

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PASHA S. ANWAR, *et al.*,

Plaintiffs,

v.

FAIRFIELD GREENWICH LIMITED, *et al.*,

Defendant.

Master File No. 09-cv-118 (VM)

This Document Relates To: All Actions

**DECLARATION OF HOWARD L. VICKERY
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO MOTIONS TO DISMISS OF
PRICEWATERHOUSECOOPERS ACCOUNTANTS N.V.,
PRICEWATERHOUSECOOPERS LLP, AND
PRICEWATERHOUSECOOPERS INTERNATIONAL LIMITED**

Exhibit 6

Attendees:

Bernard Madoff (BM)
Linda McGowan (PwC)
Scott Watson-Brown (PwC)

Funds:

Optimal MultiAdvisors

Notes of discussion

Through discussion and enquiry with Bernard Madoff document the procedures used by Madoff:

Investment Advisory (Front office) function

Investment Advisory function has moved from six to eight persons, with all reporting to Bernard or Peter Madoff.

(a) Segregation of the advisory/front office function from the broker, accounting and custodial departments:

- The firm is segregated into separate areas for trading, systems, back office operations, legal and accounting. All areas have separate card key access and are secure. Monitoring logs of entry into secured areas. Access keys changed periodically. No changes noted.
- The operations area is responsible for daily clearance and settlement of all trades with the street. No changes noted. No issues noted in the operations for the year to date.
- The accounting department (i) reconciles daily activity on the rolling balance report (showing opening balance, trades for the day and ending balances to the advisory system), (ii) the rolling balance report is then agreed to the month end customer statement. These processes are done systematically and there are rarely, if ever any breaks. The operations department reconciles the depositories, for the most part daily, for the firm as a whole using the stock record and trade date data. Madoff estimates that 99% of all trades are electronic, therefore records are updated daily and all reconciliations are performed daily (automated process). No changes noted. No changes in the accounting department role year to date.



(b) Discuss and through narrative document the trading process for the strategy;

Trades are initiated by the system without trader intervention and routed in accordance with the firms routing priority. Trades are bunch but the system maintains detail by account, which upon electronic confirmation of execution is automatically posted to each individual account in accordance with the original trade break out. Bunched trades are allocated on a prorate basis. Performance is the same across all funds/accounts for which this strategy is employed. Madoff receives 4 cents a share mark up on all trades. The system chooses the trades by generally using 35 of the S&P 100 stocks and hedges the position with S&P options. The model has been adjusted to increase selected stocks to a range of 40-50 (change noted as part of 2002 visit). Going to a larger basket increases liquidity and smoothes returns by having greater correlation with the market (currently 95%), but increases load on technology. Aim is not to increase basket size from this level. The parameters of the strategy require the correlation to be in the 90's. Based on the models matrix, positions are adjusted as correlative factors dictate. If the model determines that there is not a current factor conducive to positioning, the cash will be invested in US Treasury securities. The model runs on a dynamic basis and is adjusted periodically as market conditions dictate. See comments on tie out of selected trades in that section of the program. Daily reports are created in every department and reviewed by operations and investment advisory functions daily.

(c) Through discussion understand the security over the trading terminals and/or the rooms from which the traders operate;

See discussion above regarding access and firm security. In addition the firm operates a hot site duplicate trading facility in Queens on a separate power grid. Employees are required to periodically work from the disaster recovery site on a rotating basis – each broker must actively trade from the Queen's sight for one week per month. NASD can also utilize this sight. Madoff's London operations allow for trading capabilities for the US operation, should the need arise. All terminals are password protected and access to records is limited by job responsibility. One-third of traders now using the "hot site" all the time. Still a requirement for all traders to spend one week per month trading from the "hot site" and as such rotate through working from this site. Recent major upgrade undertaken and still committed to maintaining and operating the site. The site has recently been stress tested and is a full mirror of the Manhattan office. The London office is also able to mirror the US operation and vice versa.

- (d) What controls are in place to ensure that trading levels are maintained within those prescribed in the brokerage agreement (i.e. the controls to ensure cash accounts are not margined);

Trades are done in a cash account at the US broker. The system is programmed with the account strategy and limitations. The company's most recent internal control letter was a standard clean letter. Copy obtained and attached (2003 report; 2004 is due to be released in Jan '05; copy to be forwarded once received). No matters or changes noted. Draft 2004 SEC Rule 17a report is clean per Madoff.

- (e) Determine whether copies of trade confirmations and blotters are sent to the client; what level of reports summarising investment transactions, receipts and disbursements, asset holdings, and income are provided on regular basis to the client; the administrator receives copies of trade confirmations and customer statements in standard industry form, from the back office function.
- (f) Inquire about grouping or bunching of orders and the procedures for the Advisor authorising the order size for our clients, the Advisor's procedures for monitoring the allocation of bunched trades, and the monitoring in place at the trading department for ensuring accurate allocation of bunched orders;

See above discussion regarding the bunching and allocation of orders.

- (g) How does the Advisory monitor the results of the Fund against his expectations. Who is responsible for this task?

The results of the programmed trading strategy are reviewed and the correlative factors adjusted when in the opinion of management such adjustments are required. Madoff is responsible for the ultimate decisions for adjustments to the trading strategy.

- (h) Review if the Advisor matches their own trading records with the broker-generated listing of daily trades (P&S), and monthly activity statements;

See discussion above.

- (i) Review if the Advisor reconciles open trade equity, cash and total fund equity to broker trade confirmations on a regular basis;

See above discussions.



- (j) Discuss how errors relating to the above matching and reconciling are resolved on a timely basis;

See above discussion.

- (k) What level of stock lending, if any is allowed on the Fund's account;

None - the account is maintained as a cash account and all securities are segregated in accordance with US brokerage rules (primarily at DTC for equities and BONY for governments; GSCC clears governments).

Brokerage function

- (a) Is the Fund's brokerage account maintained in line with the customer/margin account agreement;

The funds account is maintained as a cash account and all securities are fully paid on settlement date as noted above.

- (b) Ensure sufficient controls are in place to ensure trading orders accepted are in line with the account type held by the Fund;

See above.

- (c) Are there any pledging activities that would require consideration under FAS 140.

No. Madoff has no ability to pledge or rehypothecate the funds securities. BM has a small stock lending business of its proprietary portfolio only.



Custodian function

- (a) What entity acts as custodian within Madoff's group of companies;

The US regulated broker-dealer.

- (b) Are there any other sub-custodial or clearing arrangements;

Madoff has arrangements with standard US custodians as is common street practice. See discussion above.

- (c) Ensure custodian function is segregated from the Advisory and Brokerage functions, both physically and through access;

See segregation narrative above.

- (d) Ensure that frequent reconciliations (daily, weekly) are performed with the sub-custodian; taking inventory of securities and subsequent reconciliation to stock and treasury holdings and reconciliation of activity reports to records maintained by depositories and subcustodians;

See above.

- (e) What are the follow-up procedures for exception reports;

All exceptions are resolved quickly and usually before settlement date.

- (f) Are there any liens or rights over the custody of the fund's assets;

No

Strictly Private and Confidential



Internal Audit function

(a) Does an internal audit function exist;

Internal audit exists and does periodic reviews of systems and reconciliation processes. IA undertakes weekly reviews and reports to Madoff on a weekly basis.

(b) Is there a perceived level of independence from management;

Internal audit reports to the audit committee with a dotted line to Mr. Madoff. No changes noted.

Fraud

No instances or cases reported with clients or internally. Risk of fraud gets close scrutiny from Madoff (personally) as the operation is his business. With the general size of operations (staff numbers) and the involvement of family in every area of the business, Madoff closely scrutinizes the results and operations with the risk of fraud in mind.

There is formal monitoring of all mail, faxes and email (both in and out bound). Following the rule for retention and monitoring of email, no outgoing email for traders or any instant messaging is available. BM limited email function as he feels it will be the undoing of many firms. Internet reviews and email reviews are done and internal fines are in place for inappropriate internet usage.

Regulatory matters

Any instances of regulatory enquiries, subpoenas, or other requests for information or assistance not in the ordinary course of business?

See above for access to Rule 17a report. Regulatory capital now in excess of \$500MM. No regulatory matters impacting Madoff, no sanctions, subpoenas or other enquiries. A review of the NASD BrokerCheck Reporter up to December 1, 2004 indicates no matters other than as previously understood (1963 and 1975 – minor). See attached report.

Strictly Private and Confidential



Other

Organization background (per discussion with Bernard Madoff)

- Four operating floors including separate floors for:
 - executive offices, trading room (proprietary, listed, NASD stocks) (approx 100 persons)
 - systems and administration (approx 100 persons)
 - operations and settlement (approx 100 persons)
 - One floor of technical i) in-house technology
 - Joint venture finance trading system work with GS, MS and ML is now complete and has been handed over to the NASD and as such 5th floor given up.
- 320 staff in total at Madoff's;
- approximately 500 broker/dealer clients
- executing approx 250,000 trades per day

The firm is very much a family business. Madoff, pre discussion, appears very involved in the operations. The head traders are Madoff's sons. The office manager is his nephew. In house counsel is his Niece.

All options are traded OTC, but use same expiration date as listed index options; Madoff uses various, numerous counterparties.

Brokerage operation audit completed as of December; regulatory capital in excess of \$500MM.

No change in business model – has something that works and continues to stick with it. Staffing changes have been routine to deal with internal promotions. Consistency of business model means that certain opportunities are missed in the industry, but as it is a private company and own money BM is not driven to show a changing company profile for the benefit of shareholders.

Strategy sessions are held (“sole searching” sessions) to consider developments and changes. BM has over the past few years passed up two bids on his business from significant broker/dealers, but interested in maintaining a family business operation as opposed to becoming part of a large corporate, public entity.

SOX does not apply to Madoff, however as most NY firms are public and subject to SOX or are required to maintain certain documentation by the Fed, BM has moved to increasing level of documentation to stay in line with expectations.

BM sits on the Fed Rate Committee (for last 12 years) and on the SEC Advisory Committee. His son is on the board of the District 10 NASD.

Strictly Private and Confidential