

Exhibit G

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
PASHA S. ANWAR, et al.,

Plaintiffs,

vs.

Civil Action No.
09-CV-0118 (VM)

FAIRFIELD GREENWICH LIMITED, et al.,

Defendants.
-----x

VIDEOTAPED DEPOSITION OF SIMON KESSELL

New York, New York

July 22, 2011

Reported by:

KATHY S. KLEPFER, RMR, RPR, CRR, CLR

JOB NO. 39764

1 S. Kessell
 2 A. It is possible that after December 11,
 3 2008 she may have taken steps, and but prior to
 4 that date, I'm not aware that she took
 5 affirmative steps in the sense of initiating a
 6 process. But I know at some point she was
 7 thinking about it because she discussed it with
 8 me.
 9 Q. So before December 11, 2008, you have
 10 no knowledge of any specific affirmative steps
 11 that your wife took toward redeeming her entire
 12 investment in Greenwich Sentry Partners, is that
 13 accurate?
 14 MR. VICKERY: Objection to form.
 15 A. So by "affirmative" you mean putting
 16 into place after a decision had been made as
 17 opposed to simply thinking that she might do it
 18 and wanted to get more information?
 19 Q. Correct.
 20 A. So the affirmative -- so I had no
 21 knowledge, and I certainly don't recollect,
 22 Natalie initiating the process of redeeming her
 23 entire investment prior to December 11.
 24 Q. Did she ever speak with an accountant
 25 about redeeming her entire investment in

1 S. Kessell
 2 Greenwich Sentry Partners?
 3 A. I'm not aware if she spoke to her
 4 accountant.
 5 Q. Did she ever meet with an investment
 6 advisor about redeeming her entire investment in
 7 Greenwich Sentry Partners?
 8 A. I'm not aware if she did or she
 9 didn't.
 10 Q. Mr. Kessell, did you ever seek any
 11 investment advice directly from anyone at Citco
 12 Fund Services (Europe) or Citco (Canada) Inc.
 13 concerning your wife's investment in Greenwich
 14 Sentry Partners?
 15 A. So did I ever seek investment advice?
 16 Q. Directly from anyone --
 17 So that the question is clear on the
 18 record, I need to restate it.
 19 A. Sure.
 20 Q. Because otherwise it's too much of a
 21 conversation between you and me.
 22 A. Sure.
 23 Q. Mr. Kessell, you never sought any
 24 investment advice directly from anyone at Citco
 25 Fund Services (Europe) or Citco (Canada) Inc.

1 S. Kessell
 2 concerning your wife's investment in Greenwich
 3 Sentry Partners, correct?
 4 A. I don't recall seeing any investment
 5 advice.
 6 MS. McGOVERN: I have no further
 7 questions.
 8 MR. MIRRER-SINGER: Let's go off the
 9 record.
 10 THE VIDEOGRAPHER: The time is now
 11 5:47 P.M. We are now off the record.
 12 (Pause.)
 13 THE VIDEOGRAPHER: The time is now
 14 5:48 P.M. We are now back on the record.
 15 EXAMINATION BY
 16 MS. CRAWFORD:
 17 Q. Mr. Kessell, my name is Amy Crawford
 18 and my firm, Kirkland & Ellis, represents
 19 PricewaterhouseCoopers (Canada). I may refer to
 20 PricewaterhouseCoopers (Canada) as PwC (Canada),
 21 okay?
 22 A. Yes.
 23 Q. And I may also refer to PwC --
 24 PricewaterhouseCoopers firms generally as PwC,
 25 okay?

1 S. Kessell
 2 A. Okay.
 3 Q. Now, Mr. Kessell, I think you bent
 4 over backwards today to state clearly that you
 5 were not actually the investor here, right?
 6 A. I hope I've made that clear.
 7 Q. You were not the decider, you have
 8 said?
 9 A. I think that's correct.
 10 Q. And to the extent that you were
 11 advisor, you were simply a provider of
 12 information, correct?
 13 A. I think I said I tried to collect
 14 information for Natalie, yes.
 15 Q. And you didn't try to weigh the
 16 information or filter it to her so that she
 17 should give emphasis to certain things and not
 18 other things, right?
 19 A. There might have been times that I
 20 tried, in response to something she asked, to --
 21 for she might have said, "How should I think
 22 about that" and I might have given her an
 23 explanation. I didn't knowingly attach any
 24 weights to what I said because I tried very hard
 25 to make her understand that her risk profile was

1 S. Kessell
 2 mine and therefore whatever weights I would
 3 attach to it wouldn't be the same as hers.
 4 Q. At the end of the day, you can't say
 5 precisely what information she gave credence to
 6 or didn't; what she may have relied on in making
 7 the decision to invest, right?
 8 A. I don't know how she used the
 9 information or and what weighting she give gave
 10 it.
 11 Q. So is it fair to say you don't know
 12 what she relied on to invest?
 13 A. I know she used the information I gave
 14 her and the discussions that we had, so I can't
 15 say I don't know what she relied on. She would
 16 have relied on the conversations that we had.
 17 She might have relied on the summary. She would
 18 have relied on asking me questions at various
 19 times. So...
 20 Q. Well, you're saying what she would
 21 have relied on and what she might have relied
 22 on. I mean, you're saying that, in a general
 23 sense, she relied on information you gave her,
 24 but among that information, you don't know what
 25 specific pieces of information were important to

1 S. Kessell
 2 (Canada) or he actually referred to which branch
 3 or subsidiary of Pricewaterhouse, but he
 4 mentioned Pricewaterhouse being Fairfield
 5 Greenwich's auditors, and by manager, Bernard
 6 Madoff was -- and this is the person Bernard
 7 Madoff -- was audited.
 8 So that's what we discussed. I don't
 9 think we separately discussed who audited
 10 Bernard Madoff, the person, or his personal
 11 investment group.
 12 Q. So you're saying that the last phrase
 13 of that sentence, "the manager, Bernard Madoff,
 14 was also audited," that refers to his personal
 15 auditor?
 16 A. Meaning that it may not have been --
 17 it may have been a separate auditor to
 18 PricewaterhouseCoopers and the fund itself and
 19 Fairfield Greenwich.
 20 Q. Well, what exactly did Philip Toub
 21 tell you with respect to Bernard Madoff's
 22 auditors?
 23 A. He simply said that he was audited.
 24 He had his own auditors, but the fund itself had
 25 auditors, and that Fairfield Greenwich had its

1 S. Kessell
 2 her or might not have been important to her,
 3 right?
 4 A. Yes.
 5 Q. Could you take a look at Exhibit 7.
 6 Let me know when you have it.
 7 A. Yes.
 8 Q. Could you turn to the second page of
 9 your summary. It has the number Hatgis 3026 at
 10 the bottom. Do you see that?
 11 A. First -- yes.
 12 Q. Looking at the first full paragraph at
 13 the top of the page, and going to the very last
 14 sentence of the paragraph, you're speaking about
 15 statements that Philip Toub made to you, and the
 16 sentence is -- the sentence says there, "He told
 17 me that the Sentry Fund was audited by FGG's
 18 auditor, and the manager, Bernard Madoff, was
 19 also audited." Do you see that?
 20 A. Yes, I do.
 21 Q. Exactly what did Philip Toub tell you
 22 with respect to FGG's auditors?
 23 A. He told me that Pricewaterhouse -- and
 24 I'm using the term because I don't recall
 25 whether he specifically said Pricewaterhouse

1 S. Kessell
 2 auditors. And my understanding -- and he
 3 specifically mentioned PricewaterhouseCoopers as
 4 being Fairfield Greenwich and Fairfield Sentry's
 5 auditors.
 6 Q. So you understood that
 7 PricewaterhouseCoopers did not audit Bernard
 8 Madoff or his investment company, right?
 9 A. That's what I understood at that time
 10 from Philip Toub.
 11 Q. And did you even discuss Greenwich
 12 Sentry fund with Philip Toub, the fund that your
 13 wife ultimately invested in?
 14 A. We did. We talked about the Limited
 15 at some point. He talked about the domestic.
 16 He talked about whether, because Natalie was a
 17 Greek citizen as well as an American, whether it
 18 was possible or even considerable for her to
 19 invest either as an offshore or onshore
 20 investor, and by the time we began discussing it
 21 being an onshore investment, then talk changed
 22 to the specific fund.
 23 But he talked about the partnership
 24 and I think there might have been another
 25 domestic Fairfield Sentry Fund.

S. Kessell

Q. Do you have an understanding or did Mr. Toub make a specific representation with respect to who audited Greenwich Sentry Partners specifically?

A. Yes, he told me that PricewaterhouseCoopers did.

Q. Audited Greenwich Sentry Partners; is that right?

A. That was my recollection.

Q. And what was the significance of the statement that the Sentry Fund was audited by FGG's auditors? What did that -- what significance did that hold for you?

A. For me? Because we -- because we discussed who they were and I knew who PricewaterhouseCoopers was, I regarded that as a positive element of any possible investment.

Q. Why?

A. Well, because having watched the Big Eight go to the Big Six go to the Big Four, and having watched the investment environment, I realized how important that auditors are in the process. Auditors had come into Melleos Capital and audited and I had seen the process that they

S. Kessell

had gone through when they looked at various things, and I had worked at Lehman Brothers when we had done some equity offerings and we worked with accountants, and though the auditors per se were not part of the drafting process, the -- the reference was made to the auditors.

And at some point I think PricewaterhouseCoopers may have, and I say may have, I don't recall specifically, been a part of one of those equity underwritings and I remember the detail in which they went through when any issue of fact came up in one of the offering documents. Stuff often had to be held while we waited for the accountants to confirm that they believed it was accurate.

And I have been following myself equity investments and who the auditors are, their letters at the end, and their involvement, if there was any problems as to talking about their process, was always important. So who the auditors were mattered a lot.

Q. So your prior experience with PricewaterhouseCoopers was that they conducted very detailed audits; is that right?

S. Kessell

A. My recollection is if I hadn't worked directly with PricewaterhouseCoopers, I had definitely, and I may have, but my -- my recollection is they were very detailed. They were one of the top remaining firms.

And may I also add that at the time that Sarbanes-Oxley came in, one of the comments that management would always say was just how thorough the accounting firms became.

Q. With respect, again, to Bernard Madoff's auditor, you don't have any recollection of specifically who that auditor was, right?

A. No, at that -- at that time, I don't even know if his name was raised or the firm's name was raised.

Q. Going back to PricewaterhouseCoopers, do you have a specific recollection of communicating to your wife that PricewaterhouseCoopers audited the Fairfield funds?

A. Yes.

Q. When did you make that statement to your wife?

S. Kessell

A. It would have been part -- I don't remember whether it was in the very first conversation I had, but it would have been as part of the initial post-meeting conversations or debriefings, if you like, that I had where all the aspects, all the information that I had gathered, and I wanted to make her understand this is the whole process.

So I definitely mentioned PricewaterhouseCoopers and I made sure that she understood what that meant, and by that I mean in terms of my understanding of the quality of the firm.

Q. Okay. Earlier in the paragraph that we've been discussing there's a sentence that reads, "He," and again that's Mr. Toub, "said that they had several layers of monitoring. He said that their analysts regularly visited managers, reviewed trades, audited accounts, and applied analytic tools that identified possible aberrations or irregularities." Do you see that?

A. Yes, I do.

Q. Now, when you used the phrase "audited

1 S. Kessell
 2 accounts" there, you're not referring to
 3 anything that PricewaterhouseCoopers did, right?
 4 A. In that sentence, I think I'm
 5 referring to their, Fairfield Greenwich's,
 6 analysts. So that sentence I don't think
 7 applies to PricewaterhouseCoopers.
 8 Q. Okay. And then in the third full
 9 paragraph on the page, I'm looking at the second
 10 sentence, it reads, "I told PT that what would
 11 allow me to overcome any objections was PT's
 12 description of FGG's institutional safeguards
 13 and risk management, the due diligence and
 14 auditing process, the Sentry funds vetting
 15 process, its liquidity and a quick process of
 16 redemption that PT was confident, and PT was
 17 confident that FGG knew the fund well, was
 18 satisfied that it was a stable, well run liquid
 19 fund, and would advise us immediately if there
 20 was any change in these fundamentals." Do you
 21 see that?
 22 A. Yes, I do.
 23 Q. And again, with respect to the phrase
 24 "auditing process" in that sentence, you're not
 25 referring to anything that an external auditor

1 S. Kessell
 2 would do, right?
 3 A. I think I was. I was inclusive there,
 4 because I regarded that as part of the
 5 institutional safeguards and risk management,
 6 the due diligence and auditing process. So I
 7 definitely meant both the internal Fairfield
 8 Greenwich auditing and the external process.
 9 Q. Okay. But stepping back, you're
 10 referring to Mr. Toub's description of the
 11 auditing process and those other elements in
 12 that sentence, right? You said you told --
 13 A. Yes.
 14 Q. -- Philip Toub what would allow you to
 15 overcome objections were Mr. Toub's description,
 16 right?
 17 A. So it says here "PT's description," so
 18 if -- if that's what I'm referring to, I must be
 19 referring to his description.
 20 Q. And you never actually saw any audit
 21 reports of PricewaterhouseCoopers before your
 22 wife made her investment in Greenwich Sentry
 23 Partners, did you?
 24 MR. VICKERY: Objection to form.
 25 A. I'm -- I'm not sure that's true.

1 S. Kessell
 2 It -- I may have seen, as part of any online
 3 information that they had where they might have
 4 included, for example, the prior year's
 5 financial statement from the fund, and I don't
 6 recall specifically, but it may have been
 7 included in that.
 8 Q. Okay. Again, I just want to know if
 9 you have any specific recollection of reviewing
 10 a PricewaterhouseCoopers audit report or audited
 11 financial statements for Greenwich Sentry
 12 Partners Fund before your wife made her decision
 13 to invest?
 14 A. Yes, I recollect looking at audited
 15 financial statements for --
 16 Q. For the --
 17 A. For which fund?
 18 Q. The Greenwich Sentry Partners Fund.
 19 A. Well, the partner's fund, as I recall,
 20 was only opened in that particular year, but
 21 Philip had indicated that the Sentry Funds were
 22 essentially, I don't want to say identical, but
 23 they were, in all the functional aspects, from
 24 an investment perspective, identical.
 25 So I can't say that the partners I saw

1 S. Kessell
 2 because I don't think it had -- it had audited
 3 funds at those -- audited statements, but I
 4 definitely saw and would have drawn conclusions
 5 that the other audited statements for the other
 6 Fairfield Sentry funds were in all other
 7 respects equivalent to what one might expect
 8 from PricewaterhouseCoopers as auditor.
 9 Q. You never received any materials,
 10 documents, directly from PricewaterhouseCoopers
 11 before your wife made her investment, right?
 12 A. If the question is did
 13 PricewaterhouseCoopers send me directly
 14 information about the Fairfield Sentry Partners
 15 fund from their own e-mail or Website, I don't
 16 recall that I ever received anything directly
 17 from them.
 18 Q. And that's actually true before and
 19 after your wife made her investment in Greenwich
 20 Sentry Partners, right?
 21 A. It -- the question being related to
 22 directly? So --
 23 Q. Correct.
 24 A. -- having been e-mailed or sent
 25 directly?

1 S. Kessell
 2 Q. Correct.
 3 A. I don't recall anything directly
 4 coming from PricewaterhouseCoopers.
 5 Q. And you had no direct communications
 6 with anyone from PricewaterhouseCoopers,
 7 correct?
 8 A. With respect to this investment or
 9 ever?
 10 Q. I'm speaking about the context of this
 11 investment.
 12 MR. VICKERY: Object to the form.
 13 A. I don't recall having any direct
 14 contact with respect to this investment with
 15 anyone who worked directly for
 16 PricewaterhouseCoopers.
 17 Q. Now, Mr. Kessell, there are several
 18 different PricewaterhouseCoopers firms in a
 19 number of different countries around the world.
 20 Are you aware of that?
 21 A. I think I have subsequently become
 22 aware of it. Today I'm aware of it.
 23 Q. But you weren't at the time, is that
 24 fair to say, at the time of your wife's decision
 25 to invest?

1 S. Kessell
 2 but that's my understanding without looking at
 3 the documents to make sure I'm not misspeaking.
 4 Q. And given that you weren't aware
 5 before this litigation that there were multiple
 6 PricewaterhouseCoopers firms, that's an
 7 understanding that you came to after Bernard
 8 Madoff's fraud was discovered, is that fair to
 9 say?
 10 A. I was familiar with the concept of
 11 different entities in different countries.
 12 Lehman Brothers, when I worked there, had a
 13 different UK entity, so it -- I don't think I
 14 was unfamiliar with the idea that
 15 Pricewaterhouse might have different entities,
 16 but when I talked about PricewaterhouseCoopers
 17 and when I understood Philip referring to them,
 18 it was, any distinction was --
 19 Q. Okay. Which PricewaterhouseCoopers
 20 firm audited the Greenwich Sentry Partners Fund,
 21 to your knowledge?
 22 A. Off the top of my head, as I said, I
 23 thought it began with Europe but at some point
 24 it became Pricewaterhouse (Canada), but I'm not
 25 sure I recollect correctly which particular

1 S. Kessell
 2 A. I don't think I was aware of any
 3 significant difference myself.
 4 Q. And so sitting here today do you know
 5 which of the PricewaterhouseCoopers firms invest
 6 their -- excuse me, audited the year-end
 7 financial statements of any of the Fairfield
 8 funds at any particular time?
 9 A. Shall I refresh my memory by looking
 10 at the --
 11 Q. No. I'm asking you about what you
 12 understand. Do you have any understanding -- do
 13 you know now any distinction between --
 14 withdrawn.
 15 Do you know which
 16 PricewaterhouseCoopers firms audited any of the
 17 Fairfield funds at any given time?
 18 A. Am I allowed to look at the documents
 19 to refresh my memory to make sure that I don't
 20 speak inaccurately?
 21 Q. No, because I'm only asking about your
 22 knowledge sitting here right now.
 23 A. My understanding was that it was
 24 PricewaterhouseCoopers (Europe) and it got
 25 transferred to PricewaterhouseCoopers (Canada),

1 S. Kessell
 2 entity it was. And you're saying I can't check
 3 by looking?
 4 Q. Well, it's the accuracy -- I just want
 5 to get your recollection, so you have provided
 6 that.
 7 A. As I sit here today. I mean now.
 8 Q. Understand. Got it.
 9 And do you have any specific
 10 recollection of providing PricewaterhouseCoopers
 11 (Canada)'s audit reports to your wife?
 12 A. Specifically my providing them to her?
 13 I don't recall if I provided them to her or Lina
 14 may have sent them directly to her or I may have
 15 forwarded them to her at the same time Lina sent
 16 anything to me. I don't recall specifically
 17 sending her that.
 18 Q. Do you recall reviewing PwC (Canada)
 19 audit reports of the Greenwich Sentry Partners
 20 funds -- partners fund?
 21 A. Yes, I think in the subsequent years I
 22 would have looked -- I did look at the audited
 23 reports when they became available.
 24 Q. And did you discuss the year-end
 25 financial statements and audit reports with your

1 S. Kessell
 2 Q. And what was your role with respect to
 3 Mark Kessell's prospective investment in a
 4 Fairfield Fund and eventual investment?
 5 A. It was primarily to introduce him to
 6 Philip Toub because he was interested in
 7 investing money, and at that point he asked me
 8 who I might know who could help him. Philip
 9 Toub was a name that I gave him, and I think I
 10 might have asked Philip to meet with him.
 11 That -- that was my role. I didn't attend any
 12 meeting with him.
 13 Q. Okay. Did you receive any materials
 14 in connection with his prospective investment
 15 from Fairfield?
 16 A. It's possible that Mark forwarded to
 17 me stuff that he had received. I don't recall
 18 specifically, but it's quite possible that he
 19 forwarded me stuff to --
 20 Q. Did you go onto the Website to look at
 21 any documents in connection with his potential
 22 investment or after his investment?
 23 A. I think it's quite likely that I
 24 looked if he had asked me to look specifically
 25 at something.

1 S. Kessell
 2 A. I don't believe I did. I think I was
 3 given a date range, and I certainly didn't
 4 recall having that e-mail account at the --
 5 Q. When did that e-mail account end?
 6 A. At some point -- I think at some point
 7 early 2000s I simply switched to G-mail. It is
 8 possible that I had left with AT&T a forwarding
 9 thing, but I don't recall. Certainly since any
 10 discussion of Fairfield came up,
 11 knowingly using -- I mean, I don't recall using
 12 that account. I tried very hard to stay to
 13 G-mail.
 14 Q. In the interest of time, do you
 15 have --
 16 A. I also had a Bloomberg account.
 17 Q. Is there any e-mail account that you
 18 had that you used to correspond about Fairfield
 19 that you have not turned over to Boies Schiller?
 20 (Continued on the next page to include
 21 the jurat.)
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 23
 24
 25

1 S. Kessell
 2 Q. Mr. Kessell, what e-mail accounts do
 3 you currently have?
 4 A. Do I currently have? I have
 5 skessell@gmail.com.
 6 Q. Has that e-mail been searched for
 7 documents relating to Fairfield?
 8 A. I've been told it has. I provided it
 9 to Boies Schiller.
 10 Q. Okay. And what other e-mail accounts
 11 do you currently have?
 12 A. I think I have one started in the last
 13 six months called tropeater@gmail.com.
 14 Q. What other e-mail accounts do you
 15 have?
 16 A. I'm trying to think at this point in
 17 time if I have any. Well, at work I have
 18 S.kessell@geminimedical.com.au.
 19 Q. Okay. And what about previous
 20 e-mails? Do you have any previous e-mail
 21 accounts at --
 22 A. At some point, I had
 23 simonks@attglobal.net.
 24 Q. Did you give that e-mail account over
 25 to counsel?

1 S. Kessell
 2 A. Not that I'm aware of, no.
 3 MR. MIRRER-SINGER: Thank you very
 4 much.
 5 THE VIDEOGRAPHER: That concludes the
 6 video record for today. The time is now
 7 6:42 P.M. We are now off the record.
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SIMON KESSELL

Subscribed and sworn to
 before me this day
 of 2011.
