

Exhibit 1

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C O N F I D E N T I A L
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
11-CV-03605 (JSR) (HBP)

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IRVING H. PICARD, Trustee for
the Liquidation of Bernard L.
Madoff Investment Securities LLC,

Plaintiff,

v.

SAUL B. KATZ, et al.,

Defendants.

Videotaped
Deposition of:

KEVIN M. BARCELONA

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TRANSCRIPT of testimony as taken by and before
NANCY C. BENDISH, Certified Court Reporter, RMR, CRR
and Notary Public of the States of New York and New
Jersey, at the offices of Baker & Hostetler, 45
Rockefeller Plaza, New York, New York on Thursday,
December 15, 2011, commencing at 9:50 a.m.

1 A P P E A R A N C E S:

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13 affiliated entities

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17

18 ALSO PRESENT:

18

19 DANIEL McCLUTCHY, Videographer
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1 with a young company and then also, you know, share
2 in the growth and the benefits of a -- of building a
3 business.

4 Q. Did you understand that you were
5 going to be a partner as part of Sterling Stamos at
6 this time?

7 A. Yes, I did.

8 Q. Did you receive a partnership
9 interest at this time?

10 A. I did receive a partnership interest
11 when I joined the firm.

12 Q. When did you join the firm?

13 A. I guess officially April 12, 2004.

14 Q. What was the partnership interest
15 that you received at that time?

16 A. I was given 50 basis points of
17 part -- of equity in both Sterling Stamos Capital
18 Management, as well as an equivalent general partner
19 entity. Basically there are two legal entities. I
20 earned a 50 basis point interest in each.

21 Q. What was the nature of the business
22 you understood that Saul Katz, Fred Wilpon and Peter
23 Stamos were going to build?

24 A. They were going to build a
25 diversified fund of funds business, principally for

1 A. No, I did not.

2 Q. Did you know who Madoff was at that
3 time?

4 A. No, I did not.

5 Q. Did you ever look into Saul Katz's
6 investments with Madoff?

7 MR. DITCHFIELD: Objection.

8 A. No, I did not. That was not my -- my
9 responsibility.

10 Q. Did you ever look at Fred Wilpon's
11 investments with Madoff?

12 A. No.

13 Q. What position were you hired for?

14 A. Chief financial officer of Sterling
15 Stamos.

16 Q. Did you receive any marketing
17 materials from Sterling Stamos prior to accepting
18 that position?

19 A. I don't believe I did, no.

20 Q. Did you receive an employment letter
21 as part of your engagement as CFO of Sterling
22 Stamos?

23 A. I don't recall. I mean, Peter and I
24 met and we laid out an agreement on paper, literally
25 a yellow pad. I don't recall if I received an

1 official letter or not, but shortly thereafter, I
2 obviously signed a partnership agreement as -- to
3 become a partner and have an ownership stake in
4 Sterling Stamos.

5 Q. Did Sterling Equities sign the
6 partnership agreement that you signed?

7 A. I -- I do not recall.

8 Q. What were your responsibilities as
9 CFO when you joined Sterling Stamos in 2004?

10 A. My principal responsibilities were to
11 handle the day-to-day accounting and activities of
12 the management company, as well as coordinate all of
13 the fund-related reporting for the funds that we
14 had. And at that time I believe we had four
15 investment funds.

16 Q. What does fund-related reporting
17 entail?

18 A. Both the monthly capital account
19 reporting to investors. So working with our service
20 providers and making sure that we get that
21 information, we review it and then that's provided
22 to the investor. As well as coordinating any
23 year-end annual audit and year-end tax reporting for
24 the funds.

25 Q. When you talk about monthly capital

1 account reporting to investors, did Sterling Stamos
2 provide that document directly to the clients?

3 A. I believe that Sterling Stamos was
4 directly responsible for delivering the statements
5 back in 2004, yes.

6 Q. Did you have any other
7 responsibilities as CFO in 2004?

8 A. Those were principally my
9 responsibilities. Obviously I would partake in
10 investor meetings from time to time, if there were
11 questions about reporting or tax-related questions,
12 but a significant portion of my time was dedicated
13 to just, number one, managing my own professional
14 transition from managing 50 to 60 people to being
15 the only person in the organization responsible for
16 these functions. So that was the majority of my --
17 my time until I, you know, built a team over time to
18 do that.

19 Q. You say majority. What other tasks
20 were you performing at that time, if you can recall,
21 in 2004?

22 A. Just, you know, participating in
23 meetings with Peter, Kevin and Ashok about potential
24 new funds and strategies that we would -- new
25 Sterling Stamos funds that we would potentially

1 create over time. So, basically just strategy.

2 Q. Who did you report to in 2004?

3 A. Peter Stamos.

4 Q. Did you report to anyone else in
5 2004?

6 A. I -- I would work closely with Spiro
7 Stamos, who was the chief administrative officer at
8 that time.

9 Q. And going back, what were the four
10 funds that you understood Sterling Stamos had
11 invested in at the beginning of their operations?

12 A. Their legal names have changed over
13 time. Would you like the legal names that existed
14 as of that time frame?

15 Q. In 2004, yes.

16 A. Okay. I believe them -- I recall
17 them to be SP Capital Security Fund, LP, SP Capital
18 Security Fund - Friends & Family, LP, SP Capital
19 Security Levered Offshore Fund, Ltd., and SP Capital
20 Growth Fund, LP.

21 Q. Did those names change over time?

22 A. They changed -- the third fund I
23 mentioned I think changed a couple of times, but
24 they inevitably all changed to Sterling Stamos
25 Security Fund, LP.

1 A. Not that I'm aware of, no.

2 Q. Did David Katz participate in any of
3 those meetings about launching new funds?

4 A. Not that I'm aware of. But they were
5 also -- you know, they were partners in the firm, so
6 those discussions potentially could have occurred,
7 but nothing that I'm aware of.

8 Q. Did Fred Wilpon attend any of those
9 meetings about launching new funds?

10 A. Not that I'm aware of.

11 Q. Did you, in 2004, regularly
12 communicate with Saul Katz?

13 A. My communications with Saul I would
14 not say were regular, but he would periodically call
15 me about the, you know, where we were from a
16 fund-related performance perspective. He would ask
17 where we were from an AUM perspective, and at some
18 point I took over a spreadsheet that would -- held
19 balances for all of their investment accounts with
20 Sterling Stamos, and I would be the owner of that
21 book and provide that to him periodically. There
22 were -- there were a few key, you know, spreadsheets
23 that we maintained that were, again, performance,
24 AUM, their balances, and I became the owner of that
25 sometime in 2004. And that's really where our

1 dialogue resided.

2 Q. What fund-related performance did
3 Saul Katz ask for during these conversations?

4 A. Any fund that he was invested in.
5 And back in 2004, he was invested in every Sterling
6 Stamos fund.

7 Q. What is AUM?

8 A. Assets under management.

9 Q. What did fund-related performance
10 entail, specifically?

11 A. The rate of return for the -- for
12 example, the Sterling -- the SP Capital Security
13 Fund was up one percent, you know, for the month of
14 July.

15 Q. Was Sharpe Ratio part of this fund-
16 related performance?

17 MR. DITCHFIELD: Objection.

18 MS. BIEBER: You can answer.

19 A. It likely was. You know, I believe
20 there was a number of different analyses that were
21 provided, such as current return, year-to-date
22 return, inception-to-date return. Sharpe Ratio was,
23 I believe, part of that analysis as well.

24 Q. Do you recall any other analyses of
25 fund-related performance that you provided to Saul

1 Katz during this time frame in 2004?

2 A. The spreadsheet likely contained
3 positive months and negative months for the funds
4 themselves.

5 Q. 2004, about how many times did you
6 speak with Saul Katz per week?

7 A. I -- it probably -- I probably didn't
8 speak to him on a weekly basis. It was probably
9 more periodic, but it was, you know, one to two
10 times a month in 2004.

11 Q. How often did you speak to Saul Katz
12 in 2005?

13 A. It probably was more periodic. It
14 probably averaged once a week. And it would --
15 again, the same questions would be around
16 performance, AUM, et cetera.

17 Q. And the et cetera, does that involve
18 what you discussed earlier, rate of return?

19 A. Yes.

20 Q. Does it also include Sharpe Ratio?

21 A. I don't recall ever having a specific
22 conversation with him about Sharpe Ratios. I
23 don't -- I don't, you know, recall him ever being
24 interested in the Sharpe Ratios.

25 Q. In 2006, how many times did you speak

1 standard protocol of communication from what I can
2 recall.

3 Q. In 2005, did you communicate with
4 Saul Katz via email?

5 A. I'm sure I have sent an email to Saul
6 Katz in 2005.

7 Q. In 2005 did you have a regular
8 business practice at Sterling Stamos to communicate
9 with partners via email?

10 A. I would -- again, there was one
11 particular spreadsheet that maintained the
12 information that we've discussed already regarding
13 capital account balances, but I would also say that
14 that information was generally sent to Saul and
15 follow-up questions would come from his accountant,
16 internal account at Sterling and not necessarily
17 always Saul.

18 Q. Who did you understand Saul's
19 internal accountant to be?

20 A. It would either be Arthur Friedman or
21 Maureen Hawa.

22 Q. Did you understand Arthur Friedman to
23 be the internal accountant at Sterling Equities?

24 A. That was my understanding of a part
25 of his role.

1 A. Approximately 2-1/2 billion.

2 Q. What was Sterling Stamos' AUM by the
3 end of 2006?

4 A. Approximately 3-1/2 to 4 billion.

5 Q. What was Sterling Stamos' AUM by the
6 end of 2007?

7 A. Approximately 5-1/2 billion or so.

8 Q. What was Sterling Stamos' AUM by the
9 end of 2008?

10 A. Approximately 5-1/2 billion.

11 Q. Go back to your previous testimony.

12 Did you communicate with Arthur
13 Friedman in 2004?

14 A. I don't recall any specific
15 communications with -- with Arthur.

16 Q. Do you recall any general
17 communications with Arthur Friedman in 2004?

18 A. Nothing that I recall.

19 Q. Did you communicate with Arthur
20 Friedman in 2005?

21 A. I believe I -- I believe I did, yes.

22 Q. How frequently did you communicate
23 with Arthur Friedman in 2005?

24 A. It was perhaps once a month. It was
25 very periodic. I think that I had requested -- or

1 he -- again, I think it was with regard to kind of
2 performance information, but it was very periodic.
3 It was very infrequent. I would, again, say it was
4 probably not more than a half a dozen times, to my
5 recollection. That doesn't mean that he wasn't
6 potentially cc'd on emails that either went to -- to
7 Maureen or Saul, but there was not a lot of dialogue
8 between me and Arthur.

9 Q. Did you communicate with Arthur
10 Friedman over the phone in 2005?

11 A. I don't recall any specific
12 conversations. Again, I think most of our
13 communication was via email.

14 Q. And you said that that doesn't mean
15 that Arthur Friedman wasn't potentially cc'd on
16 emails that either went to Maureen -- are you
17 referring to Maureen Hawa?

18 A. Yes. That performance spreadsheet
19 matrix that I referred to before was -- it probably
20 went to Saul with it being cc'd to Arthur and
21 Maureen. That was -- you know, my communications
22 are very -- all very similar based amongst those
23 three people that we've discussed with so far.

24 Q. Did you provide the spreadsheet to
25 which you referred to any other Sterling Equities

1 were, you know, managing his family's money, you
2 know, for -- you know, his family's money
3 represented a substantial portion of our firm's
4 capital base for probably the first, you know, 12 to
5 18 months of our existence.

6 Q. When you say Saul Katz's money
7 represented a substantial portion of your firm's
8 capital base for probably the first 12 to 18 months
9 of our existence, do you know what percentage that
10 was?

11 A. Well, we launched the firm in, in
12 October -- July or October of 2002 with about \$30
13 million in our funds, and \$30 million of our fund,
14 you know, that capital came from Sterling and its
15 related parties -- partners. So, I would say that
16 very conservatively anywhere between 50 and 100
17 percent of the capital that the firm managed for the
18 first year to year-and-a-half was Sterling's
19 equities and their related partners.

20 Q. And when you say "related partners,"
21 what did you understand that to be comprised of?

22 A. Well, Saul, Fred, their trust, their
23 children, whether in trust or whether individually,
24 and then, you know, the other Sterling equity
25 partners as it may be, in no particular order, you

1 Merrill Lynch transaction. Who were the members of
2 that investment committee?

3 A. At that time it would have been Peter
4 Stamos as the chair. It would have been myself as
5 chief financial officer. It would have been Jared
6 Kanover as general counsel. Ashok Chachra as chief
7 -- I believe his title at that time was chief
8 investment officer or chief investment strategist.
9 I'm not quite sure on his titling, but Ashok would
10 have been a participant in that. And I don't --
11 and, I'm sorry, and then the head of risk
12 management, who I think was Rohit Kumar at that
13 time, would have been represented as well.

14 Q. Okay. You testified that there was a
15 representative from operational due diligence. Who
16 was that representative?

17 A. That would have been me.

18 Q. Was there a time when you had
19 operational due diligence responsibilities at
20 Sterling Stamos?

21 A. Yes. I had it in two distinct
22 periods. One, after the Merrill Lynch transaction,
23 and based on a recommendation from them, was that we
24 needed to segregate our operations, operational due
25 diligence and risk management functions. So kind of

1 post-transaction we reorganized and pulled different
2 members from different teams to form a diligence
3 team, which that I would oversee. So we pulled
4 someone from the investment team who had a legal
5 background. We pulled someone from the finance team
6 who was very good from a financials and operations
7 perspective. And we started to formulate --
8 reformulate our process and procedures. And that
9 was really -- it's a continuing process today but,
10 you know, we really kind of tried to redefine that
11 starting in, you know, from July 1 on. And, you
12 know, we -- as part of the purchase agreement, we
13 were -- it was mandated that we go onsite and visit
14 all of our managers, you know, by I believe the end
15 of 2008. So we embarked on a process of meeting
16 with all of our managers based on, you know, the
17 requirement of the purchase agreement.

18 Q. And when you say purchase agreement,
19 what are you referring to?

20 A. I'm referring to the Merrill
21 Lynch/Sterling Stamos purchase agreement effective
22 July 1, 2007.

23 MS. KOSACK: And, Tammy, we'd like to
24 request a copy of that document as well.

25 MS. BIEBER: Okay.

1 Q. And just so we're clear, what does
2 operational due diligence mean?

3 A. It is a -- it's an element of
4 evaluation of an underlying manager to assess their,
5 their operations, both from a financial statement
6 review perspective, as well as an infrastructure, to
7 evaluate whether the infrastructure process and
8 procedures they have in place are reasonable to
9 effectuate the investment style, investment thesis
10 that they're trying to, you know, effectuate.

11 Q. And when you refer to "they're trying
12 to effectuate," who are you referring to in that
13 case?

14 A. We're referring to the individual
15 fund managers that -- you know, and their
16 infrastructure that they have in place. Is it, you
17 know, reasonable and sound to execute on strategy.

18 Q. And earlier you testified that you
19 had two distinct periods where you were performing
20 operational due diligence. When was the first time
21 period when you were performing --

22 A. I --

23 Q. -- operational due diligence?

24 A. I oversaw the operation of the --
25 MS. BIEBER: Let her finish and

1 THE VIDEOGRAPHER: Going off the
2 record, the time is 1:57.

3 (Recess taken.)

4 THE VIDEOGRAPHER: We are back on the
5 record. The time is 2:14.

6 BY MS. KOSACK:

7 Q. Mr. Barcelona, you testified that
8 people became interested in Sterling Stamos through
9 word of mouth. What did you mean by that?

10 A. Well, as we added new investors,
11 they, you know, shared their investment experience
12 and knowledge of the firm with other, you know, of
13 their friends and family and were introduced to the
14 firm and met with Peter and either, A, decided to,
15 you know, invest in our offerings or decided not to.
16 So, that's how I would describe kind of word of
17 mouth.

18 Q. Did you ever provide any information
19 to potential investors looking to invest with
20 Sterling Stamos?

21 A. Well, the firm over time evolved, you
22 know, what's termed in the industry pitch books that
23 describe the investment strategy of our funds and
24 their performance. I would have contributed to the
25 information that went into those books, such as the

1 performance and the current AUM of those funds, but
2 that would have been my contribution to the, you
3 know, product that would have been put in front of
4 them, in addition to the standard legal documents,
5 such as a private placement memorandum or a, you
6 know, limited partnership agreement or subscription
7 document, as it may be.

8 Q. Would you have had any other
9 responsibilities with respect to the pitch book that
10 you just testified about?

11 A. Other than providing kind of, you
12 know, information about the funds in respect to
13 performance and AUM, not that -- no, not that I can
14 recall.

15 MS. KOSACK: Can we go off the record
16 for one second?

17 THE VIDEOGRAPHER: Going off the
18 record, the time is 2:15.

19 (Brief discussion off the record.)

20 The VIDEOGRAPHER: We are back on the
21 record, the time is 2:16.

22 Q. Do you know who else at Sterling
23 Stamos provided contributions to the pitch book that
24 would be provided to potential investors?

25 A. Can you define a certain time frame,

1 because obviously it changes over the years, as
2 there have been many employees at the firm.

3 Q. When was the first time in your
4 employment at Sterling Stamos that you worked on a
5 pitch book for potential investors?

6 A. Again, I guess to clarify, as I would
7 have provided information. I wasn't the creator or
8 the manager of these pitch books, but I would
9 imagine I would have provided, you know, certain
10 fund-related information within probably the first
11 couple months of my employment.

12 Q. And during the first couple months of
13 your employment in 2004, do you know who else
14 provided information for the pitch books for
15 potential investors with Sterling Stamos?

16 A. Kevin Okimoto and Peter and Ashok
17 would have had contribution to that document. As
18 for others, I don't -- I don't know what their
19 contribution as it may have been, because they may
20 have delegated certain aspects of it to those
21 people.

22 Q. What contributions did Kevin Okimoto
23 have to pitch books for potential investors with
24 Sterling Stamos?

25 A. Since he was involved in client

1 with Peter, Kevin and Ashok and, you know, over time
2 other people would get involved as their
3 contribution was needed. But, you know, depending
4 on the time frame, it could have been, you know, a
5 variety of individuals. But, you know, it was
6 always Peter, Kevin and Ashok while they were each
7 employed by the firm.

8 Q. Did you know of any other Sterling
9 Stamos employees that provided contributions to
10 pitch books for Sterling Stamos?

11 A. Well, I --

12 MS. BIEBER: Objection. You can
13 answer.

14 A. I would envision that it was given a
15 legal and compliance review by our particular
16 general counsels at that time. Which, obviously,
17 you know, there were different general counsels at
18 different times in the firm's history. So it would
19 have had an element of their review and
20 contribution. But I don't distinctly recall any
21 other -- again, I didn't manage the process, so I
22 couldn't say that there was -- it was three or ten
23 people that inevitably had some form of input into
24 the -- into those books.

25 Q. As far as their performance

1 information that you testified was part of those
2 pitch books, were you responsible for providing
3 performance information?

4 A. If there was fund-related performance
5 in those books, then I would have -- I would have
6 provided that information, or the team would have,
7 obviously, gone into our files to pull that data.
8 So, yes, it would have been information that would
9 have been under my purview.

10 Q. When you see -- say, "the team would
11 have obviously gone into our files to pull that
12 data," to which team are you referring?

13 A. I'm referring to the team that was
14 working on the pitch document, the group of
15 individuals that were perhaps putting that together.

16 Q. Is that group comprised of Peter
17 Stamos?

18 MS. BIEBER: Objection. I think he's
19 answered this three different ways, and I think at
20 this point we're kind of calling for speculation.

21 MS. KOSACK: He referenced a team
22 that was working on this. I'm just trying to figure
23 out --

24 MS. BIEBER: But he's told you --

25 MS. KOSACK: -- if that's separate.

1 Q. Do you know for what purpose a
2 company overview, such as this document, would have
3 been prepared?

4 A. To introduce the prospective
5 subscriber or interested party to our firm as a
6 whole and potentially our products.

7 Q. What role would have you had in
8 preparing the company overview?

9 MS. BIEBER: Objection. I think he's
10 answered this several times.

11 THE WITNESS: I have.

12 MS. BIEBER: Go ahead and answer it
13 again.

14 A. I would have provided the team
15 preparing that information any investment related --
16 any Sterling Stamos investment fund-related
17 performance, or any current AUMs for any particular
18 Sterling Stamos fund, and then would have
19 subsequently reviewed that information to insure
20 that it was inputted accurately.

21 Q. And if you could -- we're going to
22 skip documents just for a second. Going to the next
23 document, which starts with Bates number
24 SSMT00025980, do you have that document in front of
25 you?