

# EXHIBIT K

C O N F I D E N T I A L

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
ADV. PRO. NO. 08-01789 (BRL)

-----x  
SECURITIES INVESTOR PROTECTION  
CORPORATION,

Videotaped

Plaintiff-Applicant,  
v.

Rule 2004  
Examination of:

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

MARK PESKIN  
(Vol. I)

Defendant.

-----x  
In Re:

BERNARD L. MADOFF,

Debtor.

-----x

TRANSCRIPT of testimony as taken by and before  
MONIQUE VOUTHOURIS, Certified Court Reporter, RPR,  
CRR and Notary Public of the States of New York and  
New Jersey, at the offices of Baker & Hostetler,  
LLP, 45 Rockefeller Plaza, New York, New York on  
Thursday, July 29, 2010, commencing at 10:15 a.m.

BENDISH REPORTING, INC.  
Litigation Support Services  
877.404.2193  
www.bendish.com

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

2

BAKER & HOSTETLER, LLP  
45 Rockefeller Plaza  
New York, New York 10111  
4 BY: FERNANDO A. BOHORQUEZ, ESQ.  
AMANDA E. FEIN, ESQ.  
5 For Irving Picard, Trustee

6

DAVIS POLK & WARDWELL, LLP  
450 Lexington Avenue  
New York, NY 10017  
8 BY: DANA M. SESHENS, ESQ.  
KAREN E. WAGNER, ESQ.  
9 For Sterling Equities, certain  
affiliated entities, and the Witness

10

11 ALSO PRESENT:

12 GREGORY P. NERO, ESQ., Sterling Equities  
DANIEL McCLUTCHY, Videographer

13

14

15

16

17

18

19

20

21

22

23

24

25

1           A.           This is the SEF lines of credit that  
2 we spoke of before.

3           Q.           Okay. Did you have any credit  
4 facilities with Citibank that had a Madoff account  
5 as collateral?

6           A.           I don't think we did.

7           Q.           Okay.

8           A.           I don't think -- as collateral? No,  
9 that was B of A.

10          Q.           Bank of America?

11          A.           Yeah, yeah.

12          Q.           Okay. Thank you. So if we go back  
13 to Exhibit 6 --

14          A.           Yeah.

15          Q.           -- under "Liquidity," there is  
16 included a Madoff securities and SSP Capital?

17          A.           Correct.

18          Q.           "SSP Capital" refers to Sterling  
19 Stamos?

20          A.           Correct.

21          Q.           Why did you need to include Madoff in  
22 this liquidity analysis?

23          A.           Well, I spoke about it before, that  
24 the lines of credit required us to have so much  
25 liquidity available if the line was called to be

1 paid back.

2 Q. This is the line of credit for the  
3 SEF?

4 A. We're only talking about SEF now.

5 Q. Right.

6 A. There were several banks in the --  
7 call it a syndicate of banks that gave us this  
8 credit.

9 Citibank -- in this particular case,  
10 Citibank asked us to please present in their -- with  
11 their definition of liquidity -- with their  
12 definition of liquidity a statement as to where we  
13 were on a monthly basis or quarterly basis. I can't  
14 remember whether it was monthly or quarterly.

15 This indicates June 30th. I know  
16 that's a quarter. I can't remember if there's a May  
17 or July. But this is very formulaic, is very  
18 negotiated. So this doesn't necessarily follow a  
19 form of accounting. It is what Citibank agreed on  
20 as to what their definition of compliance is.

21 So Madoff was considered liquid  
22 because it's a brokerage account. You would call up  
23 your broker and say I need my money back, and they  
24 would sell securities and readily give it back to  
25 you with short notice. It took time to clear

1 through the process.

2 But the banks knew that Madoff was a  
3 liquid -- you know, a liquid, you know, account and  
4 near an equivalent, cash equivalent, because it was  
5 short-term notice and easily liquidatable.

6 SSP capital, certain accounts within  
7 certain fund investments that we had were more  
8 liquid than others.

9 I'm not quite sure what the others  
10 were, but we had other brokerage accounts.

11 Q. Like Prudential or --

12 A. It was Maxim, it was Long Island  
13 Investors, it was a whole bunch of other typical  
14 brokerage accounts, no different than the Madoff  
15 account, that we would call upon in need of cash if  
16 we were in need of cash. So that was the liquidity  
17 basis.

18 Q. And let me back up to one thing you  
19 mentioned, and we can get two more questions in  
20 before --

21 A. Sure.

22 Q. -- we have to change the tape.

23 What was your understanding of how  
24 long -- let me back up.

25 What did Madoff represent to Sterling

1 broker who had a great reputation. It's like asking  
2 me am I worried that I had \$181 million in JPMorgan.

3 I mean, I'm giving it to Citibank.  
4 They're not concerned.

5 Q. So that was my follow-up question.  
6 Did Citibank ever raise any questions about the --

7 A. No. To the contrary, I think they  
8 were very secure knowing that the money was in a --  
9 a liquid asset.

10 If you also look at the right-hand --  
11 excuse me, the left-hand column, "Fleet margin,  
12 Fleet margin, Fleet margin," I mean, all of these  
13 Fleet, which is now B of A, was exceedingly secure.  
14 They gave us loans supported, collateralized by  
15 Madoff.

16 That's how I understand first --  
17 understood Madoff or got comfortable with Madoff,  
18 because these double-up loans you talk about, it  
19 took me, like, three seconds -- exaggeration -- ten  
20 minutes to negotiate them because B of A was so  
21 comfortable using Madoff.

22 It wasn't a matter of marking to  
23 market. It wasn't a matter of understanding the  
24 collateral. Oh, Madoff. Okay, fine, yeah, put it  
25 in Madoff. It's going to be liquid.

1 Q. And why was BOA so comfortable with  
2 Madoff?

3 A. B of A, I have to -- you have to ask  
4 them. I mean, they had other clients with Madoff.  
5 They had other -- I believe other loans, tri-party  
6 agreement type loans with Madoff.

7 If it was good enough for them, it  
8 was sort of good enough for me.

9 Q. And then last question on this  
10 document --

11 (Comments off the record.)

12 MR. BOHORQUEZ: Why don't we take a  
13 break. We'll change tapes.

14 THE VIDEOGRAPHER: Going off the  
15 record. The time is 2:46. This ends tape number 3.

16 (Brief recess.)

17 THE VIDEOGRAPHER: We are back on the  
18 record. The time is 3:02. This is tape number 4.

19 MR. BOHORQUEZ: This is Exhibit  
20 No. 7.

21 (Exhibit MP-7 marked for  
22 identification.)

23 BY MR. BOHORQUEZ:

24 Q. Actually, I'm going to ask you one  
25 more question on that and then we'll move on.