

**Telephone Conference Meeting
April 25, 1989**

Chairman Wilkins called the meeting to order on April 25, 1989 at 12:00 p.m. in the Commission Conference Room. Chairman Wilkins and Commissioner Nagel were present in Washington, D.C. Commissioners Block in Arizona, Breyer in Massachusetts, and Corrothers in Arizona participated in the meeting via telephone conference hookup. Chairman Wilkins outlined the procedure for the conduct of the meeting, stating that he would introduce each item for consideration, solicit any comments on the item from Commissioners, after which comments the Commission would, if necessary, proceed to vote on the proposals. Chairman Wilkins explained that the items for consideration did not constitute new proposals or major substantive changes in previously approved amendments. Rather, they consisted of a few particular instances of amendments already passed by Commission vote whose final language was in need of clarification prior to presentation of the amendments to the Congress.

Chairman Wilkins then asked each Commissioner whether they had any comments regarding this proposed procedure. Commissioners Nagel and Breyer had no comment or objection. Commissioner Block stated that he would not offer commentary to assist in the clarification of any amendments for which he had not voted, but voiced no objection to the proposed procedure. Commissioner Corrothers restated the fact that the Commission was engaged only in the clarification of guidelines already approved by the Commission and did not propose to raise and consider new guidelines. Commissioner Corrothers had no objections to the proposed procedure.

Issue #1 (\$2T1.1 Tax Evasion)

Chairman Wilkins asked each Commissioner whether or not they favored further consideration of a clarifying amendment to compensate for the effect of the Commission decision to eliminate interest from the determination of the amount of tax loss. There was discussion about what percentage of cases would be affected. Jim Knapp, DOJ Tax Division, who was present in the Conference Room, stated that four hundred to five hundred cases a year would be affected. Commissioner Breyer stated that the Commission should leave the amendment where it stands because the amendment makes it administratively simpler. Commissioner Block stated that the Commission should obtain more data and revisit the issue next year. Chairman Wilkins and Commissioners Corrothers and Nagel indicated they had no problem raising the tax loss table by one level in

order to clarify what the Commission did when it took out interest.

Based on the above, Chairman Wilkins stated that it appeared the Commission must retain the amendment in the form approved at the April 19, 1989, Commission meeting. Commissioner Nagel requested further information and review by staff for a subsequent Commission meeting. This was agreed to by Commissioners Block, Breyer, Corrothers, and Wilkins.

Issue #2 (\$2G3.2 Obscene or Indecent Telephone Communications)

Chairman Wilkins and Commissioners Breyer, Corrothers and Nagel all indicated that they were satisfied with clarifying language drafted by Peter Hoffman. Commissioner Block abstained. With the clarified language, this will stand as the vote taken at the April 19, 1989, Commission meeting.

Issue #3 (\$2B3.1 Robbery)

[Commissioner Saltzburg joined the meeting in the Conference Room at this point].

Chairman Wilkins and Commissioners Breyer, Corrothers and Nagel stated approval of use of Peter Hoffman's clarifying application note on the treatment of a toy weapon in a bank robbery. Commissioner Block stated that he would abstain since he previously did not vote for the bank robbery amendment. Commissioner Breyer suggested exploring a compromise position in the interest of achieving unanimity; After discussion, Chairman Wilkins indicated that there did not appear to be support from a majority of the Commission to change the April 19 vote on bank robbery.

Issue #4 (\$1B1.3 Relevant Conduct)

Chairman Wilkins and Commissioners Block, Breyer, Corrothers and Nagel agreed to delete examples of relevant conduct from the body of the guidelines and insert them into the commentary.

Chairman Wilkins adjourned the meeting at 12:40 P.M.