

# EXHIBIT V

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,

Rule 2004  
Examination of:

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

DAVID KATZ

(Volume I)

Defendant.

-----x  
In Re:

BERNARD L. MADOFF,

Debtor.

-----x  
  
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 Tuesday,  
August 31, 2010, commencing at 10:10 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: KATHRYN M. ZUNNO, ESQ.  
AMANDA E. FEIN, ESQ.  
5 FERNANDO A. BOHORQUEZ, ESQ.  
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 NERO, ESQ., Sterling Equities  
DANIEL McCLUTCHY, Videographer

13

14

15

16

17

18

19

20

21

22

23

24

25

1 triggered that discussion with your father?

2 A. That's enough.

3 Q. Had you ever before raised the issue  
4 of diversification with your father prior to 2001?

5 A. Yeah, I'm sure.

6 Q. Do you recall when?

7 A. No, I couldn't pick dates.

8 Q. Was it in the '80s, when you were  
9 starting at Sterling?

10 A. Probably around the '80s, maybe at  
11 the end, I'm guessing, more in the '90s.

12 Q. Do you recall actually raising the  
13 issue of diversification in the '90s?

14 A. I remember one conversation  
15 specifically and I'm not sure of the year.

16 Q. What is that one conversation  
17 specifically that you recall?

18 A. That's the one I had with my father  
19 in his office, where I was trying to get him to  
20 focus, which isn't easy sometimes, and I asked him,  
21 you know, if he was dead, he looks down, he'd think  
22 I'm insane, if he saw me doing this, put all my  
23 money in one place, he'd think I was insane and he'd  
24 kill me.

25 Q. Why would he think you are insane?

1           A.           Can't have all your money in one  
2 place. I'm supposed to be taking care of my sisters  
3 and it's not -- doesn't make sense.

4           Q.           I'm sorry, when do you think this  
5 conversation was?

6           A.           Excuse me. '90s.

7           Q.           Okay. Prior to that conversation had  
8 you had any discussions with your father about  
9 diversification or what he thought about having  
10 money in one place?

11          A.           I don't recall.

12          Q.           No? So why did you think he'd be  
13 angry or, I'm sorry, what did you say?

14          A.           Angry?

15          Q.           Why did you think he'd be insane?

16          A.           Why did I think he'd -- oh, why did  
17 he think I would be insane? Because having all your  
18 money in one place just doesn't make -- it doesn't  
19 make any sense. Makes no sense. It goes against  
20 every rule there is.

21          Q.           Okay. Did you have any conversations  
22 with anyone other than your father that informed  
23 that opinion?

24                       MS. SESHENS: Objection to the form.

25          A.           No, not that I can think of.

1 A. Oh, yeah. I'm sure.

2 Q. Did you agree with that decision?

3 A. It's not my decision.

4 Q. Other than the discussion in the '90s  
5 with your father, between that conversation and the  
6 discussion you had in '01 with him about  
7 diversification, did you have any other  
8 conversations with your father about  
9 diversification?

10 A. I'm sure, but for the life of me I  
11 couldn't tell you what, but I'm sure there were.

12 Q. Okay. And that conversation in the  
13 '90s, did you talk about Madoff's strategy in any  
14 way?

15 A. No.

16 Q. Did you talk about the amount of  
17 money he had in Madoff, specifically?

18 A. No.

19 Q. Did you talk about any concerns that  
20 either of you had about Madoff, if any?

21 A. Other than there's too much money in  
22 one place?

23 Q. Yes.

24 A. No. That was the only thing.  
25 Otherwise we'd take everything out.

1 BLMIS?

2 A. What's that?

3 Q. Sorry. BLMIS, Bernard L. Madoff  
4 Investment Securities.

5 A. No.

6 Q. So you would never speak with anyone  
7 there about your accounts at any point?

8 A. No.

9 Q. I just want to go back for a second  
10 to our discussions about Bernie being a black box.

11 A. Yup.

12 Q. Can you tell me why, or did you think  
13 that was problematic?

14 A. In what way?

15 Q. Was there anything about Bernie being  
16 a black box that concerned you?

17 A. No.

18 Q. But I think you said before that the  
19 black box meant that you didn't know Bernie's  
20 strategy, right?

21 A. Yes.

22 Q. I guess my question is, why would  
23 that be problematic in any way?

24 MS. SESHENS: Objection to the form.

25 A. Why would it be problematic?

1 Q. Yeah.

2 A. I don't know.

3 MS. SESHENS: I think he said it  
4 wouldn't be problematic?

5 THE WITNESS: Yeah. I think you got  
6 one word backwards.

7 MS. SESHENS: So that's why I was  
8 confused by your question.

9 MS. ZUNNO: Let's just start over.

10 Q. The black box would mean what  
11 exactly? What does black box mean to you exactly?

12 A. It's a proprietary trading method.

13 Q. Proprietary trading method meaning  
14 what?

15 A. Meaning it's secret.

16 Q. And is there anything about the  
17 trading method being secret that you have, that you  
18 would have concerns about?

19 A. Not in this case, no, absolutely not.

20 Q. Why not?

21 A. Well, I guess Bernie was an  
22 outstanding citizen. He helped computerize NASDAQ,  
23 SEC writes rules with him. A lot of reasons.

24 Q. I guess putting Bernie aside, just  
25 the black box strategy in general --

1 A. Um-hum.

2 Q. -- with a particular investment  
3 manager --

4 A. Um-hum.

5 Q. -- would you be concerned if an  
6 investment manager had a black box strategy?

7 A. No.

8 Q. Going back to Sterling Stamos, I  
9 think you had said that Sterling Stamos wasn't  
10 supposed to invest in black boxes, correct?

11 A. Right.

12 Q. So why weren't they supposed to  
13 invest in black boxes?

14 A. We've got enough allocated to black  
15 boxes by being in Bernie.

16 Q. Okay.

17 Is it fair to say by the creation of  
18 Sterling Stamos you were trying to minimize your  
19 exposure to black boxes?

20 A. No. Yeah, to black boxes, sure.  
21 Yeah. And having money just -- having money in one  
22 place as well.

23 Q. So, it is fair to say by the creation  
24 of Sterling Stamos you were trying to minimize your  
25 exposure to black boxes?

1           A.           I really don't remember talking about  
2 Bernie. Although that's not a surprise, but I don't  
3 remember it.

4           Q.           Okay.

5           A.           Or Bank of New York I don't remember  
6 either. I thought it was somebody that was under  
7 Peter. Maybe that's where I'm confused.

8           Q.           Do you recall if anyone from Ivy told  
9 you and your father and Peter Stamos that they no  
10 longer invested in Madoff?

11          A.           Do I remember them telling us that?  
12                        No, because I remember talking about  
13 Bernie. That would have -- yeah. No.

14          Q.           Okay.

15                        Did you at any point, aside from this  
16 meeting, did you --

17          A.           Yeah.

18          Q.           Strike all of that.

19                        At any point did you learn that Ivy  
20 Asset Management no longer invested in Madoff?

21                        MS. SESHENS: Objection to the form.

22          A.           I have no idea they did.

23          Q.           Okay. Fair enough.

24                        Do you know someone named Tim Dick by  
25 any chance?

1           A.           No. I would remember that name. No,  
2 I don't. At least I don't recall, but that's -- no.

3           Q.           Do you know if anyone ever acted as a  
4 consultant to Sterling in connection with their  
5 investments in Changing World Technologies?

6           A.           Investment with Changing World  
7 Technologies?

8           Q.           Um-hum.

9           A.           No idea.

10          Q.           Do you recall anyone ever -- strike  
11 that.

12                        Did your father ever tell you that he  
13 had discussions with anyone who tried to work out  
14 Bernie's math and it didn't add up?

15          A.           My father tell me that?

16          Q.           Um-hum.

17          A.           No.

18          Q.           Did your father ever tell you that he  
19 had conversations with anyone who told him something  
20 wasn't right about Madoff?

21          A.           No.

22          Q.           Going back to Sterling Stamos for a  
23 moment, when Sterling Stamos was first created in  
24 '02, what role did you play at Sterling Stamos?

25          A.           An observer.

1 consummate the SNY transaction?

2 A. Do I know why it did not?

3 Q. Right.

4 MS. SESHENS: Objection to the form.

5 A. No.

6 Q. Going back to our discussions about  
7 insurance that was considered by Sterling related to  
8 its Madoff investments --

9 A. Um-hum.

10 Q. -- do you know why that was  
11 considered by Sterling?

12 A. Only that Chuck mentioned it.

13 Q. Do you know if Chuck recommended it?

14 A. I don't know.

15 Q. Do you know if Sterling insures any  
16 of its other non-real estate investments?

17 A. No.

18 Q. No, you don't know or, no, it does  
19 not?

20 A. No, I don't know.

21 Q. Do you know if at any other time  
22 Sterling considered insuring its Madoff investments  
23 other than the time that -- other than in June 2001?

24 A. No.

25 Q. No, it did not?

1 MS. SESHENS: Objection to the form.

2 A. In which type of funds Sterling  
3 Stamos would invest?

4 Q. Yeah.

5 A. Did I ask them? I might have  
6 overheard.

7 Q. Overheard?

8 A. When I was sitting in the meetings I  
9 might have overheard them talking.

10 Q. Okay. I guess, well, if you were  
11 sitting in on meetings and overheard them talking  
12 about funds in which to invest, would you voice your  
13 opinion?

14 A. I wouldn't talk.

15 Q. When Sterling Stamos was first  
16 created, I think you said they weren't supposed to  
17 invest in black boxes, right?

18 A. That was my understanding.

19 Q. Were there any other types of funds  
20 in which they weren't supposed to invest?

21 A. None that I know of.

22 Q. Okay.

23 Would you agree that one of the  
24 purposes of Sterling Stamos was to diversify away  
25 from Madoff?

1           A.           Yeah.  Yes.

2           Q.           Would you agree that the fact that  
3 Madoff was a black box, was that one of the reasons  
4 Sterling wanted to diversify away from Madoff?

5                       MS. SESHENS:  Objection.  Katie, I  
6 know we've given a lot of leeway on this, this is  
7 like the fourth or fifth time this line of  
8 questioning has been asked.  So I just want to note  
9 my objection, we've gone over this, it's been asked  
10 and answered and it's captured in the testimony that  
11 I think has been elicited thus far.

12                      MS. ZUNNO:  I note your objection.  I  
13 disagree that this was asked and answered.  But I'll  
14 ask my question again.

15 BY MS. ZUNNO:

16           Q.           Was the fact that Madoff was a black  
17 box one of the reasons Sterling wanted to diversify  
18 away from Madoff?

19           A.           No.

20           Q.           So other than diversifying away from  
21 Madoff, are there any other reasons why Sterling  
22 Stamos was created?

23           A.           Seemed like a good business, start a  
24 family office.  No.  I can't think of any other  
25 reason now.