

EXHIBIT BB

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)

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SECURITIES INVESTOR PROTECTION CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT SECURITIES, LLC,

Defendant.

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In Re:

BERNARD L. MADOFF,

Debtor.

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Videotaped Rule 2004 Examination of:

MARK PESKIN (Vol. I)

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.

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

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KAREN E. WAGNER, ESQ.
For Sterling Equities, certain affiliated entities, and the Witness

ALSO PRESENT:

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

A. It could have come from anywhere. It could have been from a redemption from the SSP account. It could have been excess funds in the Madoff account. It could have been from the sale of a property.

Excess funds in general were accumulated, and then a decision would have been made, you know, let's double it up.

Q. And who played a role in that decision to double it up?

A. It would have been the partners who made that decision.

Q. All of them together?

A. All decisions are made by all the partners. It's a very unique organization.

Q. It sounds like it. I'm just trying to get a better understanding of the decision-making process of the double-ups.

So who determined when there was an excess of funds?

A. The individual partners knew their own personal accounts. When there was -- people wouldn't realize there were excesses.

Arthur would be in charge to call up the capital accounts. He would know, and he would say, hey, everybody has a little bit more money than expected. What do you want to do with it?

And this would be usually done either at a management meeting or over a lunch or just walking around the office.

I'd say it's a very unique office. It's small enough that you can still talk to your partners one-on-one either by walking down the hall or making a quick phone call.

And decisions are made by the partners. So you want to come in, great. You don't want to come in, that's okay, also. And they would form a pool of money to be doubled up.

Q. And did there come a time when non-partners were invested in these double-up accounts?

A. Yes.

Q. So who solicited or who spoke with the non-partner investors to see if they wanted to get -- to invest in a double-up?

MS. SESHENS: Objection to the form. You can answer.

Q. You can answer.

A. The -- that was -- non-partners could be children of the partners. It could be their double-up entity, have different levels of investment?

A. Yes.

Q. Okay. And how was that determined?

A. It's whatever that individual thought they could afford to lock away, to lock up for a period of time.

Q. And that was based on -- on the excess analysis?

A. It was -- I don't know what the excess analysis is, but it was based upon that person's understanding of what their needs were, short-term, long-term.

And based upon that, you can say I can put away X dollars for a longer period of time.

Q. Well, what I mean by the excess analysis is what you were referring to earlier, that you said that there were excess funds that were then pooled.

A. Right, okay. I don't know if it was a formal analysis versus a thought process that went through each person's mind.

Q. So Mr. Friedman would notify the partners and executives that they had excess funds, and those funds could or could not have been used to invest in the Sterling --

A. Correct. It was up to the individual partner to make that decision.

Q. And when you said locked, locked up, you used the term "locked up," what did you mean by that?

A. The nature of a double-up account is that you would take money and put it into a pooled account, and then you would borrow money and also put it in the pool account.

And that borrowed money had a term, three years usually. So you didn't necessarily want to break the loan because we would fix the rate on the loan. And if you -- if you want to come out, it means you're breaking the rate lock, you're pulling funds out that have been set aside and given a certain rate for a three-year period.

Depending upon where interest rates are in the market, you could either make money or lose money doing that.

Q. I see. Now, what is SEF, Sterling Equities Funding?

A. Sterling Equities Funding is -- call it the internal bank of the firm. Rather than each partner borrowing money from banks, it borrows its