

**Financial Crisis Inquiry Commission**

**Wednesday, November 17, 2010**

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CHAIR ANGELIDES: Let's move on to Item 7, which is the timing of submission and release of report to Congress.

Let me make just a quick opening comment on this, which is that -- and I think I'll make it short and sweet -- which is, at least in my opinion, to deliver -- to be able to complete our ongoing investigative -- or wrap up our ongoing investigative and research work and to document that properly in a report that meets our obligations, I believe it's necessary for us to determine as a commission, as other commissions have done before, to deliver our report to the President and Congress in January, prior to the end of January, at a date determined by the Commission.

I'm not going to make a long speech about it, except to say, this is just where we are, given the volume of information, the pace at which the work is going, and also the need to ensure that the work is absolutely accurate and thorough.

And so what I did present with members today is, on Item 7, some suggested change to our rules which would effectuate that.

So I will stop there and open the discussion.

Is there any discussion?

COMMISSIONER MURREN: I have no problem with the specific, if it helps us to get this -- get the job done.

CHAIR ANGELIDES: Others?

COMMISSIONER BORN: Well, I think it's very important that we complete our investigation and our documentation of that investigation properly and appropriately.

CHAIR ANGELIDES: Bill?

VICE CHAIR THOMAS: Let me ask you some questions.

CHAIR ANGELIDES: Uh-huh.

VICE CHAIR THOMAS: This -- this requires us to change our rules and change the date in which we are going to be submitting this to the Congress and the President, correct?

CHAIR ANGELIDES: Correct.

VICE CHAIR THOMAS: We have a statutory date that was provided to us by the Congress and the President --

CHAIR ANGELIDES: Correct.

VICE CHAIR THOMAS: -- right?

CHAIR ANGELIDES: Yes.

VICE CHAIR THOMAS: How are we able to change the statute by changing our rules?

CHAIR ANGELIDES: I don't think we are. I think what we're doing is making a determination that the report is best delivered in January. And in this regard, I did ask staff to look at historical precedent. And there's a number --

VICE CHAIR THOMAS: Okay, you don't have to go any farther than that.

So we're going to vote on this, and then you're going to notify or send a letter to Congress and the President that we want the date changed in the statute?

CHAIR ANGELIDES: No. What we're informing them is that we plan to deliver our report in January.

VICE CHAIR THOMAS: What happens if they say, "That's unacceptable. We want you to meet the statutory date"?

CHAIR ANGELIDES: Well, then, I guess that's an issue.

COMMISSIONER BORN: We'll discuss it then.

VICE CHAIR THOMAS: Why don't we inquire, through back-channels, if they would be receptive to this so we don't get egg all over our face?

CHAIR ANGELIDES: Well, I will tell you that over the course of a period of time, I've asked this question in -- I have asked this question not specifically with respect to this motion today; and the answer has been that if more time is needed -- as you know, you and I spoke some about the schedule. I made some back-channel requests, and was told essentially to everyone that I made, that this would not be an issue from their perspective. At least the people I spoke with, meaning, leadership on both sides of -- at least on the House and Senate side.

VICE CHAIR THOMAS: I don't -- I can't tell you that I've had the same high comfort level with discussions that I did not initiate but were proffered to me.

And so my question is -- we miss the date, we miss the date. That's not the most infrequent violation of all of the commissions and folks dealing with regulations and all the rest. They are almost a strong suggestion and sometimes aren't even a strong suggestion.

I'm trying to figure out how we minimize our damage to us, because if this comes out -- if we actually take a vote and we're on record, you know we're going to be inundated with phone calls, wanting to know why, with all kinds of speculation, and all we're going to get is a bunch of press with a bunch of stories by a bunch of people, none of whom I think are *[unintelligible]* what we're going to be doing and how difficult it is.

CHAIR ANGELIDES: Well, I will let other members weigh in; but my view on that is -- and, Bill, you and I talked about this -- my view is that absent taking an action and just floating and missing the date would be much more damaging; and I think we need to say it, put out our rationale versus, as I think I told you this morning, there's already a couple reporters calling, saying, "Gee, we heard you're thinking of doing findings in December and a report in January." And I just think we ought to grab the bull by the horns, lay it out so, in fact, we're not embarrassed by missing the date. We just say clearly, because of the importance of the investigation, the importance of having the best facts for the American people, we intend to deliver in January.

At least the back-channel I have done indicates there will be -- there is very strong support for that approach.

But I think it would be a mistake to not take an action and then just let the date float by. I think that would be the worst of circumstances, because in the meantime, there will be rumors that will be

swirling, there will be leaks, and then it will be like, these clods never even told anyone. That's my view.

COMMISSIONER HENNESSEY: And, Phil, do you think it would also be a mistake to go ask Congress to change the statute?

CHAIR ANGELIDES: My indication is, is that, at least from the folks I've spoken to, that the best route to take, is to inform the date -- I think we could do both -- say, we intend to deliver. But I think given their schedule right now, which is they intend to leave in -- I think on Thursday of this week and then come back after Thanksgiving; and I just don't think it's practicable.

I would have -- without going over history, I think that might have been a preferable route earlier in the year, yes.

But I will say -- and I don't want to just say that there's ample precedent for commissions that have not missed their date by a year; but, you know, for example, the many, many commissions here -- I have a list of them, if people are interested -- where they, in fact, submitted, instead of, you know, in March, they submit at the end of March, instead of March 1<sup>st</sup>; or, you know, instead of March 1<sup>st</sup>, June 10<sup>th</sup>, without seeking law changes; instead of an original date of December, there is an amended date of April, and then the submission was actually made May 6<sup>th</sup>.

I've identified at least seven commissions over the past, I guess it would be seven or eight years or ten years that have done exactly this, and that was just a cursory search.

VICE CHAIR THOMAS: Phil?

COMMISSIONER THOMPSON: Well, Phil, is the debate or difference of opinion on

whether or not, or the form in which we could take and notify?

CHAIR ANGELIDES: Is that a question for me, John?

COMMISSIONER THOMPSON: It's a question, quite frankly, for Bill, more so, because --

VICE CHAIR THOMAS: Yeah. Yeah, let me respond, John.

My question to Phil, first, would be, you had mentioned all of those commissions that made shifts in their dates.

Did all of them also ask for a 20 percent additional increase in their budget?

CHAIR ANGELIDES: Well, I don't know.

VICE CHAIR THOMAS: Well, see, that's part of my real worry, because one of the reasons I think we argued, to a certain extent, that we wanted the money, was to be able to bring on enough people to get the job done.

CHAIR ANGELIDES: Or to do the --

VICE CHAIR THOMAS: So they gave us the money, and now we're pushing the date -- or we're asking to push the date back.

My assumption is, the letter will go to more than one member of Congress and more than one member in each House.

Are we certain that the names that we place on that letter will all be comfortable and say "Yes"? Because if you get someone who says, "No. You know, we gave you the money and now you're not



going to go with the date,” you’re going to get people -- all you need -- I will just tell you, I have a little understanding of the culture -- all you need is one person to say, “No, you have a statutory date, and you’d better meet it.” No one else will stand up and defend us on pushing the date back, I can assure you of that.

COMMISSIONER THOMPSON: Well, Bill, with all due respect, it seems to me that no one on the Hill would want us to put forth a document of poor quality. And so my assertion would be, we don’t necessarily ask for an extension. We inform them that in order to produce a quality document, it’s going to take an extra couple weeks. So be it. And if they want to make political fodder out of that, so be that as well.

But I think our goal here -- at least my impression of our goal -- is to create a quality report that we can all stand behind, independent of how people on the Hill might react to the fact that we’re deferring the thing a couple, three weeks.

VICE CHAIR THOMAS: That -- I don’t have a problem with your argument. My point would be, I don’t know why we go on record and vote to create a change of the date in our rules.

And, Phil, I know your argument on that.

I’m just saying, we can get closer to the due date; not talk about the fact that we aren’t going to make the due date; and then, John, take your argument when it’s closer, and say, “You know, it looks like we’re not going to make it, and it’s going to be...” -- you know, I hope you can say nothing like, “It will be by the end of the year or something.” Because if you go past January 3<sup>rd</sup>, you’re now delivering a product to an entirely different-looking Congress than approved the statute that created us in the first place.

COMMISSIONER BORN: Phil?

VICE CHAIR THOMAS: And I don't know why we have to go on record as a commission; and if we don't go on record unanimously, that itself is going to create additional problems for us.

If you're going to do this, I'm trying to get you to think about how we minimize the ability to have people to make something out of this.

COMMISSIONER BORN: Well, this is Brooksley --

COMMISSIONER HENNESSEY: Phil -- Phil, this is Keith.

CHAIR ANGELIDES: Okay, and then Brooksley.

COMMISSIONER HENNESSEY: Brooksley. Yes, Brooksley, please, go ahead.

COMMISSIONER BORN: Well, I just have to say that I feel very strongly that we need to complete the investigation appropriately, and we need to document that investigation in our report appropriately.

And I've become convinced by what I've heard from Phil and the staff and Bill, that we're not there yet, and that we need the extra time in order to do the kind of job that we owe to the public and to the Congress and to the President.

I think we need to change our rules which currently seem to read that we'll provide our report on December 15; and I think we need to be open and frank with Congress, with the President, and with the American people, that the report should be expected in January, and that that's necessary in order for us to accomplish our mission.

So I would like to move --

COMMISSIONER GEORGIU: Well, let's -- I mean you have one more person --

CHAIR ANGELIDES: Okay, before the motion --

COMMISSIONER BORN: All right.

CHAIR ANGELIDES: Okay, why don't we hold on the motion?

Keith?

COMMISSIONER HENNESSEY: Yes. Thanks, Phil.

I appreciate the point that people think we need more time to get the work done.

I also appreciate, Phil, your point, about wanting to rip the press Band-Aid of this off and just sort of be straight and direct about it, and say, "Look, we need more time, it's taking more time." But I think there's a fatal flaw in this option, which is that it requires us, as commissioners, to take an explicit action.

As I understand it, it either violates the law or is highly inconsistent with the law. And to me, that's just a legal nicety; but I am really uncomfortable with the idea of voting to change the Commission's rules in a way that is inconsistent with the statute.

That problem would not exist if we were going to Capitol Hill and saying, "Please change the statutory date," because everything we would be doing would be legal and above-board.

And I appreciate that they don't want to do that. But what this does is, this puts us, as commissioners, in a position where, because -- background work done by the deadline and because we

anticipate that Congress is likely to say “No” when we ask them to change the law, that we would be taking an action that, as best I can tell, is us deciding not to follow the law. And that causes me extreme discomfort, no matter how many times it’s been done before.

CHAIR ANGELIDES: All right, does anyone else have a comment?

COMMISSIONER THOMPSON: Keith, what are they going to do, put us in jail? Come on.

COMMISSIONER HENNESSEY: That’s not the point.

The point is -- the point is not what are the consequences. The point is, I’m not going to -- I’m not going to make a decision that I know is a violation of the law.

COMMISSIONER THOMPSON: Gary, would you please comment?

MR. COHEN: Well, the statute -- you know, the statute says what it says.

I’ve made inquiries. There doesn’t appear to be any penalty, and this is a fairly -- this is not an unusual event. I’d just --

VICE CHAIR THOMAS: What, missing the deadline or sending a formal notice that we voted as a group to violate the statute?

MR. COHEN: Missing a deadline. I haven’t made an inquiry as to the process.

CHAIR ANGELIDES: Well, Bill --

VICE CHAIR THOMAS: That’s my point.

CHAIR ANGELIDES: But, Bill, can I -- can I say something?

VICE CHAIR THOMAS: *[Unintelligible]* --

CHAIR ANGELIDES: But at the National Medicare Commission, you guys sent a letter a few days in advance saying, "We're not going to make March 1<sup>st</sup>," which is the statutory deadline. And you sent a letter prior to that, saying that you intended to keep working because the issues were difficult and of great importance. It's not -- this has been done before.

VICE CHAIR THOMAS: Yes, but let me tell you, since you quoted that commission. We had a supermajority that we had to reach. We had to find solutions. We had to come up with options.

That is not the case with us. We were simply to examine and report what happened. It's an entirely different situation.

If we had to come to a political agreement, in a stacked committee, with a supermajority required to report back solutions to solve the Medicare problem, no one would argue that we would take a few more days to do that.

CHAIR ANGELIDES: Well, I --

COMMISSIONER MURREN: If I could comment. I personally think that the level of difficulty associated with any Commission is in the eye of the beholder. And I'm not sure that it's relevant, necessarily, to this discussion.

I think what's relevant to it is determining the legality of it, and also the degree to which there is precedent.

COMMISSIONER BORN: Well, I -- this is Brooksley. I know -- for example, I don't know what's on Phil's list; but I know from my own time as the chair of a federal commission, that I tried to meet our deadlines, and generally did. But I remember that the SEC had a number of studies with particular deadlines that they missed by as much as a year, and nothing was ever said.

So I think it's terribly important that we do our job well. I've become convinced that to do our job well, we won't be able to get the report published and to Congress and the President by December 15. And, therefore, to ensure that the investigation is appropriately completed and the report documents it appropriately, I move that the Commission determine that it shall deliver its report in January 2011 and that the Commission adopt the changes to the rules proposed by the chairman as we have received under Agenda Item 7.

CHAIR ANGELIDES: And in terms of the ability to inform?

COMMISSIONER BORN: I further the Chair should be authorized to inform the President and Congress of this action immediately and that the information be made public.

CHAIR ANGELIDES: All right.

There's a motion on the floor.

Is there a second?

COMMISSIONER GRAHAM: Second. Second.

CHAIR ANGELIDES: The second was from Bob Graham. All right.

I think we will -- Bill, any more discussion on this matter?

COMMISSIONER WALLISON: Yeah, I have some discussion, Phil.

CHAIR ANGELIDES: All right.

COMMISSIONER WALLISON: This is Peter.

And I worked to the deadline of December 15<sup>th</sup>. I take it seriously, as Keith does, the statutory requirement. And I'm going to be prepared on December 15 to release what I have written because I think that's what we originally agreed.

In addition, I'm influenced in this by the fact that you have also proposed that a vote of the Commission could separate a dissenting or a separate statement of some kind from the report of the Commission, and publish it in different volumes.

CHAIR ANGELIDES: That's a separate -- that's a separate item, but you're free to --

COMMISSIONER WALLISON: I understand it's a separate item. I understand it's a separate item, but I have to take that into account.

I am not sure that there will be a report at the rate things are going. We were first promised a draft in April. We don't -- we haven't seen the full report yet. So I am not prepared at this moment to say that I will not release what I have written on December 15<sup>th</sup>.

CHAIR ANGELIDES: But, of course, you would be subject to any compliance with our confidentiality restrictions.

COMMISSIONER WALLISON: I will. And, of course, if I am at that point, I will have to say that there are certain things that are not in my report because the Commission has refused to agree to

allow them to be made public. But that's a different question right now. We'll see what happens.

But I am not prepared to say, whatever the Commission votes now, that that can overcome a statutory requirement and bind me.

CHAIR ANGELIDES: All right.

I'm going to leave -- I should probably leave this well enough alone.

We still have distributed the drafts to all members; and comments on the drafts are welcome, I might add.

We have not received them from any members who appear to be very anxious to meet the deadline.

All right, but I think we've said --

VICE CHAIR THOMAS: Phil?

CHAIR ANGELIDES: Yeah.

VICE CHAIR THOMAS: Phil?

CHAIR ANGELIDES: I mean, it's a frustration, Bill.

VICE CHAIR THOMAS: Yeah, I know.

CHAIR ANGELIDES: I mean, Bill, I think everyone's worked here in good faith; but also we've had no comments on drafts, we've had people unable to make meetings. So I don't think this -- I think



what we ought to try -- I think we're trying to lay out what we think is best for a good commission result; and I respect also the views I've heard on the other end. But I just at least have to say that there's been an honest effort here to try to move this timely. And so when someone says that we haven't, the absence of participation in the document doesn't necessarily lend to moving it timely. I just had to say that for the record.

VICE CHAIR THOMAS: That's fine.

And for the record, when did we get the hard copy of the language that you now have in front of us, which has been moved without, I consider, a complete debate?

CHAIR ANGELIDES: If there's more members who want to comment, let's hear it.

COMMISSIONER BORN: Usually, you make --

VICE CHAIR THOMAS: The hard copy --

COMMISSIONER BORN: -- a motion and then debate it.

VICE CHAIR THOMAS: There's been no discussion, to any real extent, about the position that we're going to formally take, that was moved when there was still discussion available.

CHAIR ANGELIDES: Well, let's --

VICE CHAIR THOMAS: So, Phil, if you want something for the record, this looks to me like this was all prestructured, and everybody's got a role to play. And if that's the case, then, fine, go ahead with what you're going to do.

CHAIR ANGELIDES: No, if there's any debate --

COMMISSIONER BORN: Bill -- Bill, I made the motion on the understanding, when I've participated in, for example, the American Bar Association House of Delegates, we make motions and then we debate them. That's the way that procedure goes.

And I assume that my making the motion just framed the question to be debated. I'm not calling for a vote before all discussion has been completed.

CHAIR ANGELIDES: All right, but having said that, is there more discussion? Any comments by members? Any --

VICE CHAIR THOMAS: Let me tell you that if we are going to vote on this, Phil, in my opinion -- and I haven't talked to other people about it, or structured it in any way -- that there are a number of options that we can take. This can be taken at any time.

I don't know the reaction on the Hill. I don't know what's going to happen. It's an entirely different environment than when we started, as you well know. And, now, we're carrying it over to a new Congress, with new chairmen, and a new party majority. I don't know what's going to happen.

Why in the world would we pull the trigger right now, at this telephonic meeting, when we have a month before that deadline occurs? We know what our timeline for working is, we know the difficulty that it's going to be, and we know we probably wouldn't be able to do it.

Why do you telegraph it now?

CHAIR ANGELIDES: Well, I actually believe --

VICE CHAIR THOMAS: The time that is appropriate --

CHAIR ANGELIDES: -- I believe that's to the benefit of Congress.

But, Bill, if there's a --

VICE CHAIR THOMAS: I had no chance to make calls, really, because this didn't come up.

When did we get the written copy as to what the specific was in Item Number 7?

CHAIR ANGELIDES: Okay, yesterday. You and I, though, discussed last week different approaches. And I told you that I believe that what we needed to do was extend it --

VICE CHAIR THOMAS: But I never saw the preparation of the paper, Phil; and I did not involve myself in that discussion, nor did you choose to involve me in working with Gary to complete this piece of paper.

The piece of paper, which is your position, was shown to us yesterday. And we're taking a formal vote to lock us in to not honor the statute, to send off a letter to X number of members of Congress, who we don't know how they're going to react.

I just don't like doing this without having an understanding of what the terrain is that you're asking the troops to take.

That's my position. Thank you.

CHAIR ANGELIDES: Go ahead -- Yes, the floor is open to all members.

COMMISSIONER GEORGIU: Bill -- Bill, let me ask you a question. It's Byron.

VICE CHAIR THOMAS: Yeah. Yeah, Byron.

COMMISSIONER GEORGIU: Would you -- would you -- if you were to add -- make back-channel calls, would you support the continuance of the delivery of the report until January?

VICE CHAIR THOMAS: My question would be, “What do you think of us, Senator, about us formally changing the rules and then sending you a letter, informing you of what we were going to do?”

COMMISSIONER GEORGIU: Right. But how realistic is that in light of the lame-duck session?

VICE CHAIR THOMAS: It’s actually going to happen, unless the senator or the congressman or -woman react based upon what is an anticipated action.

They might say, “Well, you know, do what you think you gotta do, but how come you’re doing it formally now?”

COMMISSIONER GEORGIU: Well, but I guess my question to you is, how realistic do you think it is to modify a statute here in a lame-duck session, where people are really not even around? I mean...

VICE CHAIR THOMAS: I would never, ever suggest to you that we ought to try to modify the statute. That’s an impossible thing to do, and it makes us look even more removed from an understanding of --

COMMISSIONER GEORGIU: Okay --

VICE CHAIR THOMAS: -- how to *[unintelligible]*.

COMMISSIONER GEORGIU: I mean, I agree with you there; but I guess I misunderstood you. I thought you -- somebody was suggesting that it would be appropriate to pursue the modification of the statute.

So assuming that that's not realistic, or not practicable, then what are you -- what -- what do you propose as a solution that might pull us all together with regard, at least to this mod- -- relatively moderate procedural determination of when we deliver this report? What would you suggest?

VICE CHAIR THOMAS: I guess in part, Byron, I don't think we can undo the rung bell, because it's in print, people know about it, it's on the schedule; and I guess we ought to just go ahead and vote.

But I'm telling you, the manner in which this --

COMMISSIONER GEORGIU: Well, whose --

VICE CHAIR THOMAS: -- has been exposed, is going to put this Commission inundated with press calls.

COMMISSIONER GEORGIU: When, where --

VICE CHAIR THOMAS: I don't know why we couldn't wait at least until that December 6 or 7 meeting to make the decision. We would have got clear past Thanksgiving without having this schism, which is clearly going to occur in public of the Commission.

COMMISSIONER GEORGIU: When was this -- when did the press --

VICE CHAIR THOMAS: And it's being forced here by a formal vote.

COMMISSIONER GEORGIU: Is the press -- you say the press has already got this so they're writing about it?

CHAIR ANGELIDES: I'm telling you, John McKinnon from *The Wall Street Journal* already has a question in about, understands the Commission is thinking about splitting its report between findings in December and a report in January. It's not something I put on the table, and certainly I haven't talked to that reporter about. So, I don't know, it seems to me that it's already traveling out of these rooms.

COMMISSIONER MURREN: Phil, it's Heather.

CHAIR ANGELIDES: Yes, Heather?

COMMISSIONER MURREN: For me -- perhaps not for everyone -- but the essential question is really the fundamental as to what our charge is, which is queued, in each one of us' best opinion, do the best work we can, make sure it's thorough, it's complete, and it's articulated in a manner that's understandable to the American people.

And it is my feeling that having another few weeks would be enormously beneficial in making sure that that outcome comes to pass and that we have an excellent, thorough, comprehensive, high-quality report.

I can't speak to the practical realities of it, I can't speak to the press, and I can't speak to the politics of it. But in my mind, all three of those things are less relevant to this discussion than the report itself.

And I think, ultimately, I do think that if we had some more time, we could do much better

work, even with, you know, a small amount of pushing back of our deadline. And I don't think that we necessarily are pressured by time.

And, you know, as I mentioned to you earlier, Phil, this isn't Apollo 13. We're not trying to bring people back from the moon. I mean, time is not the essential characteristic of what we're doing. That's my opinion.

CHAIR ANGELIDES: All right, thank you.

And I just want to say something, Members, as a point of personal privilege. This is not a position I like finding ourselves in, but given that I share Heather's view that the most essential thing is to make sure we can do this well. I am as anxious to get this done in a time frame expected of us; and on a personal note, I know how much commitment of time everyone has put into this. And I know that the team is also anxious, even though we're not Apollo 13, to get the ship back home.

All right, is there any more discussion on this matter by anyone? Because I want to make sure everyone has their say.

*(No response)*

CHAIR ANGELIDES: All right, I think we have a roll call.

MS. KINNEY NEWSOM: I'm sorry, I wasn't prepared for that one.

Phil Angelides?

CHAIR ANGELIDES: Yes.

MS. KINNEY NEWSOM: Bill Thomas?

VICE CHAIR THOMAS: No.

MS. KINNEY NEWSOM: Brooksley Born?

COMMISSIONER BORN: Yes.

MS. KINNEY NEWSOM: Byron Georgiou?

COMMISSIONER GEORGIOU: Yes.

MS. KINNEY NEWSOM: Keith Hennessey?

COMMISSIONER HENNESSEY: No.

MS. KINNEY NEWSOM: Is that a “no”?

COMMISSIONER BORN: We couldn’t hear you.

MS. KINNEY NEWSOM: I couldn’t hear you. I’m sorry.

CHAIR ANGELIDES: We couldn’t hear you, but we think we heard you.

No?

COMMISSIONER HENNESSEY: No.

CHAIR ANGELIDES: Okay, thank you.

COMMISSIONER HENNESSEY: Hennessey. No.



CHAIR ANGELIDES: I'm sorry, it just didn't come through, Keith.

MS. KINNEY NEWSOM: Bob Graham?

COMMISSIONER GRAHAM: Yes.

MS. KINNEY NEWSOM: John W. Thompson?

COMMISSIONER THOMPSON: Yes.

MS. KINNEY NEWSOM: Heather Murren?

COMMISSIONER MURREN: Yes.

MS. KINNEY NEWSOM: Peter Wallison?

COMMISSIONER WALLISON: No.

MS. KINNEY NEWSOM: And Doug Holtz-Eakin, absent.

COMMISSIONER HENNESSEY: Are proxy votes permitted? Doug gave me his proxy.

CHAIR ANGELIDES: I don't believe they are under our rules. But I think we can note for the record in our minutes here, that --

COMMISSIONER HENNESSEY: Okay, so please record "No," it's Doug by proxy, if that's permitted, or as --

CHAIR ANGELIDES: Well, not as a vote. But we can certainly reflect in the minutes, Keith -- and we will -- that you indicated that Mr. Holtz-Eakin told you that he opposed it, all right?

COMMISSIONER HENNESSEY: Correct. Thank you.

CHAIR ANGELIDES: Absolutely.

All right, let's -- let's move on to Item --

*(Loud static noise)*

CHAIR ANGELIDES: I don't know whose phone that is, but let's try to get through it, huh?

*(Loud static noise)*

COMMISSIONER BORN: It's not ours.

*(Loud static noise)*

CHAIR ANGELIDES: Huh?

COMMISSIONER BORN: It's not our phone.

*(Loud static noise)*

COMMISSIONER BORN: Somebody is making a great deal of static.

*(Loud static noise)*

COMMISSIONER BORN: Maybe put your cell phones on mute or something like that.

CHAIR ANGELIDES: Can someone who is working on a cell phone be on mute just in case there's wind or something?

MS. KINNEY NEWSOM: Star-six.

*(Loud static noise)*

CHAIR ANGELIDES: Huh?

MS. KINNEY NEWSOM: Star-six.

*(Loud static noise)*

COMMISSIONER HENNESSEY: Phil, this is Keith.

It's not me. It might be *[unintelligible]*.

CHAIR ANGELIDES: It might be what, Keith?

*(Telephonic tone)*

COMMISSIONER BORN: Hello?

*(Loud static noise)*

UNIDENTIFIED MALE: *[Unintelligible.]*

*(Loud static noise)*

CHAIR ANGELIDES: Hello?

MS. KINNEY NEWSOM: I'm taking them all off, one at a time, to allow them to speak.

CHAIR ANGELIDES: What are you doing?

MS. EDELBERG: She can mute everybody, and then --

MS. KINNEY NEWSOM: I can mute everybody and then I can unmute them all.

MS. EDELBERG: -- unmute -- can you unmute one by one?

MS. KINNEY NEWSOM: Yes.

CHAIR ANGELIDES: They can hear us -- they can hear us, right?

MS. KINNEY NEWSOM: Yes, they should be able to.

COMMISSIONER BORN: Okay. So they're all on mute; and now we're going to --

MS. KINNEY NEWSOM: And I'm -- we're going one by one --

COMMISSIONER BORN: -- put them back one at a time?

MS. KINNEY NEWSOM: I'm putting them on, so I can see which one it is.

COMMISSIONER BORN: Okay. Have each one of them speak as you put it on.

CHAIR ANGELIDES: Hello?

COMMISSIONER BORN: Is anybody on?

MS. KINNEY NEWSOM: Yeah, they're all on.

CHAIR ANGELIDES: Can anyone speak?

VICE CHAIR THOMAS: Yeah, I'm on.

UNIDENTIFIED MALE: Okay, so it wasn't you, Bill.

COMMISSIONER BORN: It's not you, Bill.

VICE CHAIR THOMAS: Well, I'm not on a cell phone.

CHAIR ANGELIDES: All right. Let's move to --

COMMISSIONER BORN: Is everybody else back on so that they can talk?

CHAIR ANGELIDES: Keith, are you still on?

MS. KINNEY NEWSOM: No.

COMMISSIONER BORN: No?

MS. KINNEY NEWSOM: Some of them dropped off on their own.

COMMISSIONER THOMPSON: I'm on.

MR. COHEN: Aha.

COMMISSIONER MURREN: Heather's on.

MS. KINNEY NEWSOM: It's John from -- what's John's connection?

CHAIR ANGELIDES: John, what are you on?

COMMISSIONER THOMPSON: I'm on a hard line.

*(Loud static noise)*

COMMISSIONER BORN: He's on a land line.

CHAIR ANGELIDES: Is it his phone?

COMMISSIONER THOMPSON: *[Unintelligible]* phone.

CHAIR ANGELIDES: What?

COMMISSIONER THOMPSON: I haven't changed my location or anything for the last hour and a half of the day.

CHAIR ANGELIDES: All right.

Well, let's see if maybe it abates, out of luck.

Let's move to the item, which is Item Number --

COMMISSIONER BORN: 8.

CHAIR ANGELIDES: -- Item Number 8, which is the additional or dissenting views procedures.

Are there any -- and, Keith, are you on?

MS. KINNEY NEWSOM: I don't think he's dialed back in.

CHAIR ANGELIDES: Okay, I want Keith on, because I understand he had some issues or concerns on this matter.

MS. KINNEY NEWSOM: Can you call him, or...

CHAIR ANGELIDES: Why don't we -- why don't we start the discussion, though, right now?

*(Telephonic tone)*

CHAIR ANGELIDES: Keith?

MS. KINNEY NEWSOM: No, that's somebody dropping off.

CHAIR ANGELIDES: Okay.

MS. KINNEY NEWSOM: That's Bill dropping off.

CHAIR ANGELIDES: Bill?

VICE CHAIR THOMAS: Yeah?

MS. KINNEY NEWSOM: Oh, maybe not.

CHAIR ANGELIDES: No, Bill's on. Bill's on.

Well, let's start --

VICE CHAIR THOMAS: Was the action just taken?

CHAIR ANGELIDES: Yes, Bill?

VICE CHAIR THOMAS: Gary?

MR. COHEN: Yes?

VICE CHAIR THOMAS: Would you give me the context in which the Commission is now operating based upon the reports?

*(Loud static noise)*

MR. COHEN: Excuse me?

*(Telephonic tone)*

COMMISSIONER BORN: Bill, we didn't hear you.

VICE CHAIR THOMAS: What is the structure and operating procedure of the Commission *[unintelligible]* —

*(Loud static noise)*

CHAIR ANGELIDES: Okay, we're having a -- we're having a -- we can't -- we're getting -- we should --

MS. EDELBERG: Can you mute everyone but Bill?

MS. KINNEY NEWSOM: Yes.

*(Loud static noise)*

COMMISSIONER BORN: Okay, we're going to mute everybody --

CHAIR ANGELIDES: We're going to mute everyone but Bill for a minute, if you would all please stay with us.



Bill, go ahead.

MS. KINNEY NEWSOM: Hold -- give me one second, okay?

COMMISSIONER BORN: Because we can't hear you, Bill --

VICE CHAIR THOMAS: No, the question is --

COMMISSIONER BORN: -- because of the static.

VICE CHAIR THOMAS: -- based upon the recorded vote just taken in terms of the structure of the Commission, the actions of the Commission. Because we have a significant recorded split vote on a fundamental action of the Commission. And my assumption is, this is now the governing structure of the Commission; is that correct?

MR. COHEN: Well, this is an amendment to the rules of the Commission, yes.

VICE CHAIR THOMAS: So we have an amendment to the rules.

What if it is not found acceptable by the Congress or a member of the Congress that we're going to send the letter to? Are they going to have to vote to have a majority accepting it?

MR. COHEN: I think we're not asking for approval. We're just informing the Congress that the report will be delayed. I don't think there's a request for permission. I think it's a notification.

VICE CHAIR THOMAS: And what, therefore, is the rule and function of the statutory date in the legislation that created the Commission? Is that null and void?

MR. COHEN: No, I think that the statutory date is still the date.

CHAIR ANGELIDES: Yeah, we didn't affect that. We're going --

MR. COHEN: We're not -- we can't change that.

CHAIR ANGELIDES: We're going to miss the date --

VICE CHAIR THOMAS: Is the commissioner in violation if they alter the statutory date?

MR. COHEN: If they which the -- if they --

MS. EDELBERG: [*Unintelligible*] is Peter in violation?

CHAIR ANGELIDES: No, I don't think Peter's in violation.

I don't know that he can release documents on his own.

But -- I'm not an attorney, Bill; but, no, I don't know that someone's in violation.

VICE CHAIR THOMAS: Well, we should know the consequences if we've now taken a formal vote and some people were excited about doing it, so that we have a clear understanding of what commissioners, who were on the losing side of that vote, in a dilemma in which the Commission has now created a new date, by vote, when we are still governed by a fixed date by statute.

Is the commissioner in violation of the Committee rules, and will they be sanctioned if they follow the statute, notwithstanding the fact the majority of the Commission chose to ignore it?

MR. COHEN: It doesn't appear to me that a single commissioner can comply with the statute on his own. It's not the Commission's report, Mr. Vice Chairman.

The Commission is to deliver a report under the statute by December 15<sup>th</sup>, not an individual commissioner.

VICE CHAIR THOMAS: Well, then you've put a number of us in a real dilemma about whether we can stay on the Commission. I just want you to know that.

MS. KINNEY NEWSOM: I'm going to unmute all.

COMMISSIONER BORN: Okay. So now Gretchen is unmuting the rest of the people on the phone, so they can speak if they wish.

VICE CHAIR THOMAS: So all the commissioners weren't present when I made those statements?

CHAIR ANGELIDES: No, they heard.

COMMISSIONER BORN: They were just muted so that we could hear you, Bill.

CHAIR ANGELIDES: And they --

VICE CHAIR THOMAS: Gotcha. Gotcha.

CHAIR ANGELIDES: Everyone heard it and -- and who is on the -- everyone heard it is on the phone; they just couldn't comment because we were trying to find the source of the static.

VICE CHAIR THOMAS: Gotcha.

MS. KINNEY NEWSOM: They're all on now.

CHAIR ANGELIDES: All right.

MS. KINNEY NEWSOM: For the ones who are still on.

CHAIR ANGELIDES: All right, now, there is the next item, is Item 8 on “Separate and Additional Views.” And this was a process which I, at the last meeting and also in an e-mail to Keith, said I would bring forward.

And I guess we should just open discussion about this.

Keith, are you on?

COMMISSIONER MURREN: May I ask a question?

We do not have materials on this particular number; is that correct?

CHAIR ANGELIDES: Yes, you do.

MS. KINNEY NEWSOM: Yes, you do.

COMMISSIONER MURREN: Actually, you’re right. I’m sorry. I have them in front of me.

CHAIR ANGELIDES: Keith, are you on?

COMMISSIONER BORN: Maybe somebody should call Keith, since he wanted to comment on this.

*(Telephonic tone)*

CHAIR ANGELIDES: Keith?

Let's do a new roll call quickly.

MS. KINNEY NEWSOM: Sure.

Phil Angelides?

CHAIR ANGELIDES: Here.

MS. KINNEY NEWSOM: Bill Thomas?

VICE CHAIR THOMAS: Here.

MS. KINNEY NEWSOM: Brooksley Born?

COMMISSIONER BORN: Here.

MS. KINNEY NEWSOM: Byron Georgiou?

COMMISSIONER GEORGIOU: Here.

MS. KINNEY NEWSOM: Bob Graham?

COMMISSIONER GRAHAM: Here.

MS. KINNEY NEWSOM: Keith Hennessey?

*(No response)*

MS. KINNEY NEWSOM: Doug Holtz-Eakin?

*(No response)*

MS. KINNEY NEWSOM: Both absent.

Heather Murren?

COMMISSIONER MURREN: Here.

MS. KINNEY NEWSOM: John W. Thompson?

COMMISSIONER THOMPSON: Here.

MS. KINNEY NEWSOM: Peter Wallison?

COMMISSIONER WALLISON: Here.

MS. KINNEY NEWSOM: Okay, so it's just Keith and Doug.

CHAIR ANGELIDES: All right, let's talk about Item 8. I sure hope we can -- is Keith not rejoining us? Do we have any indication?

MS. MAYO: I called on my line. No.

CHAIR ANGELIDES: Because I know he had some comments and questions about this.

COMMISSIONER BORN: Well...

CHAIR ANGELIDES: All right, are there comments and questions about this item?

*(Telephonic tone)*

COMMISSIONER WALLISON: Well, if no one else has any, I will --

CHAIR ANGELIDES: Why don't you --

VICE CHAIR THOMAS: Who came on?

CHAIR ANGELIDES: Well, who just came on?

COMMISSIONER BORN: Or did we lose someone?

VICE CHAIR THOMAS: Or maybe somebody left.

MS. KINNEY NEWSOM: Sorry, I wasn't watching. I can't tell. I wasn't watching.

CHAIR ANGELIDES: If someone -- you e-mailed Keith and told him specifically that --

MR. COHEN: I just sent him an e-mail.

CHAIR ANGELIDES: -- because I know he had issues on Item 8.

Peter, why don't you start?

COMMISSIONER WALLISON: Well, I look at this as simply a breach of faith. Very serious, very -- and unacceptable to me.

But what it provides -- as you know, you've read it -- is that the Commission can at any time decide that anything that is a dissenting statement or a separate statement --

*(Telephonic tone)*

COMMISSIONER WALLISON: -- or a different statement, can be placed in a separate volume in the report that goes to Congress and the President.

In addition, in the commercial book, if there is one, any separate statement is limited -- according to the proposal, at least -- to about 2,500 words. So you know, I can't even imagine why someone would do something like this. It is -- it is something that goes way beyond anything I might have expected to be put before us. It changes completely the nature of this Commission at the last minute.

If you told us this at the beginning, then we might have had a completely different attitude toward the whole Commission. But keeping this to the end, a very -- a very partisan move to depress dissent is simply unacceptable.

And the idea that the Commission can vote at some later time to separate a separate statement or a dissent from the regular report, put it in a different volume -- I mean, what you just did, this vote you just took is an example of what's going to happen to anyone who waits to the end, in good faith, to supply a separate statement.

The answer will be, "No, you'll be put in Volume 2." And it's unbelievable to me that you would do it.

CHAIR ANGELIDES: All right, so let me --

COMMISSIONER HENNESSEY: Keith just joined.

CHAIR ANGELIDES: Oh, good. I'm glad you're back, Keith.

COMMISSIONER HENNESSEY: Keith is here.

CHAIR ANGELIDES: Good. Thank you, Keith, because I know you had concerns about this.



So, Peter, let me respond to your comments.

First of all, with respect to this, the provision you're referring to about the separate volume was only a function not knowing the length of what people were intending in the way of dissents, which apparently has been the focus of the work, whether those were 100, 200, 400 pages; and whether, physically, they had to be separated. There's no real desire to separate under 3.B.1 and 2 into separate volumes; but only if a physical determination was made by the GPO that that would somehow be necessary in the production of the report.

I have no idea, sitting here right now. Apparently, you've been very actively working on a dissent. I don't know if it's 20 pages, 50 pages, 100 pages, 400 pages. So that's what that was. That was mechanical.

That -- the intent is not to just plop those into a separate document; but if it --

*(Loud static noise)*

CHAIR ANGELIDES: -- but if it was physically required --

*(Loud static noise)*

CHAIR ANGELIDES: -- required then -- if it was physically required to separate into two volumes, that was that.

Secondly, in terms of the commercial publication, there is a limited number of pages that have to be accommodated in that version.

And I might say that if we do not, apparently, you wouldn't be joining -- you intend to have

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an additional or dissenting view. But I should indicate that at least the current thinking in terms of major findings of the majority is -- you know, to be succinct, this was to -- basically, we have to be within a -- there's a -- within a page budget.

So with the commercial version -- there is no limitation on the Web, no limitation in the official report; and it was only a reflection that the commercial publisher needs a certainty in terms of the length of document, period. That's all it is.

It's not a partisan move, it's not an attempt to quell dissent. Everything goes on the Web. Everything goes in the official report without limitation.

And I might add, just because things are being said, if you look back through a whole set of precedent of commissions, most of the commissions, again, that I've looked at for precedent had extraordinarily limited size of dissents. They were all in the order -- you know, they tended to be on the order of two or three pages; some, you know, did run up to -- I think the congressional oversight panel had anywhere between six and 36 pages. They were on the upper end.

The decision here, in terms of our procedure, was not to limit in any way, shape, or form, the amount that was placed on the Web or in the official report.

If the objection is to a second volume, genuinely, folks, that was a mechanical issue. You know, if the GPO can accommodate it all in one volume, God bless.

COMMISSIONER WALLISON: Then why is the Commission supposed to be voting on it?

CHAIR ANGELIDES: They don't need to.

MR. COHEN: Somebody has to make the decision.

COMMISSIONER WALLISON: Well, why is it in there?

CHAIR ANGELIDES: Well, for the very reason if the GPO comes back and says it's impractical.

Now, I don't know --

VICE CHAIR THOMAS: *[Unintelligible.]*

CHAIR ANGELIDES: Excuse me, sir?

COMMISSIONER HENNESSEY: Phil, this is Keith *[unintelligible]*.

VICE CHAIR THOMAS: Why are we -- why are we anticipating what the GPO might do? Have we talked to them? Do we know that?

CHAIR ANGELIDES: Gary?

MR. COHEN: Yeah, I have talked to them. They can -- they can print a very fat book and, depending upon the size of the additional views, it may or may not be an issue.

The publisher, the commercial book, you know, we're looking at a cap of about 500 pages, I think; and the GPO -- or less. The GPO can print 700, 800 pages, they've told me. So, you know, if the additional views are not more than a couple hundred pages, I think it's one volume.

CHAIR ANGELIDES: I mean, do you have any sense --

COMMISSIONER HENNESSEY: Phil?

CHAIR ANGELIDES: -- any sense of length, gentlemen?

COMMISSIONER HENNESSEY: Yeah, Phil, this is Keith.

CHAIR ANGELIDES: Yeah, Keith.

COMMISSIONER HENNESSEY: Can I offer what I think is a constructive suggestion that can square the circle here?

CHAIR ANGELIDES: Yes.

COMMISSIONER HENNESSEY: Because what I'm hearing, I don't think that the goals are in conflict.

CHAIR ANGELIDES: Okay.

COMMISSIONER HENNESSEY: And I take what you're saying at face value in terms of your intent and yet your constraints from a publishing standpoint.

Peter -- you know, Peter has told us that he's working on an additional view. I have been working on an additional view. I'm not sure what I'm going to do with it or if I'm going to do something with it.

But my suggestion is that we decide, as a commission, that anyone who is considering submitting an additional view should commit themselves to the Commission to a maximum word length.

So maybe Peter would say, "My additional view will not exceed" -- I don't know, I'm making

this up -- “around 14,000 words.”

And I would say, “If I have an additional view, it will not exceed, I don’t know, 9,000 words.”

Whatever -- whatever the numbers happen to be.

Then we take all of those numbers and add them up; and that’s a commitment on the part of the person who is considering submitting an additional view. And then we add those words up and we go talk to GPO. But that we not change the rule to make the decision at the end of the process. If what you need is a fixed length budget, then let’s have everybody say, “My view will be no longer than X,” and let’s see if we can actually fit those into a fat volume.

I’ll tell you, as a Hill staffer, I remember that the Ways and Means Committee, which Bill used to chair, had something called the Green Book, which was probably three and a half to four inches thick.

So I’ve got to believe that there’s a way to allow Peter and me and others to get in, you know, 10,000 words, 15,000 words, whatever it might happen to be, and not get into publishing problems.

But it seems to me we don’t change the rules other than to require individual commissioners to commit, you know, fairly soon to a maximum word budget.

CHAIR ANGELIDES: Yeah, so I think with respect to the GPO, this was not an issue.

And, I mean, I would just say right here and now, that if people want to delete 3.B -- I don’t want to get ahead of everyone else here -- I don’t have a problem with that. I’m sure we can work it out with GPO, Keith, all right?

I do think with a commercial publisher, we have a significant issue. And I just want to put something on the table in terms of the views that the majority would express if, in fact, we can't come to some common denominator, you know, which would be the actual official findings of the report.

We're not looking at a hundred pages. We're going to be subject to a pretty regimented budget. So I do think the commercial version, there has to be -- there has to be a tighter limit than ones in the GPO. It's just a fact.

COMMISSIONER BORN: When you're talking about findings, you're not talking about the kinds of narrative that we've been --

CHAIR ANGELIDES: No, correct.

COMMISSIONER BORN: -- getting, which --

CHAIR ANGELIDES: No. Narrative or specific observations by the Commission on that narrative.

But I assume that an additional view would be -- would be, "Here's what either I" --

COMMISSIONER BORN: Separate views.

CHAIR ANGELIDES: Yes, separate views on the causes, yes.

COMMISSIONER BORN: Right.

CHAIR ANGELIDES: But I do think we need a word budget, Keith, there for the commercial version. I just think that's a fact.

COMMISSIONER HENNESSEY: Have we been told by the commercial publisher --

CHAIR ANGELIDES: Yes.

COMMISSIONER HENNESSEY: -- that there is a maximum word length?

CHAIR ANGELIDES: Yes.

COMMISSIONER HENNESSEY: And what is that maximum word length?

CHAIR ANGELIDES: Wendy knows it. I don't know it. But it comes down to about 480 pages -- correct? And they need to set that.

MS. EDELBERG: Right, so that the actual -- the actual number of words will probably be dependent on, you know, specifics, like typesetting and font size. But, yes, we are -- we are somewhere around 480 pages.

COMMISSIONER HENNESSEY: 480 pages? Okay.

CHAIR ANGELIDES: Of which most -- of course, which most of it, Keith, will be the narrative that is being circulated, for example, all right?

VICE CHAIR THOMAS: If we choose it --

COMMISSIONER HENNESSEY: Right.

VICE CHAIR THOMAS: If we choose it to be.

COMMISSIONER HENNESSEY: Right. And what I'm asking here is --

CHAIR ANGELIDES: Correct.

COMMISSIONER HENNESSEY: -- why -- why don't we have to allocate, it sounds like, 400-plus, or 420 or 430-plus of 480 pages to one view, even if that is the view of six commissioners? Why can't we allocate, you know, a significant share; or why can't we go back to the commercial publisher and say, "We'll pay you more for a longer length"?

CHAIR ANGELIDES: It's not a matter of paying more. They're just saying, they just don't --

COMMISSIONER BORN: They won't do it.

CHAIR ANGELIDES: They won't do it, and...

Well, but it's also not something that they believe that the public will in any way take up, period. That's in their lengthy experience.

And, by the way, I wouldn't -- I wouldn't say --

VICE CHAIR THOMAS: Wait a minute, wait a minute.

I've -- I've let a lot of stuff go here; but, Phil, for you to tell me that the publisher is going to not tell us it's 480 pages, but they're also going to tell us what is going to sell and not going to sell, and they've told you that dissents don't sell and you have --

CHAIR ANGELIDES: No, they didn't say -- no, they never said -- I never said -- they didn't say dissents didn't sell. I just talked about a length of the volume, Bill.



VICE CHAIR THOMAS: Let me finish. Let me finish.

CHAIR ANGELIDES: Well, but...

VICE CHAIR THOMAS: Let me finish.

You have specified a fixed number of words for dissents. I think it equals somewhere, roughly, five pages.

You have 480 pages to spend. You have told four members who might be interested in a dissent, they get 20 pages. You have 460 pages for the majority.

CHAIR ANGELIDES: Well, I don't agree with your char- --

VICE CHAIR THOMAS: It seems to me you are creating a fundamental schism here by talking about having to deal with a publisher. And I heard some very strong language about what this Commission should be committed to do in terms of doing a good job; and yet you're willing to submit for another recorded vote the fact that a member who wishes to dissent gets five pages, and everybody else in the majority gets 480 pages to do their -- 460 pages to do their thing.

CHAIR ANGELIDES: So, Bill, let me just -- I need to say this.

So your characterization is, the narrative that the staff is --

VICE CHAIR THOMAS: *[Unintelligible]* --

CHAIR ANGELIDES: Now, let me just say --

VICE CHAIR THOMAS: -- the publisher --

CHAIR ANGELIDES: Now, let me just --

VICE CHAIR THOMAS: -- the publisher as an excuse --

CHAIR ANGELIDES: No, Bill.

VICE CHAIR THOMAS: -- for limiting dissents.

CHAIR ANGELIDES: No, Bill, I'm not --

VICE CHAIR THOMAS: We can make it 400 pages and 80 for dissents. We can make the story of 300 pages and 180 pages for dissent. That's a decision the Commission can make.

You're making it through the back door on limiting the dissent.

CHAIR ANGELIDES: No, Bill, now, let me just say something here. So you're saying that the three- to four-hundred-page narrative that the staff is preparing of the results of the examination are, in fact, quote, unquote, "our view."

You and I sat in my office, where I said, "What do you think the length is going to be of the additional or dissenting views?" And you thought they might be -- and this is my recollection -- in the 10- to 15- to 20-page period.

We are looking --

VICE CHAIR THOMAS: I was not --

CHAIR ANGELIDES: Hold on.

VICE CHAIR THOMAS: Phil, if you're going to -- if you're going to put words in my mouth, I was not speaking for Peter.

CHAIR ANGELIDES: Well, that's fine. But you are characterizing the body of the report that we will adopt as fully our views. In other words, you're saying that the Commission investigation and narrative --

VICE CHAIR THOMAS: I didn't say that.

CHAIR ANGELIDES: -- is all our 480 pages. It's just -- it's -- that's ludicrous. We're not taking all 400 pages to lay out our views.

We may take --

VICE CHAIR THOMAS: Then what is the number of pages available to the majority for their view? That isn't in here.

CHAIR ANGELIDES: Because --

VICE CHAIR THOMAS: You have dissents limited to a number of pages. You don't have the majority findings and conclusions to a limited number of pages. You have 460 pages available to you the way that language is structured.

CHAIR ANGELIDES: And so you think we're going to take 460 pages just to lay out our --

VICE CHAIR THOMAS: I don't know what you are going to do, Phil. You haven't talked to me. I only saw this language for a day. But it limits a five-page --

CHAIR ANGELIDES: But, Bill --

VICE CHAIR THOMAS: -- dissent, and it does not limit the majority to their conclusion or advocated policy position.

CHAIR ANGELIDES: Well, first --

VICE CHAIR THOMAS: That's the story and the majority and the minority.

You've limited the minority, very clearly, to virtually nothing.

CHAIR ANGELIDES: Well, first of all --

VICE CHAIR THOMAS: *[Unintelligible]* the majority.

CHAIR ANGELIDES: First of all, there is a report, and then there are additional and dissenting views.

Anyone else want to comment?

COMMISSIONER BORN: Well, let me just say this. It's hard to have this discussion without any kind of picture of what the dissenting views' length are. We -- it seems --

VICE CHAIR THOMAS: Or the majority's view.

COMMISSIONER BORN: Well, everybody has been seeing the report coming out.

CHAIR ANGELIDES: Everything is shared every day.

COMMISSIONER BORN: You know, and we're all asking you to comment.

I understand that you haven't been commenting. I'm sorry you haven't been commenting. I urge you to --

CHAIR ANGELIDES: Bill has -- Bill has -- Bill has been.

COMMISSIONER BORN: -- do so.

VICE CHAIR THOMAS: No, no --

CHAIR ANGELIDES: Bill has been.

COMMISSIONER BORN: But --

VICE CHAIR THOMAS: -- wait a minute. Are you telling me that the story is the majority's findings and conclusions?

COMMISSIONER BORN: I am sure there will be additional findings and conclusions that will accompany the narrative.

But let me just say this: We are saying that everything will be on the Web site, without any restrictions. So if the minority wants to write a thousand-page document, that can be on the Web site.

We're also saying that the dissenting views can be in the GPO report, whether or not GPO will come and say, "We can't put everything in a single volume," I don't know. But let's just leave it up to GPO to decide how they can do that.

All the dissenting views will be there.

The question is, now, how long the dissenting views, included with the Commission's report,

in the commercial book could be. And it's very hard.

I mean, Phil has come up with 2,250 words, five typeset pages. If we knew that what people wanted was seven pages or ten pages, you know, we could certainly consider that. But without any information from your side as to what the interest in terms of length is for inclusion in the commercial book, I don't see how we can just say whatever you want. You know, you can overwhelm the whole book.

CHAIR ANGELIDES: Yes, and, Bill, it was put in --

VICE CHAIR THOMAS: Okay, so I have --

CHAIR ANGELIDES: -- brackets because I do think --

VICE CHAIR THOMAS: The question -- the question is, how many pages are the minority going to be available to present the majority's point of view?

If you're telling me that this story is going to be socked full of the majority's position, that isn't my understanding of how we were going to write the body of the story, and that the chairman offered findings and conclusions which clearly appeared to be separate from the story.

So if we're not going to have majority's views, minority's views, and a story, but we're going to have 20 pages of minority dissent, and 460 pages of the majority's position available to you, you won't limit the majority's position here. Why don't we put down a number of pages that you get as the majority, and the rest has to be fairly objective story-telling?

CHAIR ANGELIDES: So, Bill --

VICE CHAIR THOMAS: You're letting the argument of the publisher in writing a book

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control the voice -- the ability to speak, to present a position to the minority on this commission.

I find it ironic that the publisher is going to be the one who limits our ability to express ourselves, and you are unwilling to limit your ability to express yourself.

That is not called a “majority.” Minorities have rights. You are assigning a fixed number; and by vote, you are opening yourself up to whatever you want to do for the rest of the pages.

COMMISSIONER HENNESSEY: Bill, what about my suggestion to ask people for word budgets for the --

VICE CHAIR THOMAS: I don't have a problem --

COMMISSIONER HENNESSEY: -- actual report that *[unintelligible]*.

VICE CHAIR THOMAS: -- with that. But I think it should be open to everybody, including the majority on a word budget.

CHAIR ANGELIDES: Well, except the one thing I want --

COMMISSIONER HENNESSEY: I agree.

CHAIR ANGELIDES: Okay, the one thing I want to say, though, on the report itself is, the report itself is the report itself, which we will all consider as a commission.

Within that report, for example, I have heard members of both sides here say that, for example, when you get -- here's an example -- that the decision to save Bear, not save Lehman, was problematic. I have heard people say that, with respect to the -- what happened with Lehman was, it may not

just have been on the basis of legal authority.

Those may -- those kinds of items may well be in the body, the chapters of the report.

We are not -- I'll just tell you right now, there's no way that -- I don't know what Peter's length is. I don't think the majority, in terms of major findings and conclusions that would go at, for example, the front of this book, I don't think anyone here is contemplating a hundred pages.

VICE CHAIR THOMAS: Okay, are you limiting yourself to a hundred pages?

CHAIR ANGELIDES: Let me -- for what, Bill? For findings and conclusions?

VICE CHAIR THOMAS: These findings and conclusions.

If the minority is 20 pages, how about we take a hundred pages, and we make it 60-40? You get 60, we get 40?

CHAIR ANGELIDES: All right, I -- I hear what you're saying.

The goal here -- first of all, let me just start at the beginning here. Remember how this all starts, which is that unlike a lot of other commissions, the deliberate effort here was not to limit in any way on the Web and GPO version what could be done or said, or to truncate anything of anyone who had an additional or dissenting view.

We do have a legitimate page budget to meet in a commercial publication; and so we are trying to do this in a way that I thought was fair and reflective of what at least, Bill -- and I'm not putting words in your mouth -- I had understood. So --



VICE CHAIR THOMAS: Are you getting the feeling that maybe that's not the case since we just had one day to see this?

CHAIR ANGELIDES: Well, you and I have talked about this previously on a number of occasions.

VICE CHAIR THOMAS: But not -- not in a formal, structured way, Phil.

Come on, quit acting like I knew anything that was coming out over the last few days. And do you think I would have allowed something that said that you get 2,500 words, and each of you get that, and we get the entire rest of it because the publisher -- and I don't know that the publisher said no.

I think you've created a structure here, and we're telling you that it's way too confining.

CHAIR ANGELIDES: Well, first of all, let me --

VICE CHAIR THOMAS: *[Unintelligible]* --

CHAIR ANGELIDES: Okay, maybe we should break on this issue and reconvene. But also, I think there is some --

VICE CHAIR THOMAS: *[Unintelligible]* --

CHAIR ANGELIDES: Look, we want to make sure dissenting views are heard. But I do want to say, the report is the report. It's not like there's two reports here.

There is a report. There is a report that goes to Congress, adopted by a majority of the Commission. That's just the way it is. And this was not set up to say there's going to be a majority and a

minority report.

I think what Keith's suggestion is, if people want to file additional dissenting views -- and, you know, it seems to me that a lot of the focus has been on just that for the recent past -- then people ought to say, "Then here's the budget we need," and we can -- let's see if that can be accommodated.

But I don't think we want to get into discussion about if we have a report now, beginning to constrain what the report says. But if people have legitimate budgets that they're considering right now, then we ought to be able to consider those legitimate budgets.

We may be arguing if -- you know, if Keith is saying, "I'm thinking about 7,000 words," you know -- or, I don't know, I'm just being hypothetical -- and I don't know if you, Bill, Keith, and if you guys are thinking of a joint dissent, if there's a budget for it, then I think what's important to do is say, "Here's what we think we need to express our view."

COMMISSIONER HENNESSEY: So what we --

VICE CHAIR THOMAS: So putting on a piece of paper with a fixed number of words for the minority and no limit to the majority?

CHAIR ANGELIDES: Well, there's no limit on the report, Bill. There's no limit on the report.

COMMISSIONER HENNESSEY: Yeah, but, Bill, as long as -- as long as I have enough words to say my additional view, I don't care how much is left for everybody else.

And I'm willing to -- if Phil wants to set a date, by Friday or Monday of next week, I'm

willing to give a commitment that I can live with no more than X words for, you know, for my additional view, if I were to have one. I don't know if Peter is willing to do that.

But then couldn't we have this discussion from a more concrete standpoint?

CHAIR ANGELIDES: Yeah, I think -- I think concrete --

COMMISSIONER HENNESSEY: *[Unintelligible]* you and I have enough words.

VICE CHAIR THOMAS: And I apologize that Doug could not make it because I'm sure he has a view on this.

CHAIR ANGELIDES: Yeah, but I would say that I think Keith's suggestion merits something.

But even if, you know, the view from Peter would be, "Look" -- and I'm not -- "I want 200 pages," that can be accommodated in the GPO version and on the Web. There's no stifling of dissent in any form.

COMMISSIONER WALLISON: Let me --

COMMISSIONER HENNESSEY: But, Phil, why -- why preclude from that from the commercial report until we've seen what those numbers actually are?

CHAIR ANGELIDES: Let's see what the numbers are. Exactly. But I also think --

COMMISSIONER WALLISON: No, I'm not -- this is not -- this is not satisfactory to me because, as I said when I started out, there was a breach of trust here in this proposal.

And I don't believe -- I'm not -- I cannot believe anymore that whatever number I provide will be agreed to, abided by, when the Commission comes to vote on what gets into the report as a separate statement and what does not. Because I just saw the Commission change the statutory requirement that we report by the middle of December, to something else. Sometime in January.

And so when we get to January, and maybe there is a report, and I submit something, and I'm supposed to have a certain number of words, well, actually, it turns out, we're not going to have that many words allowed in any report, and the Commission will vote. And it will probably be 6 to 4, maybe it will be 9 to 1. But there will be a vote, and whatever I submit will -- could be excluded.

So it is no longer possible to agree, to me, from my point -- to agree that we'll all submit some words -- word numbers, and that will be sufficient for the commercial report, or any other element of what the Commission is doing.

I think a very serious error was made in putting out this Item 8.

CHAIR ANGELIDES: So you -- Peter, I just need to ask you; so you think if there's a commission report of 200 pages, what would be sensible is a single member could submit 300, and that would be what would be fully published in the commercial part? You think that that's a reasonable approach?

VICE CHAIR THOMAS: Five pages. We're talking five pages, not a hundred.

CHAIR ANGELIDES: Well, I --

COMMISSIONER BORN: Well, that's the question, isn't it, Bill?

CHAIR ANGELIDES: I don't know that it's not a hundred, Bill.

COMMISSIONER BORN: Peter says he won't give us a number.

VICE CHAIR THOMAS: *[Unintelligible]* we make a decision. What's wrong with that?

COMMISSIONER WALLISON: At the time that the report comes -- whatever we say tonight -- you've just asked me to give you a number. And if I gave you a number and then I came in at that number, nevertheless, at that moment, when the report is to be decided what goes into the report, this Commission, as I now see, can vote 6 to 4, or 9 to 1, that that's too -- that that is too large.

Yes, I know we agreed at the beginning that you could submit whatever number you wanted; but it's really too large. Because we did agree at the beginning of this Commission that anyone could file a dissent; and we did not add any restriction on the size of that dissent.

And saying it is going to go on the Web or saying it is going to -- it will be -- there will be photographs of it, or whatever you want to do -- there will be a puppet show -- I don't think any of that means anything.

Whatever a commissioner submits, which is intended to modify in some way or express disagreement with what the main report says, should be, according to our original rules, accepted.

CHAIR ANGELIDES: Well, we are accepting it on the Web and the GPO version.

And I'd like -- I'm just --

MR. COHEN: That's what goes to Congress.

CHAIR ANGELIDES: What goes to the President and Congress and the Web is being fully accepted.

And I -- I mean, the only thing, Peter -- and I think we should draw this to a close. You have made it clear you're not even commenting on the report.

So with respect to talking about participation on this Commission, you have made it clear for months now that you're not even commenting on the draft. So your whole focus has been --

COMMISSIONER WALLISON: That's false.

CHAIR ANGELIDES: -- the dissent.

COMMISSIONER WALLISON: That -- that is false.

I did make a statement in the last meeting we had about why I am not commenting on the fact statement that had been distributed.

I have not said anything about what I will do with other parts of the report, and I have not yet seen anything that describes what caused the financial crisis.

So merely making statements of fact about what happened with Merrill Lynch and what happened with AIG and so forth is all very nice. And I said, actually, that I thought it was rather well-written. But it's irrelevant to what the Commission is supposed to be doing, which is to tell Congress and the President what caused the financial crisis.

When that comes along, I well could have some comments on that. Not that I expect that they will be accepted, because none of my other suggestions so far have been accepted; but I do believe that that

would be the appropriate time to make the comment.

So don't say I haven't participated. I've been at every meeting of this Commission -- mostly present at these meetings --

CHAIR ANGELIDES: I agree.

COMMISSIONER WALLISON: -- and always by phone if not present. So I have participated, and I've been at every hearing.

Don't start with me that I have not participated and been a participating commissioner, because it is not true.

CHAIR ANGELIDES: All right. All right, now, I think -- but I want to hear from other members -- that Keith's suggestion, even though Peter, I know, doesn't agree with it, as to a -- kind of what the need is, is a good place to start, so that maybe this discussion doesn't need to be hypothetical, it can be real.

So, Bill, to the extent that that's something that at least Keith, Doug, and you want to be able to say, "Here's what we think we need," that would be very helpful.

VICE CHAIR THOMAS: Well, it would, but you're probably going to need more than a day or a half a day.

CHAIR ANGELIDES: Yeah, that's fine.

VICE CHAIR THOMAS: And I guess part of the problem is, we have in front of us -- I don't think it's been moved yet -- but I thought the story was that you always move something so you have

something to discuss.

CHAIR ANGELIDES: Well, it hasn't been moved because it's been discussed --

VICE CHAIR THOMAS: No. No, but we were just told earlier that you -- that someone moved it so that we would have something to discuss. That's what the attorneys' division always did. But we haven't moved this. We've had --

CHAIR ANGELIDES: Right.

VICE CHAIR THOMAS: -- a very good discussion. But there's nothing locking us in.

CHAIR ANGELIDES: Yes, so we --

VICE CHAIR THOMAS: I was just trying to --

CHAIR ANGELIDES: We should --

VICE CHAIR THOMAS: -- *[unintelligible]* why Item Number 8 is being handled differently than Number 7?

CHAIR ANGELIDES: Well --

VICE CHAIR THOMAS: That's my first question.

COMMISSIONER BORN: Because I wanted to move Number 7, Bill; and, therefore, I did it.

CHAIR ANGELIDES: Okay.

COMMISSIONER BORN: I'm glad we adopted it. I wanted to move it, and I did move it.



I think we're still groping for the appropriate solutions on Number 8; and I think Keith's suggestion that at least he is willing to propose what length is appropriate for his separate views is a real step forward; and I applaud that. I think I would welcome that; and I think we should postpone action and continue to discuss this based on --

VICE CHAIR THOMAS: I agree.

COMMISSIONER BORN: -- new information.

VICE CHAIR THOMAS: I think we should take down Number 8. Let people at least begin to try to put down on paper what they would like to have --

CHAIR ANGELIDES: Yup.

VICE CHAIR THOMAS: -- and then we can see if we can reconcile it, instead of someone arbitrarily assigning a number of words for someone who has been on the Commission, who has participated in the Commission, and is told they get five pages.

CHAIR ANGELIDES: Bill, it was in --

VICE CHAIR THOMAS: I don't think that is a --

CHAIR ANGELIDES: Bill --

VICE CHAIR THOMAS: -- democratic way to determine how we --

CHAIR ANGELIDES: Bill, Bill, Bill. Just in fairness, it was in brackets so we could have a discussion.

VICE CHAIR THOMAS: -- will submit some idea of what they think their length ought to be.

CHAIR ANGELIDES: All right.

Anyone -- okay, I think we should continue this item, or postpone this item.

Yes?

COMMISSIONER HENNESSEY: Phil? Phil? This is Keith.

Could I try to -- again, I'm trying to be constructive here. If I could summarize what I think I've heard, which is, I think that there is no disagreement that any additional dissenting views of any length will go both on the Web and will go in the GPO report, which is the official document that goes to the President and Congress.

CHAIR ANGELIDES: Correct.

COMMISSIONER HENNESSEY: And that the official report, produced by GPO, which goes to the President and Congress, will be a single volume, not multiple volumes.

And then what we're discussing here is limited to the commercial report.

And I have a suggestion on the table, which it sounds to me like, at least so far, everyone except Peter may be comfortable with.

CHAIR ANGELIDES: Well, and --

COMMISSIONER HENNESSEY: Is that an accurate statement of where we are?

CHAIR ANGELIDES: Yeah, I think so. Yeah, and -- I believe so, yes.

And, obviously, the next step would be to say, "What do these -- what do these kind of word budgets look like," and then we can sit down and talk directly and see if we can't work this out --

COMMISSIONER HENNESSEY: And I will produce one of those --

CHAIR ANGELIDES: -- because --

COMMISSIONER HENNESSEY: -- for my own possible additional view.

CHAIR ANGELIDES: -- because I will just say that I do think we're going to have differing views; and I think it's important that differing views be reflected and accorded respect, period.

And we have not done what other commissions have done, which is strictly limit to a thousand words or whatever. We haven't done it. We're just trying to make it work.

So I think -- how long do you think -- Keith, Bill, Doug -- Peter, I understand your position -- do you guys want to mull this around for?

VICE CHAIR THOMAS: I don't know, I have to get -- Scott will have to get ahold of Doug and see if he has a number. But I would think it should be just a few days.

CHAIR ANGELIDES: Okay, fine. Take what you need and we'll talk.

VICE CHAIR THOMAS: Great.

*(Telephonic tone)*

CHAIR ANGELIDES: And we'll have a more formal discussion about it, Bill. And if we need to include a couple of other members in it, beyond you and me, to hammer it home, let's do that. All right?

VICE CHAIR THOMAS: Well, I think we should include as many people as we can, because we've driven a pretty big wedge here, and I'd kind of like to keep it open.

And might I suggest that we withdraw Number 8, and it doesn't come back in any form? Number 8 doesn't exist -- in the structure that's been offered doesn't exist, so that we don't use that as the basis for voting next time?

CHAIR ANGELIDES: Yeah, it's okay. We will withdraw it -- even though I don't -- I just want to say, I didn't think I didn't hear objection to a lot of the other mechanical stuff that was in here.

VICE CHAIR THOMAS: Well, it's easy to put in if there's agreement later.

CHAIR ANGELIDES: Yeah, I mean, I would like to hear from members, if there's any other objection -- I think it would be very helpful, apart from this issue, of any of the other mechanical provisions about timing are an issue; all right?

Keith, I haven't heard -- huh?

COMMISSIONER HENNESSEY: Fine for me, yeah.

CHAIR ANGELIDES: All right, fine. So let's just do that.

And we will --

*(Telephonic tone)*

CHAIR ANGELIDES: I think we're losing people. So let's do this --

COMMISSIONER BORN: Wasn't there going to be some discussion about dates for meetings?

CHAIR ANGELIDES: Yes, I did want to say that I think we should point to December 6<sup>th</sup> and 7<sup>th</sup> to hold on people's calendars for a review of the report. And I think we should hold December 15<sup>th</sup> and 16<sup>th</sup> as days for review of the report based on my best understanding --

COMMISSIONER HENNESSEY: Phil?

CHAIR ANGELIDES: Hello?

COMMISSIONER HENNESSEY: Phil, will you -- Phil, will you tell us soon when, in advance of the December 6-7 meeting, we can anticipate a complete draft to be able to review?

CHAIR ANGELIDES: This is Ms. -- this is Ms. Edelberg's -- the goal -- I mean, I know is -- I mean, I would hope that it would be to everyone a week in advance; and it may miss -- it may miss small pieces of it. But I would hope a week in advance.

But it's going to continue -- all of Section 3 should be to you, Keith.

Section 1 should be to you by this weekend and -- yeah. And, obviously, if Keith -- we're holding those dates, but we won't -- we'll make sure that the document is available in advance of those meetings.

I mean, one thought is if 80 percent of it's available or 90 percent, we have the ability to discuss and comment on that.

COMMISSIONER HENNESSEY: Thank you.

CHAIR ANGELIDES: I will have Wendy give you her best schedule.

Well, I'll have you give your best schedule of when they can expect pieces.

All right, Wendy? You need to do that. And let's make them real and meet them. All right?

*(End of requested partial transcription.)*



**Financial Crisis Inquiry Commission  
Agenda Item 3 for FCIC Meeting of December 15, 2010  
Minutes of Telephonic Business Meeting of  
December 6, 2010**

**ATTACHMENT 3  
APPROVED Procedures for Additional or Dissenting Views, Further Revised**

1. General. Any Commissioner may submit additional or dissenting views for publication with the report submitted to the President and Congress in accordance with the procedures set forth herein.
  
2. Timing.
  - a. All additional or dissenting views are to be provided to the General Counsel (or another staff member designated by the Chairman) no later than the later of five days before the date of the meeting called by the Chairman to approve the report and the date the Chairman provides notice to the Commissioners of the meeting, and the staff member shall promptly circulate to all Commissioners all such additional or dissenting views.
  - b. Commissioners submitting additional or dissenting views for publication by the Commission's commercial publisher (see section 3(b) below) must specify the maximum length thereof when making the submission per section 2(a) above.
  - c. The final versions of any additional or dissenting views must be provided to the Commission staff no later than 5:00 PM EST on the day after the day the Commission approves the report.
  
3. Format.
  - a. Additional or dissenting views of any length may be submitted by one or more Commissioners for publication along with the approved report printed by the Government Printing Office and delivered to the President and Congress.
  - b. Additional or dissenting views of up to nine typeset pages in length, including charts and footnotes, may be submitted by any Commissioner for publication in the Commission's commercially published report. Commissioners may choose to aggregate and combine page allotments as the Commissioners submitting views shall determine (i.e., two Commissioners may submit 18 pages).
  - c. After submitting additional or dissenting views per sections 3(a) and 3(b) above, Commissioners may make further and final changes to their views (but may not increase the length of material to be published by the Commission's commercial publisher) and submit the same in redline form to the General Counsel (or another designated staff member) for

circulation to the full Commission and submission for printing in the manner described herein, but not later than the date set forth in section 2(c) above.

4. Miscellaneous.

- a. All additional or dissenting views submitted per sections 3(a) and (b) above shall be posted on the Commission's website upon release of the Commission's report.
- b. Additional or dissenting views shall be identified by the authors thereof.
- c. Any additional or dissenting views for inclusion with the approved report materials printed by the Commission's commercial publisher, or for printing by the Government Printing Office, must be submitted in Microsoft Word, with any accompanying camera ready charts.