

# **Exhibit 13**

## **Part II of II**

## 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,  
 Defendant.

PETER S. STAMOS

-----X  
 In Re:

BERNARD L. MADOFF,

Debtor.  
 -----X

TRANSCRIPT of testimony as taken by and before  
 NANCY C. BENDISH and MONIQUE VOUTHOURIS, Certified  
 Court Reporters, CRRs and Notaries 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, August 19, 2010, commencing at  
 10:17 a.m.

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

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4 BY: FERNANDO A. BOHORQUEZ, ESQ.  
KATHRYN M. ZUNNO, ESQ.  
5 THOMAS R. LUCCHESI, ESQ.  
For Irving Picard, Trustee

6

SHEARMAN & STERLING LLP  
7 599 Lexington Avenue  
New York, New York 10022  
8 BY: ALAN S. GOUDISS, ESQ.  
TAMMY P. BIEBER, ESQ.  
9 For the Witness

10

## ALSO PRESENT:

11

JARED A. KANOVER, ESQ., Sterling Stamos  
12 DANIEL McCLUTCHY, Videographer

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03:05:07 1 A. Risk management.

03:05:07 2 Q. What was the risk management due  
03:05:10 3 diligence of Sterling Stamos at the beginning?

03:05:15 4 A. Quantitative.

03:05:16 5 Q. And what do you mean by that?

03:05:18 6 A. I'll give you an example.

03:05:20 7 Q. Um-hum.

03:05:21 8 A. We would construct a portfolio, as a  
03:05:24 9 model portfolio, and back-test the data for  
03:05:27 10 investment returns and volatility, and then run  
03:05:30 11 correlation analysis versus the S & P 500, versus  
03:05:33 12 the Lehman Aggregate Bond Index.

03:05:36 13 Q. So compare the returns to S & P and  
03:05:43 14 so forth?

03:05:44 15 A. Yes.

03:05:44 16 Q. Anything else?

03:05:45 17 A. Yes. Other forms of general  
03:05:48 18 quantitative analysis to seek to optimize return per  
03:05:53 19 unit of volatility.

03:05:54 20 Q. Anything else?

03:05:56 21 A. I don't recall the specifics, but  
03:05:58 22 portfolio construction, generally.

03:06:02 23 Q. And for each of those three  
03:06:03 24 components -- well, strike that.

03:06:05 25 Now, did that change over time?

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03:06:08 1 A. Yes.

03:06:08 2 Q. How did it change?

03:06:10 3 A. All three became more and more  
03:06:12 4 process driven and more and more formalized, over  
03:06:16 5 time.

03:06:16 6 Q. And when you say formalized, were the  
03:06:22 7 conclusions that are reached by each one of these  
03:06:24 8 teams, were they reduced to writing as part of the  
03:06:27 9 more formal process?

03:06:29 10 A. Eventually.

03:06:30 11 Q. When did it become a practice to  
03:06:33 12 reduce these due diligence conclusions for fund  
03:06:39 13 managers to writing?

03:06:40 14 A. I don't recall when each of those  
03:06:42 15 three started. I just know that by the back half of  
03:06:46 16 our firm's existence they were fairly formalized. I  
03:06:51 17 know over the last three or four years, for example.

03:06:55 18 Q. When you say that they're formalized  
03:06:57 19 and reduced to writing, is there like a due  
03:07:00 20 diligence file?

03:07:01 21 A. Yes.

03:07:01 22 Q. What is contained in the due  
03:07:03 23 diligence file?

03:07:05 24 A. Today?

03:07:05 25 Q. Yes, today.

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03:07:06 1           A.           This is what I know. In the context  
03:07:08 2 of the merger with Merrill Lynch which was, I  
03:07:13 3 believe July 1st, June 30th, 2007, one of the  
03:07:17 4 requirements of that merger was that we create an  
03:07:21 5 operational due diligence team, a risk team and  
03:07:25 6 investment team, and that those three teams give  
03:07:28 7 independent recommendations. And that each one  
03:07:30 8 would have a veto over investments going in and  
03:07:34 9 potential concerns coming out.

03:07:37 10           Q.           In each one of those teams, did they  
03:07:40 11 have, were they required to reduce their  
03:07:44 12 recommendations to writing?

03:07:46 13           A.           I believe after July 1st, 2007 all of  
03:07:50 14 them are reduced to writing, either in one memo,  
03:07:53 15 three memos or some combination of memos, for every  
03:07:57 16 new investment that we make.

03:07:59 17           Q.           And those memos are all kept in the  
03:08:00 18 due diligence file for, I guess by investment  
03:08:03 19 manager; is that right?

03:08:05 20           A.           I believe so.

03:08:06 21           Q.           And how far back do those records go?

03:08:09 22           A.           I don't know.

03:08:09 23           Q.           But they go far -- it's safe to say  
03:08:14 24 they go as far back to June of '07?

03:08:18 25           A.           Yes. I'm not confident that every

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03:08:20 1 manager has had each of those three completed, but I  
03:08:24 2 believe that's our objective and I believe we are  
03:08:28 3 fairly close to that, if not completed on that.

03:08:31 4 MR. BOHORQUEZ: Let's go off the  
03:08:32 5 record for a minute.

03:08:34 6 THE VIDEOGRAPHER: Going off the  
03:08:35 7 record, the time is 3:09.

03:08:44 8 (Recess taken.)

03:23:42 9 THE VIDEOGRAPHER: We are back on the  
03:23:50 10 record. The time is 3:24. This is tape number 4.

03:23:59 11 BY MR. BOHORQUEZ:

03:23:59 12 Q. Mr. Stamos, you'd said earlier that  
03:24:03 13 when Mr. Barcelona joined Sterling Stamos that at  
03:24:07 14 some point in 2003 or 2004 he compiled a due  
03:24:12 15 diligence checklist; is that right?

03:24:15 16 A. That's correct.

03:24:15 17 Q. Was it in '03 or '04; do you recall?

03:24:18 18 A. I don't recall.

03:24:19 19 Q. But it was roughly in that time  
03:24:21 20 frame?

03:24:21 21 A. Yes.

03:24:23 22 Q. Were there any other policies or  
03:24:28 23 guidelines concerning due diligence that  
03:24:31 24 Mr. Barcelona compiled at that time, other than this  
03:24:35 25 checklist?

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03:24:37 1 A. I'm not aware of others.

03:24:41 2 Q. Was that checklist, the due diligence  
03:24:48 3 checklist that Mr. Barcelona prepared at that time  
03:24:52 4 frame, '03 and '04, was that ever provided to any of  
03:24:56 5 the general partners of Sterling Stamos?

03:24:59 6 A. I don't recall whether it was or was  
03:25:00 7 not.

03:25:03 8 Q. Do you know if that checklist, the  
03:25:05 9 due diligence checklist, was ever provided to Saul  
03:25:08 10 Katz?

03:25:08 11 A. I don't know whether it was or not.

03:25:10 12 Q. Did Saul Katz have access to that  
03:25:12 13 checklist if he wanted to see it?

03:25:14 14 MR. GOUDISS: I object. Go ahead.

03:25:16 15 A. I believe that any of our limited  
03:25:20 16 partners would have access to -- if they asked the  
03:25:23 17 questions, for example, what kind of issues do you  
03:25:25 18 look for.

03:25:30 19 Q. Do you have any recollection of Saul  
03:25:32 20 Katz or David Katz ever asking to see the due  
03:25:36 21 diligence checklist?

03:25:38 22 A. I don't recall them asking to see the  
03:25:40 23 due diligence checklist. They may have.

03:25:44 24 Q. Mr. Barcelona's due diligence  
03:25:51 25 checklist, that evolved over time, right?



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03:25:54 1 A. Yes.

03:25:55 2 Q. Prior to December 2008 or to take a  
03:26:05 3 snapshot prior to December 11th, 2008, other than  
03:26:08 4 the due diligence checklist that Mr. Barcelona  
03:26:12 5 prepared and then updated, what other policies or  
03:26:16 6 guidelines concerning due diligence were reduced to  
03:26:19 7 writing?

03:26:20 8 A. I remember one very specific addition  
03:26:22 9 to our due diligence requirements. Post or  
03:26:27 10 contemporaneous with the merger with, now Bank of  
03:26:32 11 America, then Merrill Lynch, we, at the request of  
03:26:36 12 Merrill Lynch, established a transparency report for  
03:26:39 13 all of our managers to fill out. Beginning in July  
03:26:42 14 of 2007 we started to require the completion of the  
03:26:51 15 transparency report.

03:26:54 16 Q. So, after the merger with Merrill  
03:27:00 17 Lynch, right around that time, in terms of due  
03:27:05 18 diligence guidelines and policies, there was the  
03:27:09 19 checklist that was prepared by Mr. Barcelona, there  
03:27:12 20 was also a transparency report, correct?

03:27:15 21 A. Yes.

03:27:16 22 Q. Was there anything else in place at  
03:27:17 23 that time in 2007?

03:27:19 24 A. Yes.

03:27:20 25 Q. What else?

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03:27:21 1           A.           The operational checklist that  
03:27:23 2           Mr. Barcelona developed was expanded to include a  
03:27:26 3           whole set of other issues, legal, compliance and the  
03:27:30 4           like.

03:27:31 5           Q.           Those are all contained in one  
03:27:34 6           document or are they separate documents?

03:27:37 7           A.           I don't know whether it's one  
03:27:38 8           document or sets of documents. I do know that  
03:27:43 9           investment due diligence, operational due diligence  
03:27:45 10          is a long list, and risk due diligence are all  
03:27:49 11          compiled.

03:27:50 12          Q.           And other than those three lists of  
03:27:53 13          operational, investment and risk and the  
03:27:56 14          transparency report, are there any other documents  
03:28:00 15          containing Sterling Stamos' policies or guidelines  
03:28:03 16          concerning due diligence?

03:28:04 17          A.           I believe there are. I don't know  
03:28:07 18          what the names of them are. We have other documents  
03:28:09 19          that describe what it is we do and how we do it.

03:28:12 20          Q.           Generally speaking, what are those  
03:28:13 21          other documents?

03:28:15 22          A.           I don't recall the names of them.

03:28:16 23          Q.           Are they policy statements or what  
03:28:18 24          are they?

03:28:18 25          A.           I don't know.

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03:28:20 1 Q. Did you or anyone at Sterling Stamos  
03:28:26 2 have any discussions with anyone from Sterling  
03:28:30 3 concerning Merrill Lynch's requirement or request  
03:28:37 4 that Sterling Stamos implement some of these new due  
03:28:42 5 diligence practices?

03:28:44 6 A. I don't recall a specific  
03:28:45 7 conversation about that, but I would not be  
03:28:48 8 surprised if that conversation occurred between  
03:28:50 9 members of my firm, possibly me, and members of  
03:28:55 10 Sterling Equities.

03:28:57 11 Q. And if you were to have had those  
03:29:00 12 conversations, would they have been with Saul Katz  
03:29:02 13 and/or David Katz?

03:29:04 14 MR. GOUDISS: I object. Go ahead.

03:29:06 15 A. They would most likely have been with  
03:29:08 16 Mr. Saul Katz, again in the context of my being  
03:29:12 17 proud of our evolution of the firm, creating better  
03:29:15 18 processes and procedures.

03:29:17 19 Q. Anyone else?

03:29:19 20 A. Anyone else?

03:29:20 21 Q. From Sterling that you would have  
03:29:22 22 spoken to about these due diligence practices.

03:29:24 23 MR. GOUDISS: I object.

03:29:25 24 A. I don't recall having conversations  
03:29:28 25 with people from Sterling on a regular basis, other

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03:29:30 1 than Mr. Katz.

03:29:33 2 Q. With respect to Bayou, you'd  
03:29:36 3 identified at least two issues that you recalled as  
03:29:41 4 to why Sterling Stamos redeemed its investments in  
03:29:45 5 Bayou and they were issues with the back-office  
03:29:47 6 administration, as well as the investment manager  
03:29:50 7 being both the broker and the dealer.

03:29:53 8 MR. GOUDISS: I object.

03:29:55 9 A. No, I don't believe that's what I  
03:29:56 10 said. I believe I identified three sets of issues.

03:30:00 11 Q. Okay. But were two of the three  
03:30:02 12 issues the ones I just identified?

03:30:04 13 A. No. The way -- would you repeat what  
03:30:06 14 you just asked because I believe those were two  
03:30:09 15 subparts of a third issue.

03:30:11 16 Q. Okay. My understanding is that one  
03:30:13 17 of the issues you had with Bayou that caused  
03:30:16 18 redemption of the funds was concerns with the back-  
03:30:20 19 office administration; is that right?

03:30:23 20 A. That's not what I testified or meant  
03:30:25 21 to testify. What I expressed was we had three  
03:30:28 22 concerns, one about asset growth, a second about  
03:30:32 23 style drift, and a third, a set of general  
03:30:36 24 operational issues. One of which was the strength  
03:30:39 25 of the back office relative to the growth in the

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03:30:43 1

assets.

03:30:43 2

Q. Okay.

03:30:45 3

A. Second issue that I raised was

03:30:48 4

establishing a best practice of separating out the

03:30:51 5

broker-dealer from the investment management,

03:30:56 6

specifically for the purposes of giving the manager

03:31:01 7

focus on investing and not on being a broker-dealer.

03:31:05 8

Q. And were there any other general

03:31:08 9

operational issues?

03:31:10 10

A. I do recall other operational issues

03:31:13 11

being raised. They didn't raise to the level of the

03:31:16 12

concern of the first two major issues, which is

03:31:19 13

asset growth, style drift and general operational

03:31:23 14

issues. I think one of the general operational

03:31:26 15

issues was that the company in general, Mr. Israel

03:31:30 16

in particular, had had some employee disputes.

03:31:35 17

Q. Were there any concerns with the

03:31:38 18

audit firm that Bayou used?

03:31:43 19

A. I don't recall concerns with the

03:31:46 20

audit firm at the time we submitted the redemption.

03:31:50 21

I recall concerns with the audit firm after we found

03:31:52 22

out about the fraud.

03:31:53 23

Q. And what were those concerns?

03:31:55 24

A. I think the concern that was raised

03:31:56 25

was that that audit firm either did not exist or was

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03:32:00 1 some sort of fictitious organization.

03:32:04 2 Q. Did the discovery that the audit firm  
03:32:07 3 was fictitious or some other organization, did that  
03:32:12 4 have any effect on your due diligence policies  
03:32:16 5 moving forward?

03:32:17 6 A. Yes.

03:32:17 7 Q. What effect did it have?

03:32:19 8 A. It was added to the due diligence  
03:32:22 9 checklist from Mr. Barcelona.

03:32:27 10 Q. Specifically what was added to the  
03:32:29 11 checklist concerning the audit firm?

03:32:31 12 A. I don't know specifically. I know  
03:32:32 13 generally what was added.

03:32:33 14 Q. And generally what was added?

03:32:35 15 A. Generally what was added, that we  
03:32:37 16 would either know the manager -- know the audit  
03:32:40 17 firm, or if we didn't know the audit firm, we would  
03:32:42 18 do a site visit to get to know the audit firm.

03:32:48 19 Q. And were any of the issues that were  
03:32:52 20 identified with Bayou, either at the time of  
03:32:55 21 redemption or later, like the audit firm issue, were  
03:32:59 22 any of those issues ever discussed with Saul Katz?

03:33:02 23 A. I believe so.

03:33:06 24 Q. When did or who had those discussions  
03:33:09 25 with Saul Katz?

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03:33:11 1           A.           I believe that I had some of those  
03:33:13 2           discussions and I believe that Mr. Chachra had some  
03:33:17 3           of those discussions with him as well. He may well  
03:33:20 4           have had some of those discussions with  
03:33:22 5           Mr. Barcelona as well.

03:33:45 6           Q.           Okay.  
03:33:46 7                        Mr. Stamos, I'm handing you what  
03:33:48 8           we're going to mark as Exhibit 3.

03:33:56 9                        (Exhibit PS-3 marked for  
03:34:02 10           identification.)

03:34:04 11           Q.           It's a chain email that begins with  
03:34:07 12           an email from you to I believe your investors on  
03:34:12 13           December 12th, 2008 and it continues, ending with a  
03:34:16 14           chain email between you and Ashok Chachra on  
03:34:21 15           December 13th. Take a moment to review it and let  
03:34:24 16           me know when you're ready to discuss.

03:35:04 17           A.           I'm ready.

03:35:05 18           Q.           Okay. Why don't we start with the  
03:35:07 19           second page of Exhibit 3. Starting with, it says an  
03:35:12 20           email from you to yourself of December 12, 2008 at  
03:35:17 21           2:30 in the afternoon. It's addressed to investment  
03:35:20 22           partners.

03:35:25 23           A.           Excuse me, am I looking at this  
03:35:26 24           document?

03:35:27 25                        MR. GOUDISS: You're looking at the

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03:35:29 1 second page.

03:35:29 2 Q. Yes. The second page. The second  
03:35:31 3 page.

03:35:33 4 Was this the email that Sterling  
03:35:37 5 Stamos, an example of the email that was sent from  
03:35:40 6 Sterling Stamos to its investors, after the  
03:35:44 7 discovery of the Madoff fraud?

03:35:49 8 A. I believe this is an email copy of  
03:35:52 9 the actual correspondence that was sent to the  
03:35:56 10 manager, to our investors.

03:36:00 11 Q. Look at the second paragraph  
03:36:05 12 discussing that Sterling Stamos Capital Management  
03:36:08 13 and the funds it manages do not have investments in  
03:36:11 14 any of the funds managed by Madoff Securities. Do  
03:36:15 15 you recall how that conclusion was reached at that  
03:36:17 16 time before it was reduced to writing here?

03:36:23 17 A. I was in -- I do not recall how that  
03:36:25 18 specific wording was reached. I was later told how  
03:36:29 19 that wording was reached.

03:36:30 20 Q. Okay. And what were you told?

03:36:32 21 MR. GOUDISS: I object. I would ask  
03:36:34 22 that you exclude from your answer any communications  
03:36:37 23 you had with counsel. Otherwise, go ahead and  
03:36:40 24 answer his question.

03:36:41 25 THE WITNESS: Including internal



03:36:42 1 counsel?

03:36:43 2 MR. GOUDISS: Yes.

03:36:47 3 A. I believe that Mr. Kevin Okimoto --  
03:36:52 4 well, I don't know who explained this to me, so I  
03:36:55 5 don't know whether it was my attorneys or whether it  
03:36:57 6 was Kevin Okimoto who explained how it was drafted.

03:37:00 7 Q. Who drafted this?

03:37:03 8 A. I believe it was a combination of my  
03:37:05 9 investment management group, head, which was Kevin  
03:37:10 10 Okimoto, our head of communications which was Derek  
03:37:14 11 Daley, and with the assistance of our outside public  
03:37:18 12 relations advisor, Mr. Dick Letta (phonetic). I was  
03:37:24 13 in an investment committee meeting at the time.

03:37:30 14 Q. And is it your understanding that  
03:37:32 15 this message was sent to all Sterling Stamos  
03:37:35 16 investors?

03:37:36 17 A. That is my understanding.

03:37:39 18 Q. Then if you go to page 1 of Exhibit  
03:37:45 19 3, the second email on the page, starting in the  
03:37:49 20 middle of the page, from Ashok to Mark Nunnelly  
03:37:53 21 dated Saturday the 13th at 2:10 p.m. Could you look  
03:37:58 22 at that real quick?

03:37:59 23 A. Um-hum.

03:38:06 24 Q. I want you to focus on the third  
03:38:10 25 paragraph, the one that states: "In fact, we turned

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03:38:14 1 down the Madoff funds more than six years ago and  
03:38:16 2 told many of our investors, including the Wilpon and  
03:38:20 3 Katz families, about our concerns."

03:38:26 4 Did Sterling Stamos turn down an  
03:38:30 5 investment opportunity with Madoff?

03:38:33 6 MR. GOUDISS: I object. Go ahead.

03:38:34 7 A. I believe that is an inaccurate  
03:38:37 8 statement. I don't believe that we turned down  
03:38:38 9 Mr. Madoff more than six years ago, which would have  
03:38:42 10 been, from that date, 2002. In fact, I think quite  
03:38:45 11 the opposite. We asked to invest with Mr. Madoff as  
03:38:49 12 part of our original diversified portfolio and  
03:38:52 13 Mr. Katz said he would not allow us to.

03:38:56 14 Q. Okay. So, first, you believe that  
03:38:59 15 this an inaccurate statement in that Sterling Stamos  
03:39:04 16 did not turn down an opportunity to invest in  
03:39:07 17 Madoff?

03:39:08 18 A. Six years prior, I don't believe we  
03:39:11 19 were given that opportunity.

03:39:13 20 Q. Was Sterling Stamos ever given the  
03:39:16 21 opportunity to invest in Madoff?

03:39:18 22 A. Not to my knowledge.

03:39:23 23 Q. Do you know what Mr. Chachra is  
03:39:26 24 referring to in that sentence?

03:39:28 25 A. I can only speculate.

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03:39:32 1 Q. Well, did you have any discussions  
03:39:34 2 with Mr. Chachra concerning this email? He did  
03:39:38 3 forward it to you later that day.

03:39:42 4 A. Did I have discussions with him after  
03:39:44 5 the fact?

03:39:44 6 Q. Yes.

03:39:45 7 A. I believe I did, but I don't recall  
03:39:46 8 the specific conversation.

03:39:47 9 Q. Did you ever discuss with him the  
03:39:49 10 fact that you believe that the third sentence  
03:39:52 11 stating that Sterling Stamos turned down Madoff  
03:39:55 12 funds more than six years ago was inaccurate?

03:39:59 13 A. I don't recall having that  
03:39:59 14 conversation with him.

03:40:03 15 Q. Did you have that conversation with  
03:40:09 16 anyone at Sterling Stamos, that you believed that  
03:40:11 17 Mr. Chachra's statement was inaccurate?

03:40:15 18 A. I don't recall this email prior to  
03:40:19 19 preparation for coming to this meeting.

03:40:24 20 Q. You see that the email was forwarded  
03:40:26 21 to you on that date, correct?

03:40:28 22 A. Yes.

03:40:28 23 Q. You have no reason to believe that  
03:40:30 24 you did not in fact receive the email?

03:40:32 25 A. No, I just don't recall having

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03:40:34 1 received it.

03:40:34 2 Q. All right.

03:40:36 3 A. I'm sure I did receive it.

03:40:38 4 Q. Okay.

03:40:42 5 A. I apologize. I don't recall the  
03:40:44 6 content of it. I'm sure I received it because it's  
03:40:49 7 stated to me.

03:40:53 8 Q. Okay. You said earlier that, we  
03:40:54 9 asked to invest with Mr. Madoff as part of our  
03:40:57 10 original diversified portfolio and Mr. Katz said he  
03:41:00 11 would not allow us to.

03:41:02 12 A. Mr. Madoff would not allow us to.

03:41:05 13 Q. Okay. I'm just reading back the  
03:41:07 14 testimony.

03:41:09 15 A. Yes.

03:41:10 16 Q. So, who asked Mr. Madoff if Sterling  
03:41:13 17 Stamos could invest with Madoff?

03:41:17 18 A. To be specific, before we set up the  
03:41:19 19 company, original thought was to create a portfolio  
03:41:22 20 of ten managers, one of whom would be Mr. Madoff.  
03:41:27 21 So we would have a diversified portfolio for  
03:41:31 22 ourselves and for other investors. I asked Mr. Katz  
03:41:34 23 if we could do that. He explained to me that he  
03:41:37 24 asked Mr. Madoff if we could make that investment,  
03:41:40 25 and explained back to me that Mr. Madoff had

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03:41:42 1 declined that, saying that he didn't take capital  
03:41:45 2 from, I believe he described it as fund of funds.

03:41:50 3 Q. Did Mr. Katz tell you anything else  
03:41:56 4 as to why Mr. Madoff would not accept an investment  
03:42:00 5 from Sterling Stamos into his funds?

03:42:03 6 A. Not that I recall.

03:42:07 7 Q. The second half of the third sentence  
03:42:14 8 is saying that, we turned down the Madoff funds more  
03:42:19 9 than six years ago and told many of our investors,  
03:42:22 10 including the Wilpon and Katz families, about our  
03:42:25 11 concerns. What concerns is Mr. Chachra referring to  
03:42:33 12 in that email?

03:42:34 13 MR. GOUDISS: I object. Go ahead.

03:42:35 14 A. I believe he's referring to the same  
03:42:37 15 set of concerns that we discussed earlier that I  
03:42:39 16 raised with investors, A, in the context of  
03:42:44 17 diversification and, B, in the context of  
03:42:47 18 competition for getting their capital with us as  
03:42:49 19 opposed to with Mr. Madoff.

03:42:51 20 Q. Those were the broker-dealer concern,  
03:42:54 21 the single-risk manager concern and the  
03:43:02 22 front-running concern? Those were the three?

03:43:04 23 MR. GOUDISS: I object.

03:43:06 24 A. I believe what I said was the  
03:43:09 25 discussions I had in the context of diversification

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03:43:13 1 and in the context of competition for capital, I  
03:43:17 2 would say routinely included a discussion about not  
03:43:20 3 putting more than 10 percent of your assets in any  
03:43:23 4 one manager, which would be single-manager risk.  
03:43:26 5 And raising the issue about best practices, one of  
03:43:30 6 which was that we developed, by I guess it was 2005,  
03:43:37 7 late 2005, early 2006, separation of broker-dealer  
03:43:42 8 from an investment manager.

03:43:45 9 Q. So the issue of broker-dealer  
03:43:47 10 separation was raised in the context of  
03:43:48 11 diversification?

03:43:49 12 A. In the context of diversification and  
03:43:51 13 competition. It was a way for us to explain how  
03:43:54 14 what we do is better.

03:43:56 15 Q. And within that context, was the  
03:43:59 16 issue of front-running also raised?

03:44:01 17 A. No. I don't believe that I ever  
03:44:05 18 recall raising that with investors because I didn't  
03:44:09 19 believe it was the case.

03:44:11 20 Q. Maybe raise is the wrong term.  
03:44:14 21 Because earlier you talked about having discussions  
03:44:17 22 with Saul Katz about the possibility of Madoff  
03:44:20 23 front-running, right?

03:44:22 24 A. I recall having conversations with  
03:44:23 25 people and discussions with people about the

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03:44:25 1 possibility of front-running. I don't recall myself  
03:44:28 2 raising that as an issue.

03:44:30 3 Q. Right. Would the possibility of  
03:44:33 4 Madoff front-running be one of the concerns, was  
03:44:37 5 that one of the concerns that Mr. Chachra is  
03:44:40 6 referring to in this email?

03:44:41 7 MR. GOUDISS: I object. Go ahead.

03:44:44 8 A. It may have been.

03:44:48 9 Q. Over the years, other than  
03:44:52 10 front-running, the single-manager risk and the  
03:44:56 11 broker-dealer relationship, were there any other  
03:44:59 12 concerns that were raised by you or anyone else  
03:45:05 13 concerning Madoff?

03:45:06 14 A. I recall one other concern that I  
03:45:08 15 had.

03:45:09 16 Q. What was that?

03:45:10 17 A. I once asked Saul, why is it that he  
03:45:13 18 said to us we couldn't invest as a fund of funds  
03:45:16 19 when we found out later that there were other fund  
03:45:19 20 of funds that had invested with him.

03:45:20 21 Q. What other fund of funds were  
03:45:22 22 invested with Madoff?

03:45:23 23 A. I believe it was Fairfield and  
03:45:25 24 Kingate. Those are the two I remember hearing about  
03:45:28 25 and later on reading about Tremont as well.

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03:45:33 1 Q. And what did Saul Katz say in  
03:45:36 2 response to your question?

03:45:38 3 A. I don't recall.

03:45:43 4 Q. Did that give you any pause or give  
03:45:46 5 you any concern? Strike that.

03:45:49 6 I think you said that was one of the  
03:45:50 7 concerns, was that Madoff had turned you down as a  
03:45:53 8 fund of funds but had accepted capital from other  
03:45:58 9 fund of funds; is that right?

03:45:59 10 A. I felt that we were being -- not we,  
03:46:02 11 that Sterling was being treated less favorably than  
03:46:06 12 other managers.

03:46:07 13 Q. And you raised that issue with Saul  
03:46:09 14 Katz?

03:46:10 15 A. Yes.

03:46:11 16 Q. And what did Saul Katz say in  
03:46:13 17 response?

03:46:13 18 A. I don't recall a response.

03:46:18 19 Q. Do you know if Saul Katz raised that  
03:46:20 20 question with Madoff?

03:46:21 21 A. I don't know.

03:46:27 22 MR. GOUDISS: I don't know if you've  
03:46:29 23 established, is there a time frame for this?

03:46:31 24 MR. BOHORQUEZ: I think I said at any  
03:46:35 25 time.



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03:46:35 1 MR. GOUDISS: Yeah, no, but when you  
03:46:37 2 developed --

03:46:37 3 A. My assumption is that all of this is  
03:46:39 4 prior to December 12th.

03:46:41 5 Q. Yes. We've been discussing from '02  
03:46:42 6 to '08.

03:46:44 7 A. I don't recall when these  
03:46:45 8 conversations occurred, by the way, but it would  
03:46:48 9 have been before December 12th.

03:46:50 10 Q. Right, okay.

03:46:52 11 A. 2008.

03:46:53 12 Q. Thank you for clarifying that.

03:46:58 13 And when did you find out that Madoff  
03:47:01 14 accepted investments from other fund of funds?

03:47:04 15 A. I don't recall when. I just recall  
03:47:08 16 sometime in that time frame, '02 to '08, I found  
03:47:12 17 out. I don't recall when it was.

03:47:20 18 Q. Looking at the fourth paragraph of  
03:47:23 19 Mr. Chachra's email, he says, "Notwithstanding our  
03:47:27 20 concerns, the Wilpon and Katz families continued to  
03:47:31 21 invest with Madoff Securities."

03:47:37 22 Did you have a discussion with  
03:47:40 23 Mr. Chachra -- strike that.

03:47:42 24 Would that -- do you think that is an  
03:47:53 25 accurate characterization of the issues that you or

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03:48:00 1 anyone at Sterling Stamos raised with Saul Katz or  
03:48:04 2 anyone at Sterling?

03:48:06 3 MR. GOUDISS: I object.

03:48:08 4 A. I think that's --

03:48:09 5 MR. GOUDISS: Go ahead.

03:48:10 6 A. I think that that is an  
03:48:12 7 understatement of what the Wilpon and Katz response  
03:48:16 8 was.

03:48:16 9 Q. Why do you think that was an  
03:48:18 10 understatement?

03:48:20 11 A. Because the week prior they informed  
03:48:22 12 me that they intended to redeem from us and put more  
03:48:26 13 capital with Madoff Securities. So it was not just  
03:48:30 14 that they continued to invest, but they had intended  
03:48:33 15 to take capital from us and put it with Madoff.  
03:48:36 16 Notwithstanding the concerns, they would have gone  
03:48:42 17 to increase their investments. At least that's what  
03:48:43 18 they expressed, that's what Mr. Katz expressed to  
03:48:46 19 me.

03:48:47 20 Q. And when Mr. Katz expressed to you  
03:48:48 21 that he was going to redeem money from Sterling  
03:48:53 22 Stamos and invest it in Madoff, what did you say?  
03:49:01 23 At that time. That specific discussion.

03:49:03 24 A. I don't recall the specific day it  
03:49:04 25 occurred, but I do know it occurred in the week

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03:49:06 1 before the fraud was discovered. Because it was a  
03:49:09 2 painful conversation for me to hear. I remember him  
03:49:12 3 saying something along the lines of, Peter, I'm very  
03:49:16 4 disappointed. Your fund is down on an unlevered  
03:49:21 5 basis 18 percent and Madoff is up 12. I think I  
03:49:24 6 have to redeem all of my capital or a substantial  
03:49:27 7 portion of my capital from you and put it with  
03:49:31 8 Bernie Madoff.

03:49:32 9 Q. And what did you say in response?

03:49:35 10 A. I don't recall the specific words,  
03:49:36 11 but I do recall trying to defend our position.

03:49:42 12 Q. And what did you say to defend your  
03:49:44 13 position, to Saul Katz at that discussion?

03:49:47 14 A. Generally, that we were a diversified  
03:49:51 15 portfolio of managers and that that was better for  
03:49:55 16 him than to have all his capital in one manager, and  
03:49:59 17 I believe I said, particularly in a manager whose  
03:50:02 18 strategy we cannot explain.

03:50:05 19 Q. And when you say a particular manager  
03:50:10 20 whose strategy you cannot explain, what are you  
03:50:12 21 referring to specifically?

03:50:14 22 A. I'm referring to specifically not  
03:50:16 23 only the investment due diligence that we developed  
03:50:20 24 post-2007, over the 2007-2008 period, which was to  
03:50:27 25 require of managers that they explain their strategy

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03:50:32 1 in a way that we could explain to our investors and  
03:50:35 2 that put a big block on us investing as fiduciaries  
03:50:40 3 in black boxes. Such as D.E. Shaw, for example.

03:50:43 4 Q. Or such as Madoff?

03:50:45 5 A. At that time, if what we heard about  
03:50:49 6 Madoff were true, he would not have made it into our  
03:50:52 7 portfolio as a -- he would not have made the  
03:50:54 8 transparency requirements or the operational due  
03:50:56 9 diligence requirements, or the investment due  
03:50:58 10 diligence requirements because of transparency.

03:51:00 11 Q. And did you share the fact that  
03:51:02 12 Madoff would not have passed those due diligence  
03:51:05 13 criteria with Mr. Katz?

03:51:08 14 A. At any time or at that particular  
03:51:10 15 time?

03:51:11 16 Q. Let's start with this discussion that  
03:51:13 17 you had, I think you said about a week before  
03:51:16 18 December 11th.

03:51:18 19 A. I don't believe that I did it at that  
03:51:19 20 particular time. I think I just put up a general  
03:51:22 21 defense. But I do recall having that conversation  
03:51:24 22 with him at some point over the 2007-2008 period.  
03:51:28 23 2008 period, I believe.

03:51:30 24 Q. And what specifically did you tell  
03:51:32 25 Mr. Saul Katz during those discussions?

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03:51:36 1           A.           What I recall is a conversation at a  
03:51:39 2 board meeting in which Mr. Katz suggested that we  
03:51:46 3 create, I believe it was in early 2008, January or  
03:51:50 4 February, that we create a fund of black boxes, of  
03:51:55 5 which Madoff would be, if you will, the anchor  
03:51:58 6 tenant. And in the context of that, I know of at  
03:52:02 7 least two or three conversations that occurred.

03:52:06 8           Q.           And what was the substance of those  
03:52:09 9 conversations?

03:52:10 10           A.           One conversation I know of was that  
03:52:11 11 in the board meeting Kevin Dunleavy expressed  
03:52:15 12 concern about that, that it wouldn't meet Merrill  
03:52:17 13 Lynch's due diligence requirements. He was a board  
03:52:20 14 member and member of the -- a senior executive at  
03:52:22 15 Merrill Lynch, I believe vice-chairman. A  
03:52:26 16 vice-chairman.

03:52:27 17                       Another concern that was raised by my  
03:52:30 18 father, I believe he said something along the lines  
03:52:32 19 of, but, Saul, we don't invest in black boxes. And  
03:52:38 20 I don't recall whether I said something at that  
03:52:40 21 meeting specifically, but that would have been one  
03:52:43 22 of the conversations I assume I had with him  
03:52:46 23 sometime over that time frame, following up on the  
03:52:50 24 meeting because we decided not to do it.

03:52:52 25           Q.           What was Saul Katz's response to

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03:52:55 1 Mr. Dunleavy's and your father's comments about not  
03:52:58 2 investing in black boxes such as Madoff?

03:53:00 3 A. I think he was very disappointed. I  
03:53:03 4 think he wanted to put more capital into those kinds  
03:53:06 5 of portfolios given the market volatility that we  
03:53:09 6 were seeing in 2008 and 2007, for that matter.

03:53:12 7 Q. In the discussion you had with Saul  
03:53:15 8 Katz about a week before December 11th when he told  
03:53:20 9 you he wanted to redeem money from Sterling Stamos  
03:53:24 10 and invest in Madoff, was part of your defense that  
03:53:32 11 it was unusual that despite the drop in the market  
03:53:37 12 that Madoff's returns were remaining so consistent?

03:53:40 13 A. I don't recall that as being part of  
03:53:41 14 my defense. I actually recall the opposite, that we  
03:53:45 15 found in past periods of crisis that black boxes  
03:53:49 16 were in fact those kinds of managers that had a  
03:53:52 17 higher probability of performing well when markets  
03:53:56 18 collapsed.

03:53:58 19 Q. My question was -- let me try to  
03:54:00 20 rephrase it.

03:54:01 21 In that discussion about a week  
03:54:07 22 before December 11th with Saul Katz, did you  
03:54:11 23 highlight the fact that -- your concern or an issue  
03:54:18 24 with the fact that Madoff's returns were still  
03:54:21 25 consistent despite the deterioration of the market?

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03:54:24 1 MR. GOUDISS: I object. Go ahead,  
03:54:26 2 tell him again.

03:54:27 3 A. I don't recall expressing that  
03:54:29 4 concern to him. I recall expressing a defense of my  
03:54:35 5 own performance relative to the market.

03:54:37 6 Q. Right. Did you ever raise that issue  
03:54:39 7 with Saul Katz, the fact that Madoff's returns were  
03:54:45 8 very -- were consistent over time?

03:54:48 9 A. I don't recall expressing that  
03:54:51 10 concern. I recall expressing that as an objective  
03:54:54 11 of one of the criteria we looked for in managers.

03:55:00 12 Q. I think earlier you had said that  
03:55:04 13 Mr. Dunleavy had raised two concerns that he had  
03:55:09 14 with Madoff in the 2007 time frame. That was the  
03:55:13 15 broker-dealer issue.

03:55:15 16 A. Um-hum.

03:55:15 17 Q. And the front-running issue.

03:55:20 18 A. Possibility.

03:55:21 19 Q. Possibility. Other than those two  
03:55:24 20 issues, did Mr. Dunleavy raise any other concerns  
03:55:28 21 with you that he had with Madoff?

03:55:30 22 MR. GOUDISS: I object. Asked and  
03:55:31 23 answered. Go ahead.

03:55:33 24 A. I don't recall any others.

03:55:35 25 Q. Do you know if Mr. Dunleavy shared

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03:55:39 1 those two concerns that he had with Madoff with Saul  
03:55:43 2 Katz?

03:55:44 3 A. I believe he did.

03:55:46 4 Q. When did he share those concerns with  
03:55:48 5 Mr. Katz?

03:55:50 6 A. I believe contemporaneous, in the  
03:55:52 7 contemporaneous time frame that he shared it with  
03:55:54 8 me, it may have been in the same meeting and it may  
03:55:57 9 have been in a follow-up meeting with Mr. Katz,  
03:56:00 10 alone or a follow-up phone conversation with him.

03:56:02 11 Q. And in the meeting that you attended  
03:56:06 12 with Mr. Saul Katz and Dunleavy, what was Saul  
03:56:11 13 Katz's response to Mr. Dunleavy's concerns?

03:56:14 14 A. First of all, I don't recall whether  
03:56:16 15 we were in the same meeting or whether it was a  
03:56:18 16 conversation that occurred afterward. So I can't  
03:56:20 17 tell you specifically what his reaction was because  
03:56:22 18 I may not have actually been in the room.

03:56:24 19 Q. Well, do you know what Saul Katz's  
03:56:27 20 reaction was to Dunleavy's concerns?

03:56:29 21 MR. GOUDISS: I object. Asked and  
03:56:30 22 answered. Go ahead.

03:56:32 23 A. I don't know, I can't say with  
03:56:34 24 certainty. I can say what Mr. Dunleavy said to me.

03:56:37 25 Q. What did he say?



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03:56:39 1           A.           I believe at some time during, prior  
03:56:42 2 to that -- post that conversation, Mr. Dunleavy  
03:56:44 3 explained to me that Saul rejected his arguments.

03:56:48 4           Q.           Did Mr. Dunleavy say anything else?

03:56:51 5           A.           Not that I recall.

03:57:01 6           Q.           The last paragraph of Ashok's email,  
03:57:03 7 if you can turn back to Exhibit 3. Do you see that?

03:57:08 8           A.           Um-hum.

03:57:12 9           Q.           He writes: "We are trying to inform  
03:57:15 10 all of our investors that our due diligence process  
03:57:18 11 rejected Madoff but, unfortunately, the Katz and  
03:57:22 12 Wilpon families maintained their investment,  
03:57:25 13 independent of our advice."

03:57:27 14                               What due diligence process that  
03:57:30 15 rejected Madoff is Mr. Chachra referring to?

03:57:34 16           A.           I believe what he's referring to is  
03:57:35 17 that the due diligence process that we'd established  
03:57:38 18 for other managers, if it had occurred, would have  
03:57:40 19 rejected this because we never, to my knowledge,  
03:57:43 20 conducted due diligence on Bernard Madoff.

03:57:48 21           Q.           But Mr. Chachra uses the past tense  
03:57:51 22 in that email; isn't that right?

03:57:53 23           A.           I believe -- that's correct.

03:57:55 24           Q.           So the way this is phrased, he's  
03:57:57 25 indicating that due diligence process was done and

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03:58:00 1 that it rejected Madoff; isn't that right?

03:58:04 2 MR. GOUDISS: Objection.

03:58:05 3 A. I believe this is marketing on  
03:58:07 4 behalf, I think this is Ashok doing marketing. I  
03:58:16 5 think it should be written it would have if we'd  
03:58:19 6 done due diligence.

03:58:25 7 Q. Okay. And did you have any  
03:58:26 8 discussions with Ashok that he was engaging in  
03:58:30 9 marketing?

03:58:32 10 A. I don't recall the conversation with  
03:58:33 11 Ashok about this particular piece.

03:58:39 12 Q. Well, did you have any discussions  
03:58:41 13 with Ashok post the fraud about communications with  
03:58:47 14 investors concerning any analysis that Sterling  
03:58:51 15 Stamos had done of Madoff in the past?

03:58:55 16 A. What I do recall is general  
03:58:57 17 conversations not only with Ashok but generally  
03:58:59 18 speaking with my senior management team that our due  
03:59:02 19 diligence process would have rejected this, if in  
03:59:06 20 fact those facts were true. That he had a  
03:59:09 21 broker-dealer and so on.

03:59:25 22 Q. In the second half of the last  
03:59:27 23 paragraph when he says that the Katz and Wilpon  
03:59:29 24 families maintained their investment independent of  
03:59:33 25 our advice, is that in reference to the various

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03:59:42 1 concerns that were discussed over the years, or  
03:59:44 2 anything else?

03:59:45 3 MR. GOUDISS: I object to the form.  
03:59:46 4 You may answer.

03:59:48 5 A. Can you be more specific?

03:59:50 6 Q. Well, he writes very specifically  
03:59:52 7 that the due diligence process rejected Madoff and  
03:59:55 8 unfortunately Katz and Wilpon families maintained  
03:59:59 9 their investment independent of our advice.

04:00:03 10 Was there ever any formal  
04:00:08 11 recommendation to the Katz and Wilpon families that  
04:00:12 12 they should withdraw their funds from Madoff?

04:00:15 13 MR. GOUDISS: I object. Go ahead.

04:00:17 14 A. So, to be clear, we could only advise  
04:00:21 15 on the funds that are with us. As a registered  
04:00:25 16 investment advisor that's my requirement. What I  
04:00:27 17 can testify to is what I said to Mr. Katz. I can't  
04:00:31 18 testify as to what Ashok said to Mr. Katz.

04:00:34 19 Q. And with respect to what you said to  
04:00:36 20 Mr. Katz, is the sum and substance essentially what  
04:00:40 21 we've discussed earlier this afternoon?

04:00:42 22 A. There's more.

04:00:43 23 Q. What else did you tell him?

04:00:45 24 A. What I remember having a series of  
04:00:47 25 conversations with him about was the following:

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04:00:50 1 That as a fiduciary I could not invest in a manager,  
04:00:55 2 what I'd learned, I could not invest in a manager  
04:00:57 3 like Mr. Madoff, for the reasons we discussed. But  
04:01:00 4 that as an individual, if he wanted to keep his own  
04:01:03 5 capital in a manager like that, as long as it was  
04:01:07 6 less than 10 percent, that was appropriate and I  
04:01:10 7 would put it in the same category as any other  
04:01:12 8 recommendation for a manager that you don't have  
04:01:16 9 full due diligence on and diversification for.

04:01:24 10 Q. And when did you have that discussion  
04:01:26 11 with Mr. Katz?

04:01:28 12 A. I had a series of conversations with  
04:01:29 13 him about that over the course of 2007 and 2008.

04:01:36 14 Q. Were there any other issues with  
04:01:40 15 respect to investing in Madoff that you advised  
04:01:45 16 Mr. Katz about?

04:01:46 17 A. I didn't advise him to his  
04:01:48 18 investments. I couldn't, because he was investing  
04:01:51 19 with Madoff. All I could say was in theory and in  
04:01:54 20 general this is what one needs to do. Because I'd  
04:01:57 21 never done a due diligence on Mr. Madoff. I had  
04:02:00 22 never been to his office, no one on our team, to my  
04:02:04 23 knowledge, had ever done any formal or otherwise  
04:02:06 24 review of Mr. Madoff's operations.

04:02:08 25 Q. Putting aside the term

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04:02:09 1 "recommended --"

04:02:10 2 A. Recommended and advised.

04:02:10 3 Q. Yeah, put those aside.

04:02:15 4 What other -- are there any other  
04:02:16 5 issues that you discussed with Mr. Katz concerning  
04:02:21 6 Madoff --

04:02:21 7 A. Yes.

04:02:22 8 Q. -- other than the ones we've  
04:02:23 9 discussed?

04:02:24 10 A. Yes.

04:02:24 11 Q. What else?

04:02:25 12 A. I'm embarrassed to say that I said to  
04:02:27 13 Mr. Katz on a number of occasions that my assumption  
04:02:29 14 is that Mr. Madoff is the most honest and honorable  
04:02:33 15 man, among the most honest and honorable men that we  
04:02:38 16 will ever meet. Number one. And, number two, that  
04:02:41 17 he is perhaps one of the -- my assumption is he's  
04:02:43 18 perhaps one of the best hedge fund managers in  
04:02:45 19 modern times.

04:02:47 20 Q. With respect to the first assumption,  
04:02:50 21 that Mr. Madoff is the most honest and honorable man  
04:02:54 22 that you'll ever meet, what was that based on?

04:02:57 23 A. Based on his reputation, based upon  
04:03:01 24 his long track record, based upon having seen him  
04:03:05 25 receive these awards and the positions that he held

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04:03:09 1 as chairman of the NASDAQ, having built this great  
04:03:14 2 company. He was, quite frankly, legendary, to all  
04:03:18 3 of us. And I stood in awe of that with Mr. Katz,  
04:03:23 4 and I assumed that.

04:03:27 5 Q. But despite all that, the Madoff fund  
04:03:29 6 would not have passed your due diligence tests,  
04:03:31 7 right?

04:03:32 8 A. As a fiduciary I couldn't put it in  
04:03:34 9 my portfolio for all kinds of reasons by that time.  
04:03:39 10 In early 2002 we could have because at that time we  
04:03:40 11 were investing in any closed manager that had a good  
04:03:42 12 reputation that we could get into. But by 2007,  
04:03:46 13 2008 with the new sets of requirements and  
04:03:49 14 operational due diligence, risk management and  
04:03:51 15 investment due diligence that we would have imposed,  
04:03:54 16 it would have been stopped at the door the moment we  
04:03:56 17 found any of these issues.

04:03:59 18 Q. Did you express the fact that Madoff  
04:04:01 19 would not have passed your due diligence  
04:04:04 20 requirements to Saul Katz?

04:04:06 21 MR. GOUDISS: I object.

04:04:07 22 A. I believe that I expressed it and I  
04:04:09 23 know for a matter of fact that -- I believe that, I  
04:04:15 24 believe that Mr. Dunleavy expressed that at the  
04:04:19 25 board meeting as well.

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04:04:27 1 Q. Thank you. Okay.

04:04:29 2 Prior to 2005, before Sterling Stamos  
04:04:33 3 became a registered advisor, in that time frame did  
04:04:40 4 you ever advise or recommend to Mr. Katz not to  
04:04:44 5 invest in Madoff?

04:04:46 6 A. Again, could you rephrase the  
04:04:49 7 question without advice or recommendation and then  
04:04:51 8 maybe I can answer.

04:04:52 9 Q. Well, maybe I don't understand --  
04:04:54 10 maybe I don't have enough of an understanding of the  
04:04:56 11 regulations here, but before you became a registered  
04:05:03 12 investment advisor, the question is did you  
04:05:06 13 recommend to Saul Katz not to invest in Madoff?

04:05:12 14 A. To not invest in Madoff?

04:05:14 15 Q. Yes.

04:05:15 16 A. No, I never told him to not invest in  
04:05:18 17 Madoff, to my recollection. What I recall telling  
04:05:20 18 him was don't put more than 10 percent of your  
04:05:23 19 assets in any one manager. Put the other 90 percent  
04:05:26 20 with us.

04:05:38 21 Q. Turn to 27.

04:05:50 22 Before we get to the next document,  
04:05:53 23 what board meeting are you referencing -- what board  
04:05:58 24 meeting did Mr. Dunleavy express that Madoff would  
04:06:01 25 not have passed Sterling Stamos' due diligence?

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04:06:06 1 A. He didn't say Sterling Stamos.  
04:06:08 2 Merrill Lynch's I believe is what he said.

04:06:10 3 Q. Pardon?

04:06:11 4 A. Merrill Lynch, I think he was  
04:06:12 5 representing Merrill Lynch.

04:06:14 6 Q. Oh, okay. So when you said earlier  
04:06:16 7 that -- I'd asked you: Did you express the fact  
04:06:18 8 that Madoff would not have passed your due diligence  
04:06:21 9 requirements to Saul Katz?

04:06:24 10 Answer: I believe that I expressed  
04:06:25 11 it and I know for a matter of fact that I believe  
04:06:28 12 that Mr. Dunleavy expressed that at the board  
04:06:30 13 meeting as well.

04:06:32 14 A. To be clear, I expressed it -- if I  
04:06:34 15 expressed it I would have expressed it with regard  
04:06:36 16 to Sterling Stamos. I believe that if Mr. Dunleavy  
04:06:39 17 expressed it, when he expressed it, he would have  
04:06:42 18 expressed it with regard to Merrill Lynch, which  
04:06:44 19 owned about 50 percent of the firm.

04:06:47 20 Q. And what board meeting are you  
04:06:50 21 referring?

04:06:51 22 A. I'm referring to a board meeting that  
04:06:53 23 occurred in I believe January or February of 2008,  
04:06:56 24 which was the board of Sterling Stamos. 50 percent  
04:07:04 25 of which is Bank of America and 50 percent of which



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04:07:07 1 was the other members that I identified earlier this  
04:07:09 2 morning.

04:07:10 3 Q. And was that the same board meeting  
04:07:12 4 when Saul Katz raised the proposal to invest in  
04:07:16 5 Madoff and other black boxes?

04:07:19 6 A. I believe that's correct. I think he  
04:07:21 7 proposed creating a fund of funds or a feeder fund  
04:07:26 8 of multiple black boxes, I think as he referred to  
04:07:33 9 it.

04:07:55 10

04:07:57 11

04:08:01 12

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04:08:20 14

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Q. Just so we're clear for the record.

If you look at the second paragraph:  
"We're thinking about delaying Lone Pine (5 million)  
until February 1 because they haven't allowed us to  
complete operational and risk due diligence."

What were you referring to there?

A. Precisely what it says, the  
operational due diligence wasn't completed and the  
risk due diligence was yet to be completed.

Q. Earlier today we discussed a laundry  
list of operational and risk due diligence that

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04:10:41 1 Sterling Stamos engages in.

04:10:42 2 A. Yes.

04:10:42 3 Q. Is that what you're referring to here  
04:10:45 4 shorthand?

04:10:46 5 A. That is correct.

04:10:50 6 Q. Why were they not allowing you to  
04:10:52 7 complete the due diligence; do you recall?

04:10:54 8 A. I think it was only in the context of  
04:10:57 9 time frame. In other words, it wouldn't get done by  
04:10:59 10 month end. It would probably get done in the first  
04:11:02 11 two weeks of the new year. It was the holiday  
04:11:06 12 season.

04:11:06 13 Q. Then in the third paragraph you go on  
04:11:08 14 to write: "If that means losing the allocation, I  
04:11:11 15 would recommend losing the allocation. This is the  
04:11:14 16 ops and risk discipline that kept us out of Madoff."

04:11:18 17 I want to focus on the second  
04:11:20 18 sentence of that email where you write that this is  
04:11:22 19 the ops and risk discipline that kept us out of  
04:11:27 20 Madoff. What did you mean by that when you wrote  
04:11:29 21 that?

04:11:29 22 A. I remember very specifically what I  
04:11:31 23 was referring to. There was a lot of pressure on us  
04:11:33 24 in 2008, in particular, to add a manager like  
04:11:37 25 Bernard Madoff to our portfolio because of market

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04:11:39 1 volatility, by Mr. Katz, who was one of our largest  
04:11:43 2 investors. And we refused to do so.

04:11:48 3 Q. Who was pressuring you to add  
04:11:55 4 managers like Bernard Madoff to your portfolio?

04:11:59 5 A. Mr. Katz. I apologize, I don't know  
04:12:04 6 whether the word was pressuring or strongly  
04:12:06 7 encouraging, but he would like us -- he made it  
04:12:08 8 clear to us he would like us to have those kinds of  
04:12:11 9 investments.

04:12:12 10 Q. And as part of pressuring you to  
04:12:14 11 include managers like Madoff in your portfolio --  
04:12:20 12 actually, strike that.

04:12:21 13 When you wrote this is the ops and  
04:12:26 14 risk discipline that kept us out of Madoff, you're  
04:12:30 15 writing that in the past tense; is that right?

04:12:33 16 MR. GOUDISS: I object to the form.  
04:12:34 17 Go ahead.

04:12:35 18 A. I'm writing about that and I'm  
04:12:37 19 thinking about that in the context of whether it was  
04:12:39 20 2008 or 2007, that time frame.

04:12:44 21 Q. But this sentence doesn't refer to  
04:12:45 22 other managers like Madoff. It refers to Madoff  
04:12:49 23 specifically; isn't that right?

04:12:52 24 A. This is a reference to the ops and  
04:12:55 25 risk discipline that kept us out of Madoff, as an

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04:12:58 1 example, that everybody was focused on at that time.

04:13:02 2 Q. Right. I guess what I'm trying to  
04:13:04 3 understand is when you wrote that it kept us out of  
04:13:06 4 Madoff, what were you referring to specifically with  
04:13:12 5 respect to Madoff? Not to other investors, not to  
04:13:17 6 other investment managers.

04:13:19 7 MR. GOUDISS: I object. Go ahead.

04:13:21 8 A. Could you repeat the question.

04:13:25 9 Q. This sentence suggests or indicates  
04:13:30 10 that you had conducted an ops and risk discipline of  
04:13:34 11 Madoff and as a result of that ops and risk  
04:13:36 12 discipline you did not invest in Madoff.

04:13:42 13 MR. GOUDISS: I object. I don't  
04:13:42 14 think that's what it says at all, but go ahead.

04:13:45 15 A. I don't -- it may suggest that to  
04:13:47 16 some people. My sense of this was this was my  
04:13:49 17 trying to separate, again, ourselves from Madoff and  
04:13:51 18 from Sterling, because that was a concern of all of  
04:13:55 19 our investors at the time. That was my form of  
04:13:58 20 marketing, if you will. This was the kind of ops  
04:14:02 21 and risk due diligence that kept us out. The kind  
04:14:06 22 of is probably the better way to phrase it.

04:14:09 23 Q. The kind of ops and risk.

04:14:12 24 A. Yeah.

04:14:12 25 Q. Right.

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04:14:15 1           A.           In other words, we could not make an  
04:14:17 2 investment in a manager until we completed ops and  
04:14:20 3 risk due diligence, period.

04:14:23 4           Q.           And that is one of the reasons why  
04:14:24 5 you did not invest in Madoff, is that what you're  
04:14:27 6 trying to say here?

04:14:28 7           MR. GOUDISS: I object. Go ahead.

04:14:29 8           A.           I don't think that's the reason --  
04:14:31 9 I'm not trying to express that to him there. I'm  
04:14:33 10 trying to express to him that that is the ops and  
04:14:36 11 risk due diligence that is going to be applied to  
04:14:38 12 all of our investments. I'm trying to separate  
04:14:43 13 ourselves out from Sterling Equities and from  
04:14:51 14 Madoff.

04:14:52 15           Q.           Before we get to the next one, did  
04:15:33 16 you conduct any ops and risk analysis of Madoff at  
04:15:37 17 any time?

04:15:39 18           A.           Not to my knowledge. When you say  
04:15:40 19 you, you mean the firm?

04:15:41 20           Q.           Yes.

04:15:42 21           A.           I don't believe the firm ever  
04:15:43 22 conducted any due diligence on Mr. Madoff or his  
04:15:46 23 firm.

04:15:48 24           Q.           Well, I'm not asking due diligence as  
04:15:50 25 a term of art. But I'm asking in terms of the ops

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04:15:53 1 and risk discipline that you're referring to in that  
04:15:56 2 email in Exhibit 4, did you conduct any aspect of  
04:16:00 3 ops and risk discipline on Madoff?

04:16:04 4 MR. GOUDISS: I object. Go ahead.

04:16:07 5 A. If you're referring to any aspect, at  
04:16:10 6 the most surface level, the first question would be  
04:16:13 7 asked is what kind of investment strategy is this.  
04:16:16 8 And one of his investment strategies, once we  
04:16:20 9 decided that it's a black box, we had made a  
04:16:22 10 decision not to invest in black boxes. So that  
04:16:25 11 would have stopped us from even starting the  
04:16:28 12 process.

04:16:28 13 Q. So you did conduct that analysis of  
04:16:30 14 Madoff because you concluded that it was a black  
04:16:34 15 box?

04:16:35 16 MR. GOUDISS: I object. Go ahead.

04:16:38 17 Q. You can answer.

04:16:40 18 A. I don't consider that due diligence.  
04:16:41 19 I think of due diligence as a term of art, that  
04:16:45 20 means that we go to formally review a manager, we  
04:16:49 21 interview the manager, we go on site, we meet with  
04:16:52 22 their staff and verify facts and collect  
04:16:55 23 information. We didn't do any of that. As I  
04:16:56 24 described earlier, the only conversations I ever  
04:16:58 25 remember having with Mr. Madoff were social in

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04:17:00 1 nature and one discussion around his algorithm.

04:17:04 2 Q. That's what I'm trying to do, is  
04:17:05 3 separate out the term of art of due diligence and  
04:17:08 4 break down some of the components that may be part  
04:17:10 5 of due diligence.

04:17:11 6 A. Yes.

04:17:12 7 Q. One component is evaluating the  
04:17:14 8 investment strategy of the firm manager, right?

04:17:17 9 A. Investment strategy, correct.

04:17:19 10 Q. And Sterling Stamos conducted some  
04:17:23 11 analysis of Madoff's investment strategy; isn't that  
04:17:28 12 right?

04:17:29 13 A. The firm, to my knowledge, the firm  
04:17:31 14 did not conduct due diligence of Mr. Madoff. We  
04:17:35 15 looked at his returns as a competitor of ours.

04:17:39 16 Q. That's not what I asked, Mr. Stamos.  
04:17:43 17 What I asked is, and I think you already testified  
04:17:45 18 that you did it, but I just want to clarify.

04:17:49 19 Did Sterling Stamos analyze Madoff's  
04:17:53 20 investment strategy? Apart from any due diligence,  
04:17:57 21 just did they analyze, did you analyze Madoff's  
04:18:01 22 investment strategy?

04:18:02 23 A. I don't know what you mean by  
04:18:03 24 analyze. That's, again -- I just don't know what  
04:18:07 25 you mean by analyze.



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04:18:09 1 Q. Did Sterling Stamos come to the  
04:18:12 2 conclusion that Madoff employed a black box strategy  
04:18:20 3 at any time?

04:18:21 4 A. I can answer for myself. I don't  
04:18:23 5 think I can answer for the firm because when the  
04:18:25 6 firm makes a conclusion, it is a formal conclusion  
04:18:28 7 as part of a formal process.

04:18:30 8 Q. I'm not asking about a formal  
04:18:32 9 process.

04:18:33 10 A. Yes. So, informal, did we come to  
04:18:35 11 the conclusion in general that that was his  
04:18:37 12 strategy? Yes.

04:19:00 13 (Exhibit PS-5 marked for  
04:19:05 14 identification.)

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04:22:01 1 Q. The third sentence you write: "That  
04:22:04 2 firm and fund wouldn't make it through our risk and  
04:22:07 3 ops controls, lack of transparency, no third-party  
04:22:11 4 administrator, et cetera." What lack of  
04:22:15 5 transparency are you referring to in your email with  
04:22:19 6 respect to Madoff?

04:22:21 7 A. By this time in our due diligence  
04:22:23 8 process we had raised the concern of eliminating all  
04:22:27 9 black boxes in our portfolio. Black boxes by  
04:22:31 10 definition, not transparent.

04:22:34 11 Q. Were there any other -- so, the fact  
04:22:39 12 that Madoff was a black box, it lacks transparency  
04:22:43 13 under your standards?

04:22:44 14 A. The same characteristic of, for  
04:22:46 15 example, D.E. Shaw which was a black box that we had  
04:22:49 16 invested in prior.

04:22:55 17 Q. When you use the term "transparency,"  
04:22:57 18 what do you understand transparency to mean in this  
04:23:00 19 context?

04:23:00 20 A. In this context, what I just said.

04:23:03 21 Q. Are there any other aspects of  
04:23:05 22 transparency?

04:23:06 23 A. Yes.

04:23:06 24 Q. What are they?

04:23:09 25 A. For us it became the filling out of

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04:23:10 1 a -- the formal filling out of a transparency  
04:23:13 2 report.

04:23:13 3 Q. What are the issues that you -- what  
04:23:17 4 are the issues that are evaluated in your  
04:23:20 5 transparency reports?

04:23:21 6 A. Generally speaking?

04:23:22 7 Q. Yes.

04:23:23 8 A. The largest position sizes and  
04:23:26 9 exposure and leverage.

04:23:28 10 Q. Anything else?

04:23:31 11 A. I'm sure there are other things but  
04:23:32 12 those are the things in general that I recall.

04:23:40 13 Q. In terms of position sizes and  
04:23:43 14 exposure and leverage, were those other issues that  
04:23:46 15 you believe Madoff may not have passed under your  
04:23:51 16 due diligence --

04:23:52 17 MR. GOUDISS: I object.

04:23:54 18 A. I don't -- the part that I referred  
04:23:55 19 to was the absence of transparency in terms of the  
04:23:58 20 black box. That is another form of transparency  
04:24:01 21 that we're concerned about.

04:24:03 22 Q. And that's, as far as you recollect,  
04:24:06 23 that's the only aspect of transparency you're  
04:24:08 24 referring to in this email?

04:24:10 25 A. As far as I can recollect that's what

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04:24:11 1 I was referring to.

04:24:13 2 Q. Then you next write that no  
04:24:17 3 third-party administrator, et cetera. What did you  
04:24:20 4 mean by no third-party administrator?

04:24:23 5 A. I think I was conflating of something  
04:24:27 6 we had just learned the last week. I don't believe  
04:24:29 7 that the no third-party administrator was part of  
04:24:33 8 our operational due diligence at that time. I  
04:24:36 9 believe that that was one of the issues that we  
04:24:37 10 started to talk about in the context of what we just  
04:24:41 11 found out on Friday about the possibility that  
04:24:44 12 Gabriel had some of its capital in cash invested  
04:24:49 13 with Madoff.

04:24:49 14 Q. So the no third-party administrator  
04:24:52 15 issue was something you became aware of with respect  
04:24:55 16 to Madoff after the fraud?

04:24:57 17 A. With respect to all managers after  
04:25:01 18 the fraud and after the issue with Merkin.

04:25:06 19 Q. In the next sentence you go on to  
04:25:10 20 write: "Unfortunately, our partners, Saul and Fred,  
04:25:13 21 against our recommendations, invested as individuals  
04:25:17 22 and through their real estate firm." And there you  
04:25:20 23 use the word "recommendations." Now, what did you  
04:25:23 24 mean by that statement?

04:25:24 25 A. I was stretching it, because I know

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04:25:26 1 what my recommendation was to them. My  
04:25:28 2 recommendation was to not put more than ten percent  
04:25:31 3 of their personal assets there, period.

04:25:34 4 Q. And is that the only recommendation  
04:25:36 5 that you're referring to in that email?

04:25:43 6 A. As I said, I think I was trying to  
04:25:45 7 separate myself from Madoff, so I was probably  
04:25:48 8 stretching it by marketing more. I didn't -- I  
04:25:51 9 don't recall ever recommending to Saul and Fred that  
04:25:54 10 they have no capital with Madoff, that they just not  
04:25:58 11 put more than 10 percent of their assets with  
04:26:00 12 Madoff.

04:26:01 13 Q. But that paragraph doesn't reference  
04:26:03 14 any single-manager risk issues --

04:26:06 15 A. No.

04:26:06 16 Q. -- or anything; you would agree with  
04:26:09 17 that, right?

04:26:09 18 A. Correct.

04:26:14 19 Q. If you go on to the third paragraph,  
04:26:23 20 you write: "We've been doing the same for your  
04:26:26 21 portfolio manager, my manager, looking for black  
04:26:29 22 boxes and administrative irregularities."

04:26:33 23 What do you mean by administrative  
04:26:35 24 irregularities?

04:26:38 25 A. All of the issues that are identified

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04:26:40 1 in our operational due diligence list, we were in  
04:26:42 2 the process of conducting all of those for all of  
04:26:44 3 his managers. All of his managers and all of our  
04:26:46 4 managers. This is referring to his managers, his  
04:26:50 5 portfolio.

04:26:52 6 Q. And did you ever notice any  
04:26:55 7 administrative irregularities with Madoff?

04:26:58 8 MR. GOUDISS: Object to the form of  
04:27:01 9 the question.

04:27:01 10 A. We never did due diligence on Madoff.

04:27:04 11 Q. Not asking if you did any due  
04:27:05 12 diligence per se, but -- let me rephrase the  
04:27:11 13 question.

04:27:12 14 As part of your due diligence, what  
04:27:14 15 are some of the administrative irregularities that  
04:27:16 16 you look to when evaluating a firm?

04:27:19 17 A. We look for best practices.

04:27:20 18 Q. And what are those?

04:27:22 19 A. Some of the issues we discussed:  
04:27:24 20 Separation of the broker-dealer from the investment  
04:27:27 21 manager, independent auditor, strong back-office  
04:27:37 22 infrastructure.

04:27:38 23 Q. Now, we discussed the broker-dealer  
04:27:40 24 issue and the fact that you discussed that with Saul  
04:27:44 25 Katz. Did you discuss, with respect to Madoff, did

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04:27:49 1 you discuss the independent auditor issue with Saul  
04:27:53 2 Katz concerning Madoff at any time prior to the  
04:27:55 3 fraud?

04:27:56 4 A. I don't recall knowing anything about  
04:27:58 5 the independent auditor or having a discussion about  
04:28:01 6 it. It is possible that Saul had a conversation  
04:28:03 7 with me about that at some time but it is not part  
04:28:07 8 of my knowledge.

04:28:08 9 Q. So you did not know prior to December  
04:28:10 10 11th, 2008 if Friehling and Horowitz was the auditor  
04:28:13 11 of Madoff? Did you know that?

04:28:16 12 A. I may have read it, I may have seen  
04:28:18 13 it but it was not part of my knowledge, that I  
04:28:20 14 recall.

04:28:20 15 Q. And you don't recall any discussions  
04:28:22 16 with Saul Katz about Friehling and Horowitz being  
04:28:26 17 Madoff's auditor?

04:28:27 18 A. I don't recall any conversation. As  
04:28:29 19 I say, many years, it's possible that he may have  
04:28:32 20 raised it at some point, but I don't recall a  
04:28:34 21 conversation.

04:28:35 22 Q. Did you have any discussions with  
04:28:37 23 Saul Katz concerning Madoff's back-office  
04:28:40 24 operations?

04:28:41 25 A. I don't recall any conversations



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04:28:42 1 about Madoff's back-office operations, but I do  
04:28:46 2 recall knowing, or at least believing that he had a  
04:28:49 3 substantial infrastructure in his broker-dealer.

04:28:53 4 Q. Your understanding was that he had a  
04:28:55 5 substantial --

04:28:55 6 A. That was my understanding.

04:28:57 7 Q. -- infrastructure?

04:29:01 8 A. Conventional understanding.

04:29:15 9 Q. Who is Mark Thompson? He's on this  
04:29:18 10 email.

04:29:19 11 A. Yes. Mark Thompson was, I believe, a  
04:29:23 12 director or managing director of the firm, an  
04:29:27 13 analyst.

04:29:28 14 Q. Of Sterling Stamos?

04:29:30 15 A. Yes.

04:29:31 16 Q. Okay.

04:29:32 17

04:29:36 18

04:29:43 19

04:29:46 20

04:29:49 21

REDACTED

04:29:51 22

04:29:51 23

04:29:52 24

04:29:54 25

04:29:55 1

04:29:58 2

04:30:02 3

04:30:08 4

REDACTED

04:30:12 5

04:30:14 6

04:30:16 7

04:30:27 8

MR. BOHORQUEZ: Mark Exhibit 6.

04:30:29 9

(Exhibit PS-6 marked for

04:30:42 10

identification.)

04:30:48 11

Q. Mr. Stamos, I've handed you what's

04:30:50 12

been marked as Exhibit 6, which is an email chain

04:30:56 13

with Jia OuYang. I only have one question with

04:31:05 14

respect to this email, but feel free to take as long

04:31:08 15

as you like to review it.

04:31:34 16

A. Yes, I've read this.

04:31:39 17

Q. Jia OuYang, am I pronouncing that

04:31:43 18

right?

04:31:44 19

A. Jia.

04:31:44 20

Q. Jia. She is an associate of Sterling

04:31:47 21

Stamos?

04:31:48 22

A. She was an associate.

04:31:48 23

Q. Is she no longer there or is she in a

04:31:51 24

different position?

04:31:52 25

A. She's no longer at the firm.

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04:31:54 1 Q. When did she leave?

04:31:55 2 A. I don't recall. I believe it was in  
04:31:57 3 2009 sometime.

04:31:59 4 Q. If you'd turn to the third page, this  
04:32:03 5 is another one of those the email starts at the  
04:32:05 6 bottom of the page and then continues to the top.  
04:32:08 7 So if you look at the bottom of page 3 the email  
04:32:11 8 from December 12th, 2008 at 1:22 p.m. written by Ms.  
04:32:18 9 OuYang, it continues onto the top of the fourth  
04:32:21 10 page. Do you see that?

04:32:22 11 A. Yes.

04:32:24 12 Q. The second paragraph, she writes:  
04:32:30 13 "Apparently very, very ironically, a lot of  
04:32:33 14 investors gave us crap about not generating returns  
04:32:37 15 like Madoff's, and I guess our CIO always said it  
04:32:42 16 was a scam, too good to be true. Well, there you  
04:32:44 17 go, it was too good to be true."

04:32:47 18 First, what investors, just to use  
04:32:52 19 her colloquialism, gave Sterling Stamos crap about  
04:32:56 20 not generating returns like Madoff?

04:33:00 21 A. To be very specific, the person who  
04:33:02 22 gave us the most crap about not generating returns  
04:33:07 23 like Madoff was Saul Katz, to me personally and to  
04:33:10 24 Mr. Ashok Chachra.

04:33:14 25 Q. Anyone else?

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04:33:15 1           A.           I don't recall the specific names of  
04:33:16 2           the investors, but I know that other investors who  
04:33:18 3           had investments with Madoff often compared us to  
04:33:22 4           Mr. Madoff. And that among those were a number of  
04:33:25 5           the Sterling partners. The Sterling Equities  
04:33:33 6           partners. Michael Katz, for example.

04:33:34 7           Q.           Any other Sterling partner do you  
04:33:37 8           recall comparing the returns?

04:33:41 9           A.           I don't recall specific conversations  
04:33:44 10          other than I do recall Mr. Katz giving us crap and I  
04:33:47 11          do recall Michael Katz giving us crap.

04:33:51 12          Q.           And is that a fair characterization?

04:33:53 13          A.           Yes.

04:33:55 14          Q.           The second half of that sentence  
04:33:57 15          where she writes, "and I guess our CIO always said  
04:34:01 16          it was a scam," who is she referring to, the CIO?  
04:34:08 17          Is that Ashok?

04:34:09 18          A.           I have to believe so because that was  
04:34:11 19          the person she interacted with the most, but I don't  
04:34:13 20          know for a fact who she was referring to.

04:34:15 21          Q.           Well, was Ashok the CIO?

04:34:18 22          A.           No.

04:34:19 23          Q.           Does Sterling Stamos have a CIO?

04:34:24 24          A.           Yes.

04:34:24 25          Q.           And who is the CIO now?

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04:34:26 1 A. CIO today is Mr. Michael Chisek.

04:34:30 2 Q. And when did Mr. Chisek join Sterling  
04:34:33 3 Stamos?

04:34:34 4 A. In 2009, I believe, third or fourth  
04:34:39 5 month of 2009.

04:34:40 6 Q. And who was the CIO before  
04:34:44 7 Mr. Chisek?

04:34:44 8 A. I was.

04:34:46 9 Q. Other than you, were there any other  
04:34:48 10 CIOs before Mr. Chisek?

04:34:50 11 A. Yes. Noreen Harrington I believe in  
04:34:54 12 2003 for several months.

04:35:00 13 Q. So, over the history of Sterling  
04:35:04 14 Stamos from '02 to '08, the CIOs were Noreen  
04:35:08 15 Harrington and then yourself?

04:35:11 16 A. Yes.

04:35:11 17 Q. Were there any others?

04:35:13 18 A. No.

04:35:18 19 Q. Did Noreen Harrington ever say that  
04:35:23 20 Madoff was a scam and too good to be true?

04:35:28 21 A. I don't recall her ever using that,  
04:35:33 22 that phrase, but she did express concerns to me  
04:35:36 23 about Madoff.

04:35:36 24 Q. What concerns did --

04:35:38 25 A. Actually, I apologize, I don't know

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04:35:40 1 that she expressed concerns about Madoff. I  
04:35:43 2 remember her expressing concerns about Merkin  
04:35:45 3 possibly being an investor in Madoff.

04:35:47 4 Q. What did Ms. Harrington, what  
04:35:50 5 concerns did Ms. Harrington express about Merkin  
04:35:54 6 possibly being invested in Madoff?

04:35:56 7 A. That that was misrepresentative of  
04:36:01 8 what he had said to me.

04:36:02 9 Q. When was that? When did she express  
04:36:04 10 that concern?

04:36:07 11 A. Back in 2003.

04:36:09 12 Q. And what did she mean that that was  
04:36:15 13 misrepresentative of what he had said to you?

04:36:18 14 A. In general terms?

04:36:18 15 Q. Um-hum.

04:36:20 16 A. I believe it was her belief that Ezra  
04:36:23 17 Merkin was a feeder fund into Bernie Madoff.

04:36:29 18 Q. And what did you do in response to  
04:36:30 19 Ms. Harrington's concerns about Merkin?

04:36:33 20 A. Immediately went to confirm or deny  
04:36:36 21 that with Mr. Merkin.

04:36:39 22 Q. And what did Mr. Merkin say?

04:36:41 23 A. He denied that.

04:36:42 24 Q. And this is still in the 2003 time  
04:36:45 25 frame?

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04:36:45 1

A. Yes.

04:36:47 2

Q. Did Ms. Harrington raise any concerns

04:36:50 3

with respect to Madoff at any time?

04:36:53 4

A. I don't recall her raising concerns

04:36:55 5

with regard to Madoff.

04:36:58 6

Q. So, Mr. Stamos, did you at any time

04:37:02 7

tell any of the Sterling Stamos employees that

04:37:05 8

Madoff was a scam or, quote, too good to be true?

04:37:09 9

A. I can't recall ever using those words

04:37:11 10

to describe Mr. Madoff or, for that matter, any

04:37:15 11

manager that I can think of.

04:37:18 12

Q. Did you ever use any words similar in

04:37:20 13

sum and substance to "scam" or "too good to be true"

04:37:24 14

in characterizing Madoff?

04:37:25 15

A. I don't recall ever using those kinds

04:37:28 16

of words to describe Mr. Madoff.

04:37:39 17

Q. When Mr. --

04:37:40 18

A. This is all prior to December 12th,

04:37:43 19

2000 --

04:37:44 20

Q. Yes.

04:37:45 21

A. Yes, in all that time frame.

04:37:47 22

Q. Thank you for doing that. That

04:37:49 23

clears things up.

04:37:55 24

Why did Ms. Harrington believe that

04:37:58 25

Merkin may have been a feeder for Madoff?

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04:38:01 1 A. I don't know why.

04:38:03 2 Q. In her discussions with you about her  
04:38:05 3 concerns with Merkin possibly being a feeder for  
04:38:08 4 Madoff, what evidence did she rely on, what did she  
04:38:14 5 point to?

04:38:15 6 A. The only thing I can recall is her  
04:38:17 7 referring to rumors to that effect.

04:38:19 8 Q. And what did the rumors say?

04:38:21 9 A. The rumors were, according to her,  
04:38:24 10 that Mr. Merkin is, Ascot Fund is a feeder fund into  
04:38:32 11 Bernard Madoff's fund.

04:38:33 12 Q. Were there rumors at that time in  
04:38:36 13 2003 with respect to Gabriel?

04:38:38 14 A. Not that I'm aware of.

04:38:40 15 Q. And were there rumors at that time  
04:38:43 16 with respect to Ariel?

04:38:45 17 A. I believe that Ariel is the offshore  
04:38:47 18 version of Gabriel, and I don't believe there were  
04:38:50 19 any rumors at that time.

04:38:55 20 Q. When did -- Ms. Harrington is no  
04:38:58 21 longer at Sterling Stamos, right?

04:39:01 22 A. That's correct.

04:39:01 23 Q. When did she leave?

04:39:03 24 A. At that time, in that time frame.  
04:39:04 25 She was there for I think three to six months.



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04:39:06 1 Q. And why did she leave?

04:39:08 2 A. We had a disagreement about final  
04:39:09 3 authority on investment decision-making.

04:39:12 4 Q. You won that disagreement, obviously?

04:39:14 5 A. Yes.

04:39:15 6 Q. What about Ms. OuYang, why did she  
04:39:19 7 leave Sterling Stamos?

04:39:22 8 A. I don't know why she left.

04:39:23 9 Q. Was she fired?

04:39:24 10 A. No. She was a good performer.

04:40:02 11 MR. BOHORQUEZ: Why don't we go off  
04:40:06 12 the record because we have less than five minutes on  
04:40:08 13 the tape.

04:40:09 14 THE VIDEOGRAPHER: Going off the  
04:40:10 15 record, the time is 4:40. This ends tape number 4.

04:40:46 16 (Recess taken.)

17 (Exhibits PS-7 and PS-8 marked for  
18 identification.)

19

20

21

22

23

24

25

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1 (The following was reported by  
2 Monique Vouthouris, CCR)

05:19:51 3 (Exhibits PS-9 through PS-13 marked  
05:24:02 4 for identification.)

05:24:02 5 THE VIDEOGRAPHER: We are back on the  
05:24:18 6 record. The time is 5:24. This is tape number 5.

05:24:24 7 BY MR. BOHORQUEZ:

05:24:25 8 Q. Okay. Welcome back, Mr. Stamos.

05:24:30 9 A. Thank you.

05:24:32 10 Q. Before we broke we were looking at  
05:24:37 11 Exhibit 6, if you have it. You can put it in front  
05:24:41 12 of you.

05:24:41 13 A. Yes.

05:24:41 14 Q. I believe we were looking at page 4  
05:24:43 15 of Exhibit 6.

05:24:48 16 A. Yes.

05:24:49 17 Q. Right. And specifically we had honed  
05:24:52 18 in on the statement that Ms. OuYang had written,  
05:24:55 19 "And I guess our CIO always said it was a scam, too  
05:25:00 20 good to be true." Right? That's what we were  
05:25:03 21 discussing before.

05:25:04 22 A. Yes.

05:25:05 23 Q. Despite the fact that Ashok Chachra  
05:25:12 24 may not have been the CIO at any time, did Ashok  
05:25:17 25 Chachra ever say that Madoff was a scam or too good

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05:25:20 1 to be true?

05:25:21 2 A. I don't know that he ever -- whether  
05:25:24 3 he ever said that.

05:25:26 4 Q. Do you know if anyone at Sterling  
05:25:31 5 Stamos ever said that Madoff was a scam, that it was  
05:25:35 6 too good to be true?

05:25:36 7 A. Can you be specific as to the time  
05:25:38 8 frame?

05:25:39 9 Q. Prior to December 11, 2008.

05:25:42 10 A. Because, to be clear, after that I  
05:25:44 11 think a lot of people said that.

05:25:45 12 Q. Yeah.

05:25:46 13 A. But prior to that I don't recall  
05:25:48 14 anybody ever saying, to my recollection, that it was  
05:25:51 15 a scam, quote, too good to be true.

05:25:54 16 Q. Okay. Earlier you had testified that  
05:26:05 17 Miss Doreen Harrington had raised concerns that  
05:26:11 18 Merkin may be a feeder fund for Madoff. Is that  
05:26:14 19 right?

05:26:14 20 A. Yes.

05:26:16 21 Q. Okay. Why was that of concern to you  
05:26:18 22 or Ms. Harrington?

05:26:20 23 A. That would be of concern to  
05:26:22 24 Ms. Harrington and to me if it were true, because it  
05:26:24 25 would go to the truthfulness of the manager with

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05:26:27 1 whom we were investing, which was Mr. Merkin.

05:26:30 2 Q. Because prior to that he had  
05:26:32 3 represented to you that his funds were not invested  
05:26:34 4 in Madoff?

05:26:35 5 A. Both prior to that, after that, and  
05:26:37 6 on an ongoing basis.

05:26:41 7 Q. Okay. Was there any other reason as  
05:26:42 8 to why the fact that Merkin may be invested in  
05:26:46 9 Madoff why that would have been of concern to you at  
05:26:51 10 that time?

05:26:51 11 A. At that time, no, not that I can  
05:26:53 12 recall.

05:26:53 13 Q. All right.

05:26:56 14 A. Well, yes. It would mean that we  
05:26:59 15 would have been paying fees on a manager that might  
05:27:02 16 -- clients were already invested in.

05:27:04 17 Q. Okay. Thank you. Let's go to tab  
05:27:11 18 24. I think we're at Exhibit 7, we've already  
05:27:32 19 marked.

05:27:32 20 A. Thank you.

05:27:33 21 Q. I'm now handing you what's been  
05:27:35 22 marked as Exhibit 7. Now, Mr. Stamos, that is an  
05:27:43 23 e-mail from Tim Dick to you of December 14th, 2008?

05:27:47 24 A. Yes.

05:27:47 25 Q. It has a fairly lengthy attachment to

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05:27:50 1 the e-mail.

05:27:51 2 A. Yes.

05:27:51 3 Q. But I'm not going to ask you any  
05:27:53 4 questions about the attachment.

05:27:54 5 A. Okay.

05:27:55 6 Q. If you want to review the attachment,  
05:27:56 7 you have every right to, but I'll tell you I'm only  
05:28:00 8 going to ask you questions about the e-mail.

05:28:03 9 A. Um-hmm. Okay. So I don't need to  
05:28:31 10 review this. I -- I recall seeing this document  
05:28:34 11 before, but I don't need to review this now.

05:28:36 12 Q. I'm not going to ask you any  
05:28:38 13 questions about it.

05:28:39 14 A. Okay. I've read the e-mail.

05:28:40 15 Q. Okay. Who is Tim Dick?

05:28:42 16 A. Tim Dick is a long-time personal  
05:28:45 17 friend of mine.

05:28:46 18 Q. And is he an investor with Sterling  
05:28:50 19 Stamos?

05:28:51 20 A. I don't believe he's ever invested  
05:28:52 21 with us.

05:28:54 22 Q. Okay. In what -- what company is  
05:29:00 23 Mr. Dick affiliated with?

05:29:01 24 A. Today?

05:29:02 25 Q. Yes.

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05:29:03 1           A.           I'm not aware of -- I don't know the  
05:29:04 2 name of the company he works with. I believe he's a  
05:29:06 3 venture capitalist.

05:29:08 4           Q.           Okay. Does he work for Startup  
05:29:13 5 Capital Ventures, does that ring a bell?

05:29:15 6           A.           It -- it -- I -- it could be Startup  
05:29:20 7 Capital Ventures, it sounds like the kind of work he  
05:29:22 8 does.

05:29:22 9           Q.           And is he based off the west coast or  
05:29:25 10 east coast?

05:29:26 11           A.           I believe he's on the west coast, but  
05:29:29 12 I don't know that for a fact because I haven't  
05:29:31 13 spoken to him in sometime.

05:29:33 14           Q.           Do you see his e-mail is  
05:29:42 15 tim@usehalf.com?

05:29:42 16           A.           Yes.

05:29:42 17           Q.           Do you know what UseHalf is?

05:29:44 18           A.           I'm vaguely familiar with  
05:29:47 19 Usehalf.com.

05:29:47 20           Q.           What is it?

05:29:47 21           A.           I believe it was an environmental  
05:29:49 22 group that was trying to reduce use of oil and other  
05:29:53 23 carbon-producing energy sources.

05:29:58 24           Q.           What was Mr. Dick's relationship with  
05:30:01 25 UseHalf at this time? Do you know?

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05:30:02 1           A.           I don't know. He may have been the  
05:30:04 2 founder of it, may be a participant in it.

05:30:06 3           Q.           Okay. The first paragraph Mr. Dick  
05:30:12 4 writes that: "We've seen the good news  
05:30:16 5 (corrections) and your press release."

05:30:19 6                   Is he referencing the December 12th  
05:30:23 7 press release that you issued in response to the  
05:30:25 8 Madoff fraud?

05:30:26 9           A.           I believe so.

05:30:27 10                   MR. GOUDISS: I object. Go ahead.

05:30:29 11           A.           I believe so. I don't know for a  
05:30:30 12 fact, but --

05:30:32 13           Q.           Okay. Do you recall receiving this  
05:30:33 14 e-mail from Mr. Dick?

05:30:35 15           A.           I recall the e-mail. I received a  
05:30:40 16 lot of e-mails in that time frame, so I don't know  
05:30:42 17 when I specifically recall it, but I definitely  
05:30:45 18 recall it now.

05:30:46 19           Q.           Do you see the second paragraph where  
05:30:51 20 Mr. Dick writes in the third sentence: "I remember  
05:30:53 21 the discussions we had about Bernie in the early  
05:30:56 22 days of SP Capital. Thank goodness you diversified  
05:31:02 23 Saul - it is too bad Fred didn't buy in to the same  
05:31:05 24 degree."

05:31:06 25                   What discussions is Mr. Dick

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05:31:10 1 referring to in that paragraph?

05:31:11 2 A. I believe he's referring to the very  
05:31:13 3 specific discussions we had -- I had with -- with  
05:31:17 4 Saul at the formation of the firm which Tim was  
05:31:21 5 aware of recommending that Saul create a diversified  
05:31:26 6 portfolio and not have more than 10 percent of his  
05:31:29 7 assets in any one manager, including Mr. Madoff.

05:31:34 8 Q. And you shared those discussions that  
05:31:35 9 you had with Saul Katz with Mr. Dick?

05:31:38 10 A. I believe that -- that Tim was aware  
05:31:40 11 of it because Tim was serving as advisor/consultant  
05:31:45 12 to some combination of SP Capital and Mr. Katz at  
05:31:51 13 the time.

05:31:51 14 Q. Other than the diversification of the  
05:32:00 15 portfolio issue that you recall being part of those  
05:32:04 16 early discussions with Mr. Katz, was there anything  
05:32:07 17 else that was discussed that you believe Mr. Dick is  
05:32:10 18 referring to here?

05:32:11 19 A. Are you asking by me or by Mr. Dick?

05:32:14 20 Q. First by you.

05:32:15 21 A. By me the only conversations I  
05:32:17 22 remember having at that time with Mr. Katz were  
05:32:20 23 about diversification and the single manager risk.

05:32:24 24 Q. Okay. And what about with respect to  
05:32:26 25 Mr. Dick?



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05:32:26 1           A.           I'm not aware of the specific  
05:32:28 2 discussions that Mr. Dick had other than his  
05:32:31 3 reference here. I was not -- I don't believe I  
05:32:34 4 was -- I don't recall being present in those  
05:32:36 5 discussions.

05:32:37 6           Q.           Okay. Excuse me. You see in the  
05:32:44 7 third paragraph Mr. Dick writes: "In my  
05:32:48 8 introductory discussion with Saul he brought up  
05:32:51 9 Bernie and I told him I couldn't make Bernie's math  
05:32:54 10 work, something wasn't right (see below.)" Do you  
05:32:58 11 see that?

05:32:58 12           A.           Yes.

05:32:58 13           Q.           Do you know what introductory  
05:33:01 14 discussion he's referencing?

05:33:03 15           A.           Yes.

05:33:04 16           Q.           What discussion is that?

05:33:06 17           A.           I believe that I introduced Tim Dick  
05:33:10 18 to Mr. Katz to serve as an advisor to him on  
05:33:13 19 Changing World Technologies, which was one of the  
05:33:16 20 investments that Mr. Katz invited me to participate  
05:33:19 21 in.

05:33:20 22           Q.           Okay. And did Mr. -- prior to this  
05:33:28 23 e-mail -- actually, let me rephrase.

05:33:34 24                           Contemporaneous with the  
05:33:36 25 introduction, introductory discussion that Mr. Dick

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05:33:40 1 had with Saul Katz, did Mr. Dick share with you the  
05:33:46 2 fact that he had brought up Bernie and told Saul  
05:33:50 3 Katz that Bernie's math didn't work?

05:33:52 4 A. I don't recall having that  
05:33:54 5 conversation with Mr. Dick.

05:33:57 6 Q. You don't recall Mr. Dick ever  
05:33:59 7 telling you that he, separate and apart from that  
05:34:04 8 discussion -- let me rephrase that.

05:34:06 9 Did Mr. Dick ever tell you that he  
05:34:08 10 couldn't make Bernie's math work?

05:34:11 11 A. I don't recall him saying that to me  
05:34:14 12 prior to reading this in this e-mail.

05:34:17 13 Q. Okay. And do you recall him ever  
05:34:24 14 telling you that he had spoken to Mr. Saul Katz  
05:34:28 15 about the fact that Mr. Dick couldn't make Bernie's  
05:34:32 16 math work?

05:34:32 17 A. I don't recall that part of the  
05:34:37 18 conversation.

05:34:37 19 Q. What part of the conversation do you  
05:34:39 20 recall?

05:34:39 21 A. I do recall Tim's specific  
05:34:41 22 recommendations about Changing World Technologies,  
05:34:44 23 because that was the piece that I had asked him to  
05:34:46 24 look at.

05:34:47 25 Q. But you don't recall any aspects of

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05:34:49 1 the discussion concerning Madoff that Mr. Dick had  
05:34:52 2 with Saul Katz?

05:34:53 3 A. I don't recall that conversation, if  
05:34:54 4 it existed, if it ever occurred.

05:34:56 5 Q. Okay. Did anyone at Sterling Stamos  
05:35:02 6 ever try to reverse engineer Madoff's split-strike  
05:35:07 7 strategy?

05:35:08 8 A. I believe that at some point later on  
05:35:12 9 in the development of our firm that we tried to --  
05:35:17 10 that -- that our head of risk may have tried to do  
05:35:20 11 that, but I'm not certain that he actually did that  
05:35:22 12 analysis.

05:35:22 13 Q. And who was the head of risk that  
05:35:24 14 you're referring to?

05:35:25 15 A. Rohit Kumar.

05:35:28 16 Q. And how -- how would you be able to  
05:35:34 17 confirm whether or not Mr. Kumar tried to reverse  
05:35:37 18 engineer Madoff's strategy?

05:35:41 19 A. There would be a memo or an analysis  
05:35:44 20 somewhere in one of his files if that did occur.

05:35:47 21 Q. Did you ever personally try to  
05:35:51 22 reverse engineer Stamos -- I'm sorry, Madoff's  
05:35:56 23 strategy?

05:35:56 24 A. I don't understand what reverse  
05:35:58 25 engineer means. Could you be more specific -- I

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05:36:00 1 have been --

05:36:01 2 Q. Well, you have been answering the  
05:36:03 3 questions before, so --

05:36:04 4 A. Ask me the question in terms of  
05:36:05 5 somebody else trying to do it, but you have to  
05:36:07 6 explain to me what it is. Because if somebody says  
05:36:10 7 "reverse engineer" I don't know what that  
05:36:12 8 specifically means.

05:36:13 9 Q. What do you understand the term  
05:36:14 10 "reverse engineer" to be?

05:36:16 11 A. I understand it to mean -- to see if  
05:36:18 12 the calculation equates to the number that was  
05:36:22 13 generated in that month.

05:36:24 14 Q. Okay. Using that definition, did you  
05:36:27 15 ever reverse engineer Madoff's returns --

05:36:31 16 A. I believe I testified to that this  
05:36:33 17 morning, that in -- prior to joining the firm when I  
05:36:37 18 would like at my own investment returns,  
05:36:38 19 occasionally on a month-to-month basis I would look  
05:36:41 20 at my returns, see when the investment returns  
05:36:44 21 occurred and see if it footed with my expectations  
05:36:51 22 of the market.

05:36:52 23 Q. Okay. Other than Mr. Kumar, was it?

05:36:55 24 A. Kumar, K-u-m-a-r.

05:36:58 25 Q. Kumar, is there anyone else at

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05:37:03 1 Sterling Stamos that may have performed some sort of  
05:37:06 2 reverse engineering of Madoff's strategy that you're  
05:37:08 3 aware of?

05:37:09 4 MR. GOUDISS: I object. Go ahead.

05:37:10 5 A. It requires speculation. I don't  
05:37:12 6 know.

05:37:12 7 Q. Do you know if Ashok Chachra ever  
05:37:16 8 reverse engineered Madoff's strategy?

05:37:17 9 A. I don't know.

05:37:19 10 Q. Did Saul Katz ever express to you  
05:37:31 11 that others raised with him that they tried to do  
05:37:37 12 the math with Bernie's strategy and it didn't add  
05:37:39 13 up?

05:37:39 14 A. I don't recall Mr. Katz ever saying  
05:37:41 15 that to me.

05:37:47 16 Q. We can go back to the second  
05:37:56 17 paragraph where Mr. Dick writes, "Thank goodness you  
05:38:02 18 diversified Saul - it's too bad Fred didn't buy in  
05:38:07 19 to the same degree."

05:38:10 20 Is it your understanding that Fred  
05:38:12 21 Wilpon did not diversify his investments for Madoff  
05:38:18 22 as much as Saul Katz did?

05:38:21 23 A. It is my understanding that when we  
05:38:24 24 formed the firm that Mr. Katz was a firm believer in  
05:38:29 25 moving toward diversification and that it took

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05:38:31 1 Mr. Wilpon several months, if not more than a year  
05:38:36 2 or two, to agree with that approach and strategy.

05:38:41 3 Q. And why did it take so long for  
05:38:44 4 Mr. Wilpon to agree with that approach and strategy?

05:38:46 5 MR. GOUDISS: I object. Go ahead.

05:38:47 6 A. I don't know why -- what his thoughts  
05:38:51 7 were. I can -- what he said to me --

05:38:55 8 Q. Well, let's talk about the  
05:38:56 9 discussions you had with Fred Wilpon about  
05:38:59 10 diversifying from Madoff.

05:39:01 11 A. What I recall Mr. Wilpon saying to me  
05:39:04 12 was we will call the firm something other than  
05:39:07 13 Sterling and see how you do for a year, and after a  
05:39:09 14 year we'll then make that decision.

05:39:12 15 Q. That's why it was called SP Capital  
05:39:14 16 at first?

05:39:15 17 A. Stamos Partners Capital, yeah, Stamos  
05:39:18 18 Partners Management, yes, SP Capital.

05:39:21 19 Q. And when was the name changed to  
05:39:23 20 Sterling Stamos?

05:39:24 21 A. About a year later.

05:39:26 22 Q. And did you have discussions with  
05:39:28 23 Fred Wilpon about changing the name to Sterling  
05:39:31 24 Stamos?

05:39:31 25 A. Yes.

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05:39:31 1 Q. Okay. What was the subject -- what  
05:39:34 2 was the nature of those discussions?

05:39:36 3 A. The nature of the discussions was at  
05:39:37 4 the time when he now felt comfortable that we had  
05:39:39 5 set up an investment firm that performed well, he  
05:39:43 6 was now prepared to put their brand together with  
05:39:46 7 our brand.

05:39:55 8 (Comments off the record.)

05:40:11 9 Q. Now, I think we've marked Exhibit 8.  
05:40:25 10 Okay. Mr. Stamos, I've handed you what's been  
05:40:28 11 marked as Exhibit 8, which is a Sterling Stamos  
05:40:32 12 Talking -- Investor Talking Points, dated December  
05:40:35 13 16th, 2008. Please feel free to review as much  
05:40:41 14 as -- of the document as you like, but I'm only  
05:40:44 15 going to ask you a question about one page of it,  
05:40:46 16 which is page 10, the one ending in Bates 807. The  
05:40:54 17 Bates is the number at the bottom right-hand of the  
05:40:57 18 page.

05:40:57 19 A. So the one that ends page 10, let's  
05:41:03 20 see -- oh, the one that says 28007?

05:41:09 21 Q. Yes.

05:41:10 22 A. "Practical outcome operational and  
05:41:12 23 risk due diligence."

05:41:14 24 Q. You got it.

05:41:14 25 A. Okay. So that's the page.

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05:41:16 1 Q. Yes. But feel free to review as much  
05:41:18 2 of the document as you like.

05:44:31 3 A. Okay. I've -- I've skimmed part of  
05:44:32 4 it, read this page. I'm somewhat comfortable.

05:44:39 5 Q. Okay. One general question with  
05:44:41 6 respect to Exhibit 8. Who drafted this document?  
05:44:45 7 Do you know?

05:44:45 8 A. I believe it was a team of people  
05:44:49 9 that drafted this document.

05:44:51 10 Q. And when you refer to a team of  
05:44:53 11 people, who was part of that team?

05:44:57 12 A. Some of them are referenced in  
05:44:59 13 parentheses on page 10, so I believe that, for  
05:45:06 14 example, in the second bullet "DD" refers to Derek  
05:45:10 15 Daley, who was at the time head of communications.

05:45:13 16 Q. Right.

05:45:14 17 A. And in parentheses Saleemah, I don't  
05:45:17 18 remember Saleemah's last name, but she was the head  
05:45:20 19 of our operational due diligence team at that time.  
05:45:22 20 And generally speaking, talking points were drafted  
05:45:26 21 with Kevin Okimoto's participation as well, who was  
05:45:30 22 the head of investor partner relations.

05:45:34 23 Q. Was Rohit Kumar part of the team that  
05:45:38 24 drafted this?

05:45:38 25 A. I don't know whether he participated



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05:45:39 1 in the drafting of this or not, but he was the head  
05:45:42 2 of risk.

05:45:43 3 Q. The first page of Exhibit 8 says  
05:45:48 4 "Investor talking points 12/16/2008, confidential  
05:45:53 5 presentation." Is that referencing to -- is that a  
05:45:57 6 reference to a presentation that was given to  
05:45:59 7 investors post-Madoff --

05:46:02 8 A. I believe this is referring to what  
05:46:04 9 would have been a conference call with our investors  
05:46:06 10 where we would have invited them to call in to a  
05:46:10 11 conference call.

05:46:11 12 Q. So did that conference call occur?

05:46:14 13 A. I believe it did.

05:46:15 14 Q. Okay. And do you know if these  
05:46:16 15 talking points were used at that conference call?

05:46:19 16 A. I can't recall specifically these  
05:46:21 17 talking points, that's why I was reading them  
05:46:23 18 carefully to see if they could refresh my  
05:46:25 19 recollection. So the part that I do recall is the  
05:46:28 20 part that I usually cover, which is the economy and  
05:46:32 21 markets, which would be the first part of this.

05:46:36 22 Q. Okay. You say the first few pages --

05:46:37 23 A. The first few pages talking about the  
05:46:39 24 economy and market, that part I recall because those  
05:46:41 25 are consistent with the kinds of talking points that

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05:46:43 1 I had generally had at that time.

05:46:47 2 Q. Okay. Why don't we turn to page 10,  
05:46:49 3 or the page ending with 807, the Bates number.

05:46:54 4 A. Yes.

05:46:54 5 Q. The first bullet: "Sterling Stamos  
05:47:01 6 has no money invested in any funds of Bernie  
05:47:06 7 Madoff." Do you see that?

05:47:06 8 A. Yes.

05:47:06 9 Q. Okay. The second bullet in the  
05:47:08 10 talking points is written: "We declined to invest  
05:47:11 11 with Madoff a few years ago. From a DD perspective  
05:47:16 12 we weren't comfortable." Do you know who wrote  
05:47:18 13 that?

05:47:18 14 A. I don't know. And I apologize for my  
05:47:20 15 prior reference, the "DD" might not be referring to  
05:47:24 16 Derek Daley. It could be referring to DD, due  
05:47:27 17 diligence, so he may not have been a part of this.

05:47:30 18 Q. Okay. Why do the talking points  
05:47:32 19 state that "Sterling Stamos declined to invest with  
05:47:36 20 Madoff a few years ago. From a DD perspective we  
05:47:39 21 weren't comfortable," what does that mean?

05:47:41 22 A. I believe it means what we discussed  
05:47:43 23 earlier, which is that our operational due diligence  
05:47:48 24 discipline kept us out of investments like Madoff.

05:47:53 25 Q. But that's not what this says.

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05:47:55 1 A. Correct.

05:47:56 2 Q. Okay. So I'm trying to reconcile the  
05:47:59 3 two. So what does it mean when -- when it was  
05:48:03 4 written that "Sterling Stamos declined to invest  
05:48:05 5 with Madoff a few years ago," what is that  
05:48:08 6 referencing?

05:48:08 7 A. So I think the DD perspective is the  
05:48:12 8 equivalent of our due diligence discipline, that  
05:48:15 9 when we were -- when it was proposed to us to invest  
05:48:20 10 in Madoff, which increasingly became a pressure. I  
05:48:25 11 don't refer -- I don't know why it says a few years  
05:48:27 12 ago as opposed to what I do recall, which was that  
05:48:30 13 it was in the period 2008, which would have been  
05:48:32 14 that current year, that we would have declined to do  
05:48:36 15 so because of our due diligence perspective, which  
05:48:39 16 is the equivalent of our due diligence discipline.

05:48:42 17 Q. And when you're referring to 2008,  
05:48:44 18 you're referring to the 2008 board meeting where the  
05:48:50 19 black box -- black box aspects of Madoff were  
05:48:53 20 discussed?

05:48:53 21 A. Among other things, yes.

05:48:55 22 Q. Okay. And at that board meeting what  
05:48:59 23 other issues concerning Madoff were discussed that  
05:49:02 24 prevented you or instructed you not to invest with  
05:49:07 25 Madoff?

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05:49:07 1           A.        I don't recall any other points other  
05:49:09 2           than those.

05:49:09 3           Q.        Okay.  So when it says "from a DD  
05:49:13 4           perspective we weren't comfortable," that is a  
05:49:16 5           reference to the black box aspect of the Madoff  
05:49:19 6           strategy?

05:49:19 7           A.        I don't know -- I don't know what the  
05:49:21 8           author of this was referring to, but that's my  
05:49:23 9           assumption.

05:49:24 10          Q.        Okay.  Now, this page here where it  
05:49:44 11          lists the two specialized teams, the second bullet,  
05:49:49 12          and then goes on to discuss operational due  
05:49:52 13          diligence, and the risk due diligence, the  
05:49:55 14          components of your due diligence procedures.

05:49:57 15          A.        Um-hmm.

05:49:59 16          Q.        Okay.  Is it your understanding that  
05:50:04 17          Madoff would not have passed these -- this due  
05:50:09 18          diligence -- these due diligence procedures if they  
05:50:11 19          would have been conducted?

05:50:12 20                   MR. GOUDISS:  Based on what he knows  
05:50:13 21          now or at some other point?

05:50:15 22          Q.        Well, based on what you know now.

05:50:17 23          A.        Based on what I know now, I feel  
05:50:20 24          confident that he would not have passed our due  
05:50:23 25          diligence discipline, our due diligence process, and

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05:50:25 1 if we actually did due diligence, that on a number  
05:50:27 2 of those points, his fund would have come up short.

05:50:31 3 Q. Okay. Now, prior to 2000 -- December  
05:50:34 4 11, 2008, we already discussed the black box aspect  
05:50:39 5 and the fact that you concluded that Madoff would  
05:50:43 6 not have passed that one aspect.

05:50:45 7 Were there any other aspects of the  
05:50:48 8 due diligence procedures that are set forth on this  
05:50:53 9 page that you discussed with any members of your  
05:50:55 10 team to conclude that Madoff would not have passed  
05:51:00 11 any of those -- any of these points? And you can go  
05:51:04 12 through them one by one, but it might be quicker for  
05:51:04 13 you to just --

05:51:09 14 A. Let me just read it and see --

05:51:11 15 Q. -- and see if there are any that you  
05:51:13 16 discussed with your team with respect to Madoff  
05:51:14 17 before December 11, 2008.

05:51:16 18 A. All right. So if I could, I'll just  
05:51:17 19 go through it by line.

05:51:17 20 Q. Sure.

05:51:19 21 A. On the first line: "Investment teams  
05:51:21 22 do not do first check on style, strategy and  
05:51:22 23 process." The style of a black box would have  
05:51:25 24 failed investment due diligence.

05:51:26 25 Q. And so that was done --

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05:51:28 1           A.           On the surface, just on the surface  
05:51:30 2           of knowing that it was a black box, my assumption is  
05:51:34 3           if we did due diligence, that would have checked the  
05:51:38 4           box and said we don't do this.

05:51:39 5           Q.           And what I just want to be clear is I  
05:51:41 6           know that due diligence has a certain connotation to  
05:51:44 7           it. I'm not talking about whether it was done in  
05:51:46 8           the due diligence perspective, but whether this type  
05:51:49 9           of action was taken or conducted with respect to  
05:51:53 10          Madoff, that's all.

05:51:55 11          A.           We did not conduct this kind of  
05:51:57 12          analysis on Mr. Madoff or his investments.

05:52:01 13          Q.           And what are you referring to when  
05:52:05 14          you say that?

05:52:05 15          A.           This -- this analysis was not  
05:52:07 16          conducted --

05:52:08 17          Q.           The style, strategy and process, the  
05:52:10 18          first bullet?

05:52:10 19          A.           I don't believe we conducted any of  
05:52:12 20          this analysis on Mr. Madoff. I don't believe we  
05:52:14 21          ever did due diligence on Mr. Madoff. But I'm  
05:52:18 22          reading for --

05:52:21 23          Q.           Right.

05:52:22 24          A.           So -- so, for example, I know that --  
05:52:33 25          I knew then or at least I heard on the surface then

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05:52:36 1 that Mr. Madoff had his own broker-dealer and  
05:52:39 2 cleared his own trades, and that would have failed  
05:52:41 3 the fourth bullet point under the third bullet  
05:52:44 4 point. So bullet point 3, number 4, "Firm must use  
05:52:48 5 external," dot dot dot, up to the part where it  
05:52:51 6 says, "must use an external broker-dealer," he would  
05:52:54 7 not have -- he would not have --

05:52:55 8 Q. Right. And you knew that before  
05:52:57 9 December 11th, 2008?

05:52:59 10 A. Yes. That's one of the issues we had  
05:53:01 11 talked about.

05:53:01 12 Q. Right. Were there any others?

05:53:04 13 A. I may be missing something, but I  
05:53:25 14 don't see any other issues that -- that on the basis  
05:53:26 15 of what we knew on the surface would have come to  
05:53:30 16 that --

05:53:30 17 Q. Okay.

05:53:31 18 A. -- other than the broker-dealer piece  
05:53:34 19 and the first point I mentioned about the black --  
05:53:36 20 black box --

05:53:37 21 Q. Black box.

05:53:38 22 A. -- style. Prior to December 12th --  
05:53:44 23 or December 11th.

05:53:46 24 Q. 2008.

05:53:46 25 A. 2008.

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05:53:47 1 Q. Bullet 3, number 4, one of the issues  
05:53:51 2 that you highlighted, the broker-dealer issue, it  
05:53:54 3 goes on to say: "So check on AUM existing no fraud  
05:53:58 4 and its valuation, too." Do you see that?

05:54:01 5 A. Um-hmm.

05:54:02 6 Q. Okay. Did you ever suggest or tell  
05:54:06 7 Saul Katz that because of this broker-dealer issue  
05:54:10 8 with Madoff, that Sterling should assess the  
05:54:15 9 existing AUM?

05:54:16 10 A. I don't recall ever having that  
05:54:18 11 conversation with Mr. Katz.

05:54:19 12 Q. Okay. Let's go now to -- I think  
05:54:31 13 we're done with that document for now. Thank you.  
05:54:50 14 I think this has been marked as 9.

05:54:50 15 (Comments off the record.)

05:55:10 16 Q. All right. Mr. Stamos, I'm handing  
05:55:13 17 you what's been marked as Exhibit 9, which is an  
05:55:15 18 e-mail exchange between you and Ezra Merkin from  
05:55:24 19 November 14th, 2004 to November 15th, 2004. Please  
05:55:29 20 review it and let me know when you're ready to  
05:55:36 21 discuss.

05:55:40 22 A. May I ask a question, are we going to  
05:55:42 23 review the Schulte Roth?

05:55:44 24 Q. No, we're not.

05:55:46 25 A. Okay.



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05:56:20 1                   Okay. I've reviewed the e-mail.

05:56:22 2                   Q.            Okay. Let's look at first page of

05:56:29 3 Exhibit 9. Do you see at the bottom of the page

05:56:34 4 it's an e-mail from Mr. Merkin to you, November 14th

05:56:39 5 at 9:48 p.m. Do you see that?

05:56:42 6                   A.            Yes.

05:56:42 7                   Q.            Okay. The second sentence Mr. Merkin

05:56:48 8 makes a reference to "our friend in the Lipstick

05:56:51 9 building."

05:56:52 10                  A.            Yes.

05:56:52 11                  Q.            Who is he referring to?

05:56:53 12                  A.            I believe he's referring to Bernard

05:56:56 13 Madoff.

05:56:56 14                  Q.            And why does Mr. Merkin use the

05:57:00 15 phrase "our friend in the Lipstick building"?

05:57:03 16                  A.            I don't know why he refers to him as

05:57:05 17 "our friend in the Lipstick building."

05:57:07 18                  Q.            Okay. Have you ever used that

05:57:09 19 before?

05:57:10 20                  A.            I believe I referred to it in the

05:57:13 21 e-mail afterward --

05:57:13 22                  Q.            Right.

05:57:14 23                  A.            -- but I don't recall having that

05:57:16 24 conversation -- using that phrase before. I do

05:57:19 25 recall the Lipstick building reference.

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05:57:22 1 Q. I'm sorry, what --

05:57:23 2 A. I do recall the Lipstick building  
05:57:27 3 reference.

05:57:27 4 Q. Okay. So did Mr. Merkin refer to  
05:57:31 5 Mr. Madoff as "our friend in the Lipstick building"  
05:57:33 6 on other occasions?

05:57:34 7 A. He may have. I don't recall that  
05:57:37 8 phrase in any specific conversation prior to this  
05:57:41 9 e-mail.

05:57:41 10 Q. Okay. And then you already  
05:57:44 11 referenced it in -- in your response to him at the  
05:57:46 12 top of Exhibit 9, you parroted back with you used  
05:57:52 13 the phrase as well, "our friend in the Lipstick  
05:57:55 14 building."

05:57:55 15 A. Yes.

05:57:55 16 Q. Did you use the phrase in response to  
05:57:58 17 Mr. Merkin, is that why you used "our friend in the  
05:58:01 18 Lipstick building" rather than just saying Madoff?

05:58:03 19 A. I believe so. I believe my reference  
05:58:05 20 was familiar back to the e-mail that he -- he  
05:58:09 21 referenced -- that you referenced before.

05:58:11 22 Q. Okay. Do you have any reason to  
05:58:21 23 believe why Mr. Merkin wouldn't just say Madoff?

05:58:27 24 MR. GOUDISS: I object. Go ahead.

05:58:29 25 A. I have no reason to -- there is no

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05:58:33 1 reason I can think of.

05:58:34 2 Q. Okay. He wasn't trying to hide  
05:58:36 3 Madoff in some way for some reason?

05:58:37 4 A. Not that I can possibly imagine,  
05:58:39 5 because it was clear what he was -- to whom he was  
05:58:42 6 referring.

05:58:42 7 Q. Okay. The third sentence Mr. Merkin  
05:58:51 8 makes a reference to that he has a long list even by  
05:58:55 9 our customary standards that you are going to  
05:58:58 10 discuss at a call later that week, or at a meeting  
05:59:03 11 later that week. Did that meeting occur?

05:59:10 12 A. I don't recall. I assume that it  
05:59:13 13 did, but I don't recall.

05:59:14 14 Q. Okay. Do you recall what was on the  
05:59:17 15 long list of items that Mr. Merkin references in  
05:59:21 16 that e-mail?

05:59:21 17 A. I don't recall.

05:59:22 18 Q. What type of topics did you generally  
05:59:28 19 discuss with Mr. Merkin?

05:59:30 20 A. Generally?

05:59:30 21 Q. Yes. At this time in 2004.

05:59:33 22 A. Generally we discussed investments in  
05:59:37 23 his funds, how they were doing and what the  
05:59:39 24 prospects were for them going forward, as well as  
05:59:43 25 potential investments with other fund managers.

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05:59:45 1 Q. Did you have -- did Sterling Stamos  
05:59:47 2 have other investments with Merkin other than  
05:59:50 3 Gabriel and Ascot?

05:59:53 4 A. Yes.

05:59:53 5 Q. What other investments did Sterling  
05:59:55 6 Stamos have with Merkin?

05:59:57 7 A. I don't know the full names of all  
05:59:58 8 the funds, but we invested in the offshore versions  
06:00:01 9 of Ascot, as well as the offshore version of  
06:00:05 10 Gabriel. We also invested in Long Horizons, and we  
06:00:10 11 later found out that -- I'm not sure whether it was  
06:00:12 12 later or contemporaneously that a set of investments  
06:00:15 13 that were done jointly with Gabriel and Cerberus.

06:00:20 14 Q. Turning now to your e-mail in  
06:00:28 15 response to Mr. Merkin, you write: "Sorry to have  
06:00:37 16 hit you with so many 'urgent' messages on Friday."

06:00:42 17 Do you recall why you were sending so  
06:00:43 18 many urgent messages to Mr. Merkin on that date?

06:00:47 19 A. I don't recall specifically, but  
06:00:49 20 generally I think it was the topic that he's  
06:00:50 21 referring -- that we're referring to here.

06:00:51 22 Q. And that's the SEC rule concerning  
06:00:54 23 hedge fund registration?

06:00:56 24 A. And the potential implications for  
06:00:58 25 Mr. Katz and Mr. Wilpon.

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06:01:00 1 Q. Okay. Did you discuss with  
06:01:07 2 Mr. Merkin at this meeting that you had after this  
06:01:10 3 e-mail exchange the SEC rule concerning hedge fund  
06:01:14 4 registration and the potential implications for  
06:01:17 5 Mr. Katz and Mr. Wilpon?

06:01:18 6 MR. GOUDISS: I object. Go ahead.

06:01:20 7 A. I don't recall when. I do recall  
06:01:22 8 that I had conversations with Mr. Merkin about this  
06:01:26 9 registration. And when I say conversations, those  
06:01:29 10 conversations could have been by phone, could have  
06:01:31 11 been in person, and it could have been by e-mail  
06:01:34 12 that, you know, now five or six years later I think  
06:01:37 13 of as a conversation. It just was many years ago.

06:01:40 14 Q. Okay. What was the substance of  
06:01:42 15 those discussions that you had with Mr. Merkin  
06:01:45 16 concerning this hedge fund registration rule?

06:01:49 17 A. Yeah. Just to be specific, if we can  
06:01:51 18 characterize it in general discussions, e-mails and  
06:01:54 19 communication. I'm not sure whether it was, as I  
06:01:56 20 say, a phone conversation and meeting discussion or  
06:01:58 21 just a set of e-mails that went back and forth. I  
06:02:01 22 remember the sum and substance of the -- of the  
06:02:03 23 information that was shared.

06:02:04 24 Q. Okay. And what was that sum and  
06:02:08 25 substance?

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06:02:08 1 A. From my perspective or from his  
06:02:11 2 perspective?

06:02:11 3 Q. Let's start with yours.

06:02:17 4 A. I had -- I'll just tell you one at a  
06:02:20 5 time. So the first -- the first perspective I had  
06:02:22 6 to address with him was if we were going to  
06:02:27 7 register, which we intended to do, it -- it could  
06:02:31 8 possibly have implications for Mr. Katz and  
06:02:35 9 Mr. Wilpon and their investments with Bernard Madoff  
06:02:39 10 up to and including the possibility that they would,  
06:02:42 11 it was my hope, decide to redeem from Madoff and  
06:02:47 12 create a diversified portfolio with us.

06:02:51 13 If that were the case, then that was  
06:02:53 14 what I was referring to here, we would have to  
06:02:56 15 significantly increase their options arbitrage  
06:02:59 16 exposure because they would under-allocated to  
06:03:04 17 options arbitrage.

06:03:05 18 Q. Can you explain that in a little more  
06:03:06 19 detail? What do you mean by that?

06:03:08 20 A. Yes. Both -- it was our  
06:03:09 21 understanding that both Mr. Madoff and Mr. Merkin  
06:03:13 22 invested in options arbitrage. It was our  
06:03:16 23 understanding that Mr. Madoff did short-term options  
06:03:20 24 and that Mr. Merkin did long-term options, so-called  
06:03:23 25 leaps. Both were valuable contributors to

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06:03:27 1 diversification in a portfolio of investments.

06:03:29 2 Q. And did Sterling have investments in  
06:03:34 3 Merkin's funds?

06:03:36 4 A. Yes, through our fund of funds.

06:03:38 5 Q. Okay. So through Sterling Stamos,  
06:03:41 6 Sterling had investments with -- Mr. Katz and  
06:03:44 7 Mr. Wilpon had investments with Merkin's funds?

06:03:47 8 A. That's correct.

06:03:49 9 Q. Okay. Then I think you jumped to the  
06:03:54 10 paragraph that I wanted to ask you about, why did  
06:03:59 11 you need Mr. Merkin's counsel with respect to the  
06:04:03 12 possibility that you may need to significantly  
06:04:05 13 decrease or increase your exposure to options  
06:04:09 14 arbitrage?

06:04:10 15 A. Because Mr. Merkin, in my view and in  
06:04:12 16 the view of many in the industry, was second only to  
06:04:16 17 Mr. Madoff, one of the best options arbitrage  
06:04:20 18 traders in the hedge fund industry. And he could  
06:04:24 19 provide an alternative for us.

06:04:26 20 Q. And what did Mr. Merkin say in  
06:04:32 21 response to these issues that you raised?

06:04:34 22 A. I don't recall the specifics of his  
06:04:37 23 response, but I do recall other e-mails that make  
06:04:40 24 reference to some of his suggestions.

06:04:44 25 Q. What do you recall was discussed in

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06:04:46 1 those e-mails?

06:04:47 2 A. Unless I see them, I just general --  
06:04:53 3 I have general -- general memory.

06:04:55 4 Q. Okay. What's your general memory?

06:04:58 5 A. I think he -- I recall him saying to  
06:05:02 6 me that there were a couple of options for Mr. Katz  
06:05:08 7 and Mr. Wilpon that would allow them to continue to  
06:05:11 8 be investors with Mr. Madoff, and that he had an  
06:05:14 9 idea of one that could solve the problem for them,  
06:05:21 10 potential problem for them.

06:05:22 11 Q. Okay. And when you're referring to  
06:05:28 12 solving the problem for them, what potential problem  
06:05:31 13 are you referring to?

06:05:31 14 A. I think the problem that we're  
06:05:33 15 referring to here is that we were going to register  
06:05:36 16 and that was going to create disclosure,  
06:05:40 17 confidentiality privacy issues for both Mr. Madoff,  
06:05:43 18 as well as for Mr. Katz and Mr. Wilpon.

06:05:46 19 Q. And what was Mr. Merkin's view as to  
06:05:52 20 those disclosure, confidentiality and privacy issues  
06:05:56 21 for Katz and Wilpon?

06:05:58 22 A. I don't -- I don't recall having that  
06:06:00 23 discussion with him.

06:06:01 24 Q. And what did Mr. Merkin recommend or  
06:06:08 25 what did -- let me rephrase.



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06:06:10 1                   What did Mr. Merkin say that would be  
06:06:14 2 a possible option that would allow Katz and Wilpon  
06:06:18 3 to continue to be investors with Mr. Madoff?

06:06:22 4                   A.           I don't recall him saying this, but I  
06:06:24 5 do recall reading an e-mail from him describing an  
06:06:27 6 option for us.

06:06:28 7                   Q.           And do you recall what that option  
06:06:30 8 was?

06:06:31 9                   A.           Generally.

06:06:32 10                  Q.           Okay. Can you explain that?

06:06:34 11                  A.           I think that he suggested that there  
06:06:38 12 was a possibility of setting up a -- a fund that  
06:06:42 13 would manage their investments with Madoff and that  
06:06:46 14 it would have -- it could have another general  
06:06:51 15 partner who oversaw that, and I believe he in the  
06:06:54 16 e-mail even volunteered to be that general partner  
06:06:58 17 as a courtesy to the Wilpons and the Katzes.

06:07:03 18                  Q.           Was that -- was that fund ever set  
06:07:05 19 up?

06:07:06 20                  A.           No.

06:07:06 21                  Q.           Did you discuss any other issues with  
06:07:19 22 Mr. Merkin concerning Sterling Stamos' registration  
06:07:26 23 as an investment advisor at this time?

06:07:28 24                  A.           If you say at this time, in that time  
06:07:30 25 frame?

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06:07:31 1 Q. Yes, in the 2004 time frame.

06:07:32 2 A. Yes.

06:07:32 3 Q. What other issues did you discuss  
06:07:34 4 with him?

06:07:34 5 A. I discussed whether -- whether and  
06:07:36 6 what his plans were to register, as well as  
06:07:39 7 Cerberus, Cerberus' plans to register, because he  
06:07:44 8 was -- my understanding was he was a joint venture  
06:07:46 9 partner with the manager of Cerberus as well.

06:07:51 10 Q. And generally what were his plans  
06:07:55 11 with respect to registering?

06:07:56 12 A. My understanding from him was that he  
06:07:58 13 and his partner Steve Feinberg were seeking to avoid  
06:08:04 14 the complexity of registration, if it was possible  
06:08:08 15 for them to do so.

06:08:09 16 Q. And how were they going to avoid the  
06:08:12 17 complexity of registration?

06:08:14 18 A. The part that I remember him  
06:08:16 19 expressing to me was that there was -- and I don't  
06:08:21 20 know whether he expressed it orally or in writing,  
06:08:23 21 but I remember the sum and substance of the  
06:08:27 22 discussion was that by keeping the number of  
06:08:30 23 individual funds that they managed, I believe it was  
06:08:32 24 at 14 or less, and by extending the lockup to two  
06:08:35 25 years, they would meet the exception requirements so

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06:08:38 1 they wouldn't have to register. So I remember that  
06:08:41 2 from him to me.

06:08:43 3 Q. Did you ever discuss that exception  
06:08:47 4 that Mr. Merkin discussed with you with respect to  
06:08:50 5 Merkin's funds, did you ever discuss that with Saul  
06:08:55 6 Katz or Fred Wilpon?

06:08:55 7 A. I don't --

06:08:58 8 MR. GOUDISS: As a possibility for  
06:08:59 9 Sterling Stamos?

06:08:59 10 Q. Yes.

06:09:01 11 A. I don't recall specific conversation  
06:09:04 12 with Mr. Katz or Mr. Wilpon about that, but I do  
06:09:07 13 recall very specifically that it was our desire to  
06:09:12 14 not do that, but to register no matter what.

06:09:15 15 Q. Okay. But you don't recall raising  
06:09:18 16 that exception as another possible option to address  
06:09:21 17 the concerns of Mr. Katz and Mr. Wilpon with  
06:09:24 18 disclosing their investments with Madoff?

06:09:26 19 A. I don't recall that because that was  
06:09:27 20 not our desire, our objective. Our objective was  
06:09:32 21 not to avoid registration. Our objective was to  
06:09:35 22 register, and I do recall expressing that to  
06:09:38 23 Mr. Merkin.

06:09:38 24 Q. Did you express that sentiment to  
06:09:41 25 Saul Katz?

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06:09:42 1 A. Which sentiment are you referring to?

06:09:44 2 Q. The one --

06:09:45 3 MR. GOUDISS: The desire to register?

06:09:47 4 Q. The one you just testified to which

06:09:49 5 was that your objective was not to avoid

06:09:52 6 registration, but to register.

06:09:55 7 A. Yes, I did express that, I'm

06:09:57 8 confident I expressed that to Mr. Katz.

06:09:59 9 Q. Did you express that to Mr. Wilpon as  
06:10:02 10 well?

06:10:02 11 A. I don't recall a conversation with

06:10:05 12 Mr. Wilpon about that.

06:10:06 13 Q. And what was Mr. Katz's response?

06:10:11 14 A. Over what time frame?

06:10:13 15 Q. When you first told Mr. Katz that  
06:10:16 16 your objective was not to avoid registration, but to  
06:10:19 17 register, the first time you raised that sentiment  
06:10:23 18 with Mr. Saul Katz, what did he say in response?

06:10:25 19 A. I don't remember whether he raised it  
06:10:26 20 the first time or the second time. But at some  
06:10:29 21 point he raised the concern about disclosure of  
06:10:34 22 information from Mr. Madoff as well as privacy  
06:10:37 23 issues regarding investments and business  
06:10:39 24 transactions; that they, as wealthy individuals, did  
06:10:43 25 not want to have to disclose.

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06:10:45 1 Q. And was he unhappy about the fact  
06:10:48 2 that it was your position that you were essentially  
06:10:51 3 going to register no matter what?

06:10:54 4 A. I don't think unhappy is how I would  
06:10:56 5 characterize it.

06:10:56 6 Q. Well, how would you characterize it?

06:10:57 7 A. I would characterize it as  
06:10:59 8 understanding and generally supportive, recognizing  
06:11:05 9 that it would have implications on a day-to-day  
06:11:08 10 basis between our two companies.

06:11:11 11 Q. And we discussed this morning the  
06:11:16 12 steps that you took to address his concerns. Right?  
06:11:19 13 Is that what you testified to this morning?

06:11:21 14 A. Yes.

06:11:21 15 Q. Okay. Did you or anyone at Sterling  
06:11:28 16 Stamos ever raise -- or ever tell Merkin that you  
06:11:28 17 did not want any of the Merkin funds that Sterling  
06:11:28 18 Stamos was invested with to be invested with Madoff?

06:11:28 19 A. Yes.

06:11:49 20 Q. How often did you express that  
06:11:50 21 sentiment to Mr. Merkin?

06:11:52 22 A. I don't -- I can't answer the number,  
06:11:55 23 but I know that it was on definitely more than one  
06:11:57 24 or two or three occasions.

06:11:59 25 Q. And why did you repeatedly tell

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06:12:02 1 Mr. Merkin that you did not want any of the Merkin  
06:12:06 2 funds that Sterling Stamos was invested in to be  
06:12:08 3 invested with Madoff?

06:12:10 4 A. Why I did it was for two reasons.  
06:12:14 5 One is whenever a rumor was raised, it's my  
06:12:18 6 responsibility to confirm that that rumor was false,  
06:12:20 7 so whenever that occurred I would raise it with him.

06:12:23 8 And the second reason I raised it,  
06:12:25 9 which is the overarching reason consistent  
06:12:27 10 throughout the time that we were investors, is that  
06:12:29 11 we did not want to have doubling up of exposure to  
06:12:33 12 Mr. Madoff through a feeder fund which would have  
06:12:38 13 two problems for us. First and foremost, it would  
06:12:42 14 mean that Mr. Merkin was not being honest. And,  
06:12:46 15 second, it would be completely irrational to have my  
06:12:50 16 largest investor, because they represented 40 or 50  
06:12:55 17 percent of our assets --

06:12:55 18 Q. You're referring to --

06:12:57 19 A. Mr. Katz and Mr. Wilpon, get  
06:12:59 20 increased exposure to the exact manager that we were  
06:13:01 21 trying to diversify, A, and B, pay an extra fee for  
06:13:06 22 that privilege.

06:13:09 23 Q. Did any members of your team, Ashok  
06:13:15 24 or Kevin Okimoto or Kevin Barcelona, raise those  
06:13:19 25 issues with Mr. Merkin as well?

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06:13:21 1

A. Yes.

06:13:22 2

Q. How often?

06:13:24 3

A. I don't know the specific frequency,

06:13:26 4

but I know that Mr. Chachra did on several

06:13:30 5

occasions.

06:13:30 6

Q. And each time Mr. Merkin indicated

06:13:33 7

that -- or said that he was not invested in Madoff.

06:13:38 8

Is that right?

06:13:38 9

A. To the best of my knowledge, in every

06:13:40 10

conversation he was consistent that way, correct.

06:13:43 11

Q. So in paragraph 2 of Exhibit 9, the

06:13:56 12

"I will call you later today," that sentence, that

06:13:59 13

paragraph, when you were referring to "significantly

06:14:04 14

decrease or increase our exposure to options

06:14:07 15

arbitrage," and you were referencing Ascot and

06:14:14 16

Ariel, at that time you did not know that Ascot or

06:14:16 17

Ariel was invested with Madoff?

06:14:19 18

A. Correct, absolutely correct. I

06:14:24 19

believe I may have made a mistake in this e-mail

06:14:27 20

with Ariel.

06:14:27 21

Q. Okay. What was the mistake?

06:14:29 22

A. I don't know what the offshore

06:14:30 23

version of Ascot is called. I think the offshore

06:14:34 24

version of Ascot is called Ascot and I think Ariel

06:14:37 25

is the offshore version of Gabriel, but I may be

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06:14:40 1 mistaken.

06:14:48 2 Q. Did you ever have lunch with  
06:14:59 3 Mr. Merkin and Saul Katz or Fred Wilpon together?

06:15:05 4 A. At any time over a period of eight  
06:15:07 5 years?

06:15:08 6 Q. Yeah.

06:15:09 7 A. I don't recall that -- a specific  
06:15:12 8 lunch with all of those people present. I do recall  
06:15:15 9 meetings with those people, but I don't recall a  
06:15:18 10 specific lunch.

06:15:19 11 Q. Do you recall -- so you don't recall  
06:15:26 12 any -- any meetings or lunches that you attended  
06:15:29 13 with Mr. Merkin that Mr. Wilpon was also in  
06:15:34 14 attendance?

06:15:35 15 A. You said lunch. I said -- I don't  
06:15:37 16 recall a lunch. I do recall having meetings and I  
06:15:40 17 do believe there were some meetings with all those  
06:15:42 18 people present. But I don't recall a lunch that I  
06:15:44 19 can think of specifically.

06:15:45 20 Q. Okay. Well, let's talk about the  
06:15:46 21 meetings then. Can you tell me about any meetings  
06:15:50 22 in which Mr. Merkin and Fred Wilpon and Saul Katz  
06:15:54 23 and yourself were present?

06:15:57 24 A. Generally speaking, I remember having  
06:16:00 25 some discussions with that group of people about the



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06:16:03 1 possibility of Sterling Stamos and Ezra Merkin doing  
06:16:11 2 more together even to the point of potentially a  
06:16:13 3 joint venture or a merger.

06:16:18 4 Q. And what were the -- what was the  
06:16:20 5 substance of those discussions about doing more  
06:16:23 6 business with Merkin in a potential merger, what was  
06:16:27 7 discussed?

06:16:27 8 A. In general the concept was that we  
06:16:30 9 would eliminate some of the single manager risk we  
06:16:34 10 had with me as the sole CIO by having a dual  
06:16:38 11 partner, and that we brought complementary skills,  
06:16:42 12 he as a direct investor and I as a manager of fund  
06:16:46 13 of funds, that would create a more robust,  
06:16:50 14 well-diversified company with co-managers as opposed  
06:16:53 15 to a single manager.

06:16:54 16 Q. And within those discussions of  
06:16:56 17 possibly joining forces with Merkin, did the subject  
06:16:59 18 of Katz and Wilpon's investments with Madoff ever  
06:17:04 19 come up?

06:17:05 20 A. I don't recall a specific  
06:17:06 21 conversation about Madoff in that context.

06:17:28 22 Q. I'm going to hand you what's been  
06:17:30 23 marked as Exhibit 10.

06:17:49 24 I've given you what's been marked as  
06:17:51 25 Exhibit 10, which is an e-mail from David Hood to

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06:17:54 1 you and Ashok Chachra, dated December 14th, 2008,  
06:17:59 2 forwarding an article concerning Mr. Madoff that was  
06:18:05 3 published earlier, I believe May of 2001. Take a  
06:18:13 4 moment to review it, Mr. Stamos, and let me know  
06:18:17 5 when you're ready.

06:21:18 6 A. I've read it. Thank you.

06:21:19 7 Q. Okay. Did you read this article,  
06:21:32 8 "Don't Ask, Don't Tell" article, did you read it  
06:21:34 9 before December 14th, 2008?

06:21:36 10 A. I don't recall reading this article  
06:21:38 11 before December 14th, 2008.

06:21:40 12 Q. Before December -- before December  
06:21:47 13 14th, 2008, had you heard of articles criticizing or  
06:21:54 14 questioning Madoff's strategy and the fact that he  
06:21:58 15 was so secretive and so forth?

06:22:00 16 A. I believe I heard some reference to  
06:22:03 17 an article at some point, but I don't recall when.

06:22:07 18 Q. Was that reference -- was that  
06:22:10 19 reference to an article in reference to the "Don't  
06:22:13 20 Ask, Don't Tell" article that's in Exhibit 10?

06:22:17 21 A. I don't know and I don't recall. I  
06:22:19 22 don't recall. I don't know.

06:22:21 23 Q. Why did David Hood write: "I'm sure  
06:22:24 24 you saw this at the time"? Do you know why he wrote  
06:22:27 25 that?

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06:22:27 1 A. I don't know.

06:22:30 2 Q. Do you recall discussing any articles  
06:22:36 3 concerning Madoff with Saul Katz?

06:22:40 4 A. I don't recall having that  
06:22:41 5 conversation with Mr. Katz.

06:22:44 6 Q. Do you recall having any discussions  
06:22:46 7 with Fred Wilpon concerning any articles or stories  
06:22:50 8 in the press about Mr. Madoff prior to December  
06:22:53 9 2008?

06:22:54 10 A. No.

06:23:02 11 Q. Did you ever consider whether the S&P  
06:23:08 12 100, the options market, whether that could handle  
06:23:11 13 the capacity that Madoff was trading? Did that  
06:23:14 14 issue ever arise?

06:23:16 15 A. For me as an individual investor?

06:23:18 16 Q. Yes.

06:23:19 17 A. No.

06:23:19 18 Q. And what about as Sterling Stamos,  
06:23:22 19 did anyone at Sterling Stamos ever raise that issue  
06:23:25 20 with you?

06:23:25 21 A. Not that I can recall.

06:23:29 22 Q. Were you aware prior to December 2008  
06:23:35 23 that many of the key positions within Madoff's  
06:23:40 24 investment company and his market making side of the  
06:23:44 25 business were held by members of his family?

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06:23:46 1 A. No.

06:23:46 2 Q. You were not aware of that prior to  
06:23:48 3 December 2008?

06:23:50 4 A. I don't -- I don't recall being aware  
06:23:52 5 of that ever. I may have read about it after  
06:23:57 6 December 12th, but I don't recall about it before  
06:23:59 7 December 12th.

06:24:00 8 Q. Okay. Were you aware of any SEC  
06:24:07 9 investigations of Mr. Madoff or his investment firm  
06:24:12 10 prior to December 2008?

06:24:14 11 A. I had heard of investigations.

06:24:17 12 Q. And how had you heard of those -- how  
06:24:19 13 did you hear about those investigations?

06:24:21 14 A. From Mr. Katz.

06:24:22 15 Q. And what did Mr. Katz tell you about  
06:24:25 16 the SEC investigations of Madoff?

06:24:27 17 A. He was very clear, he used it as a  
06:24:30 18 counter-argument to why we should have any concerns  
06:24:34 19 about Mr. Madoff.

06:24:37 20 Q. What other points did Mr. Katz raise  
06:24:41 21 as counter-arguments to having any concerns with  
06:24:46 22 investing with Madoff?

06:24:47 23 A. As an example, his long-term track  
06:24:52 24 record.

06:24:52 25 Q. Right.

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06:24:52 1           A.           His impeccable reputation, his prior  
06:24:56 2 positions held at the NASDAQ, his personal  
06:25:03 3 relationship with Mr. Madoff, which was long-term  
06:25:06 4 and trust-based, and I would -- and he described it  
06:25:10 5 as familial, family-like.

06:25:13 6           Q.           With respect to the long-term track  
06:25:16 7 record, could that also be an issue for concern if a  
06:25:21 8 fund continues to bring back consistent returns?

06:25:26 9           MR. GOUDISS: I object. Go ahead.

06:25:27 10          A.           We invest in managers who have  
06:25:30 11 long-term track records of consistent returns as  
06:25:34 12 good and better than Bernard Madoff. So we view  
06:25:38 13 that as a positive, not as a negative.

06:25:40 14          Q.           The reason why I asked that was  
06:25:44 15 because, I'll have to go back to the document, but  
06:25:48 16 Exhibit 8, if you go back to Exhibit 8, page 10 at  
06:25:58 17 the bottom, 807, the page ending in 807, the one we  
06:26:03 18 discussed earlier --

06:26:05 19          A.           Yes, yes.

06:26:09 20          Q.           -- the fourth bullet: "Our risk due  
06:26:14 21 diligence," that bullet, number 3 says: "At risk  
06:26:18 22 will flag unusual characteristics, like super steady  
06:26:21 23 returns and no negative months," et cetera.

06:26:24 24          A.           Yes.

06:26:24 25          Q.           Okay. So if you can just explain to

## PETER S. STAMOS - August 19, 2010

06:26:26 1 me how you reconcile those two points, that you look  
06:26:29 2 for firms that have consistent returns, but at the  
06:26:31 3 same time you flag ones that have super steady  
06:26:35 4 returns.

06:26:35 5 MR. GOUDISS: I object. Go ahead.

06:26:38 6 A. For analysis, we flag them for  
06:26:44 7 analysis.

06:26:44 8 Q. Okay. So if a -- if a firm has super  
06:26:47 9 steady returns or consistent returns, you flag that  
06:26:50 10 for further analysis to determine whether there is  
06:26:52 11 any issue there?

06:26:53 12 A. Any issue, correct, investment, risk,  
06:26:56 13 operational or otherwise.

06:26:58 14 Q. Okay. All right. Do you know Jim  
06:27:13 15 Simons?

06:27:13 16 A. I don't know him personally, but I  
06:27:17 17 know who he is.

06:27:17 18 MR. GOUDISS: Assuming that he's  
06:27:19 19 referring to the same Jim Simons.

06:27:23 20 Q. Yes, from Renaissance.

06:27:25 21 A. Yes.

06:27:25 22 Q. Okay. Do you know whether or not  
06:27:27 23 Mr. Simons had any investments with Madoff?

06:27:30 24 A. I don't have any personal knowledge  
06:27:33 25 of that. I may have read about it, but I don't know

## PETER S. STAMOS - August 19, 2010

06:27:36 1 about it personally.

06:27:37 2 Q. Did you ever have any discussions  
06:27:38 3 with anyone from Renaissance concerning Madoff?

06:27:42 4 A. Did I personally?

06:27:43 5 Q. Yes.

06:27:44 6 A. No, not that I can recall.

06:27:48 7 Q. What about Acorn Partners, do you  
06:27:51 8 know who that is?

06:27:51 9 A. I don't recall who it is. I'm not --  
06:27:54 10 I'm not familiar with Acorn Partners, or I can't  
06:27:58 11 recall who they are.

06:28:00 12 Q. Do you know Robert Rosenkranz?

06:28:03 13 A. I do know Robert Rosenkranz, yes.

06:28:06 14 Q. If he's the same Robert Rosenkranz I  
06:28:11 15 think we're talking about, I think he was a  
06:28:13 16 principal or a founder of Acorn.

06:28:15 17 A. Then I'm referring to a different  
06:28:17 18 Robert Rosenkranz.

06:28:18 19

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06:28:24 22

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REDACTED

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06:34:07 23

06:34:11 24

Q. Who is Peter Dunne? Do you know

06:34:18 25

Peter Dunne?

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06:34:18 1 A. I don't recall who Peter Dunne is.

06:34:25 2 Q. I'm going to show this to you, maybe  
06:34:27 3 it will refresh your recollection. I give you  
06:34:29 4 what's been marked as Plaintiffs' Exhibit 11 --  
06:34:37 5 rather, Stamos Exhibit 11. It's an e-mail exchange  
06:34:52 6 between you and Peter Dunne of February 11th, 2004,  
06:34:57 7 that was then forwarded along to Kevin Okimoto and  
06:35:01 8 others. Let me know when you're ready to discuss.

06:35:32 9 A. Yes, I've read this.

06:35:34 10 Q. Okay. Now that you've read this --  
06:35:40 11 this e-mail, does that refresh your recollection as  
06:35:42 12 to who Peter Dunne might be?

06:35:45 13 A. I -- I can't recall who he is. By  
06:35:48 14 reading this, my assumption is that he's one of  
06:35:51 15 Saul's friends, who was referring a potential client  
06:35:53 16 to us.

06:35:54 17 Q. Okay. Do you know who Arnold  
06:36:00 18 Anisgarten is?

06:36:02 19 A. I don't believe I know -- I can't  
06:36:05 20 recall.

06:36:05 21 Q. Mr. Dunne asks if -- in this e-mail  
06:36:15 22 to schedule an appointment with -- between you and  
06:36:19 23 Arnold and his client to someone who has a  
06:36:23 24 substantial sum with Mr. Madoff. Do you recall if  
06:36:26 25 you ever had that meeting with Mr. Anisgarten and/or

## PETER S. STAMOS - August 19, 2010

06:36:31 1 his client?

06:36:31 2 A. I don't recall flying to Los Angeles  
06:36:34 3 and having that meeting.

06:36:35 4 Q. Did you have any discussions with Mr.  
06:36:44 5 Dunne concerning Mr. Madoff at all that you recall?

06:36:51 6 A. I don't recall who Mr. Dunne is, so I  
06:36:54 7 don't recall any conversations.

06:36:55 8 Q. Okay. We've -- you've testified to  
06:37:12 9 several individuals that you know of that were  
06:37:13 10 invested in Madoff that diversified and then  
06:37:17 11 invested with Sterling Stamos. We went through  
06:37:22 12 several of them earlier today.

06:37:23 13 A. Yes.

06:37:24 14 Q. Other than the ones that you've  
06:37:30 15 listed earlier, can you think of anyone else who was  
06:37:32 16 invested in Madoff that then invested with Sterling  
06:37:36 17 Stamos?

06:37:37 18 A. I don't recall their names. I know  
06:37:40 19 that there are a number of investors who invested  
06:37:43 20 with Mr. Madoff, who were friends of Saul and Fred's  
06:37:47 21 who were introduced to us and have -- and some made  
06:37:52 22 decisions to invest with us.

06:37:54 23 Q. If you wanted to determine who those  
06:37:56 24 investors were, would there be any set of records or  
06:37:59 25 documents that you could review to determine that?

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06:38:01 1           A.           I don't believe so. I said we don't  
06:38:06 2 check the source of inflows of capital.

06:38:10 3           Q.           Would there be any notation in a  
06:38:15 4 contact list or Rolodex or something that someone  
06:38:20 5 who invested -- currently invested in Sterling  
06:38:22 6 Stamos was a former or current Madoff investor?

06:38:25 7           A.           It -- I don't -- I'm not aware of  
06:38:28 8 those documents. It is possible that there are  
06:38:30 9 documents like that.

06:38:31 10          Q.           Okay. Do you know Jim Vos?

06:38:46 11          A.           I don't recall who Jim Vos is.

06:38:48 12          Q.           Do you know Jake Walthor?

06:38:51 13          A.           I don't recall that name.

06:38:53 14          Q.           Okay. Have you ever heard of a  
06:38:56 15 company called Aksia?

06:38:58 16          A.           I don't recall a company Aksia.

06:39:11 17          Q.           Do you recall receiving any reports  
06:39:16 18 from any research -- investment research groups  
06:39:22 19 concerning Madoff prior to December of 2008?

06:39:25 20          A.           I do not recall that.

06:39:36 21                   MR. BOHORQUEZ: All right. We have  
06:39:37 22 less than five minutes on the tape, so I think we'll  
06:39:40 23 take a break.

06:39:42 24                   THE VIDEOGRAPHER: Going off the  
06:39:43 25 record. The time is 6:40. This ends tape number 5.

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06:39:52 1

(Brief recess.)

06:51:19 2

THE VIDEOGRAPHER: We are back on the

06:51:30 3

record. The time is 6:52. This is tape number 6.

06:51:34 4

BY MR. BOHORQUEZ:

06:51:39 5

Q. Mr. Stamos, how did you find out that

06:51:43 6

Bernie Madoff had been arrested for fraud?

06:51:46 7

A. I believe I got a call or an e-mail

06:51:49 8

from Mr. Chachra. I believe it was a phone call

06:51:54 9

from Mr. Chachra.

06:51:55 10

Q. And when did you receive that call?

06:51:58 11

A. If Thursday, December 12th is the

06:52:02 12

date --

06:52:02 13

Q. December 11th.

06:52:03 14

A. December 11th, if it's Thursday,

06:52:05 15

December 11th, I believe it was that afternoon or

06:52:08 16

late morning, west coast time.

06:52:10 17

Q. And what did Mr. Chachra say on the

06:52:13 18

phone call?

06:52:14 19

A. I believe it was Mr. Chachra, I don't

06:52:17 20

recall specifically, but whether it was Mr. Chachra

06:52:20 21

and/or Mr. Barcelona, I believe it was Mr. Chachra,

06:52:23 22

and I believe what he said was something along the

06:52:26 23

lines of: You won't believe this, but Bernie Madoff

06:52:29 24

has just been arrested.

06:52:31 25

Q. Did he say anything else?



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06:52:33 1 A. I don't recall anything beyond that  
06:52:35 2 headline.

06:52:37 3 Q. Okay. And what do you recall your  
06:52:39 4 response was?

06:52:40 5 A. Can you be more specific? My  
06:52:44 6 response to him?

06:52:45 7 Q. Yes.

06:52:47 8 A. I believe my response to him was:  
06:52:51 9 Oh, my God, poor Saul and Fred.

06:52:56 10 Q. Anything else do you recall?

06:52:58 11 A. I believe I also asked him --  
06:53:01 12 requested that he would go to try -- to try to find  
06:53:03 13 out some more information about what was going on.

06:53:07 14 Q. Now, a few weeks later, on December  
06:53:14 15 30th, I believe, of 2008, is when you alerted to  
06:53:19 16 your investors that you, indeed, had had some  
06:53:23 17 exposure to Madoff through some of the Merkin funds,  
06:53:27 18 Gabriel and Ascot, I believe.

06:53:30 19 A. No. Gabriel.

06:53:32 20 Q. Gabriel.

06:53:33 21 A. And its offshore version.

06:53:36 22 Q. Which was?

06:53:37 23 A. I believe Ariel.

06:53:39 24 Q. Okay. Using those two dates as book  
06:53:42 25 ends, can you just walk me through what happened

## PETER S. STAMOS - August 19, 2010

06:53:45 1 from when you first found out about the fraud to  
06:53:48 2 when you eventually revealed to your investors that  
06:53:51 3 you had had some indirect exposure to Madoff?

06:53:54 4 MR. GOUDISS: Object to the form. Go  
06:53:56 5 ahead.

06:53:56 6 A. That's a long period of time, so I  
06:53:58 7 can answer it in pieces.

06:53:59 8 Q. Absolutely. Just --

06:54:03 9 A. What I recall, and some of this is  
06:54:06 10 recollection and some of it is things I now remember  
06:54:11 11 having read things recently, that I asked Mr.  
06:54:18 12 Chachra to go -- I believe I asked him to go talk to  
06:54:21 13 Mr. Merkin, who was very close to Mr. Madoff, to see  
06:54:24 14 if he had any other information.

06:54:27 15 Q. And what happened next?

06:54:29 16 A. I feel a little uncomfortable  
06:54:36 17 testifying as to what happened next because I was  
06:54:38 18 not there, so the only thing I know about what  
06:54:41 19 happened was what I read later on and what Mr.  
06:54:44 20 Chachra said to me.

06:54:44 21 Q. Okay. What did Mr. Chachra say to  
06:54:46 22 you?

06:54:46 23 A. I believe what he said is he didn't  
06:54:49 24 get any more information from Mr. Merkin, that  
06:54:52 25 Mr. Merkin didn't have any more information to

## PETER S. STAMOS - August 19, 2010

06:54:54 1 share.

06:54:55 2 Q. And how did you come to discover that  
06:55:00 3 the Gabriel fund was actually invested in Madoff?

06:55:05 4 A. What I came to understand was on  
06:55:08 5 Friday morning, the following day, while I was in  
06:55:13 6 the series of Stanford board meetings, the  
06:55:17 7 investment committee, followed by the finance  
06:55:19 8 committee, followed by the board meeting, which was,  
06:55:22 9 generally speaking, close to a whole-day affair,  
06:55:24 10 first I believe it was an e-mail or a phone call  
06:55:26 11 from Mr. Chachra or Mr. Barcelona, or both,  
06:55:31 12 explaining to me that they had just found out that  
06:55:36 13 Gabriel may have its cash, some of its cash invested  
06:55:41 14 with Mr. Madoff.

06:55:42 15 Q. And how did Mr. Barcelona or Mr.  
06:55:47 16 Chachra come to that conclusion?

06:55:48 17 A. I believe that the sequence of events  
06:55:52 18 was that Mr. Chachra had seen either a news report  
06:56:01 19 or a television report that had a reference to one  
06:56:05 20 of Mr. Merkin's funds, and I believe Mr. Chachra and  
06:56:10 21 Mr. Barcelona went to meet with the CFO for or  
06:56:17 22 called the CFO of Gabriel Capital, whose name is, I  
06:56:23 23 believe, Mike Autera.

06:56:25 24 Q. And after Mr. Chachra -- and what was  
06:56:32 25 the result of the discussion that Mr. Chachra and

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06:56:34 1 Mr. Barcelona had with Gabriel's CFO?

06:56:39 2 A. At this point my knowledge is very  
06:56:41 3 slim because I'm now chairing committee meetings and  
06:56:44 4 in meetings, so it's what I received on my e-mails  
06:56:46 5 and any brief phone calls that came in-between  
06:56:51 6 meetings.

06:56:51 7 Q. What knowledge do you have?

06:56:53 8 A. The knowledge I have is that what I  
06:56:56 9 just stated, which was that Mr. Autera, I believe,  
06:57:01 10 confirmed with or stated to Mr. Barcelona and/or Mr.  
06:57:07 11 Chachra that Gabriel had some of its cash invested  
06:57:11 12 with Mr. Madoff.

06:57:14 13 Q. Did you ever confront Mr. Merkin  
06:57:26 14 about the fact that Gabriel had investments with  
06:57:30 15 Madoff?

06:57:31 16 A. Are you speaking about at that time  
06:57:33 17 frame?

06:57:33 18 Q. At that time frame --

06:57:35 19 A. No.

06:57:35 20 Q. -- between December 11th and December  
06:57:38 21 30th, 2008.

06:57:39 22 A. Did I personally?

06:57:39 23 Q. Yes.

06:57:41 24 A. No.

06:57:41 25 Q. Why not?

## PETER S. STAMOS - August 19, 2010

06:57:42 1 A. Mr. -- I instructed Mr. Chachra to do  
06:57:44 2 so.

06:57:44 3 Q. And why did you instruct Mr. Chachra  
06:57:47 4 to do so?

06:57:47 5 A. Because he was the chief investment  
06:57:51 6 strategist and the portfolio manager for that  
06:57:53 7 portfolio and he was in New York, as was Mr. Merkin.

06:57:55 8 Q. So you instructed Mr. Chachra to  
06:57:58 9 speak to Mr. Merkin about the investments that  
06:58:03 10 Gabriel had with Madoff?

06:58:05 11 A. Yes.

06:58:06 12 Q. Okay. And when did Mr. Chachra have  
06:58:10 13 that meeting or discussion with Mr. Merkin?

06:58:12 14 A. I don't recall the exact date, but in  
06:58:14 15 that time frame.

06:58:16 16 Q. Okay. Sometime between the 11th and  
06:58:18 17 the 30th of December?

06:58:19 18 A. Sometime I think between the 12th and  
06:58:22 19 the 30th of December.

06:58:23 20 Q. 12th and 30th, okay. Did anyone else  
06:58:26 21 from Sterling Stamos meet with Mr. Merkin?

06:58:29 22 A. I don't recall whether Mr. Barcelona  
06:58:31 23 was in attendance with Mr. Chachra or not.

06:58:34 24 Q. And then as a result of that  
06:58:38 25 meeting -- what was the result of that meeting that

## PETER S. STAMOS - August 19, 2010

06:58:41 1 Mr. Chachra had with Mr. Merkin concerning the  
06:58:43 2 possible Madoff investments?

06:58:45 3 A. I don't recall the specifics of that.  
06:58:49 4 I recall in general it was a confirmation that he  
06:58:55 5 actually had investments with Mr. Madoff, that  
06:58:59 6 Mr. Merkin had investments with Mr. Madoff both in  
06:59:03 7 the Ascot fund as well as in the Gabriel fund.

06:59:09 8 Q. Okay. Did you have any discussions  
06:59:44 9 with David Katz concerning the possibility that  
06:59:50 10 Sterling Stamos may have been -- may have been  
06:59:54 11 invested with Madoff through one of the Merkin  
06:59:58 12 funds?

06:59:58 13 A. During which time frame?

07:00:00 14 Q. Between December -- actually, on or  
07:00:04 15 about December 12th, 2008.

07:00:07 16 A. I don't recall specific conversation  
07:00:08 17 with David Katz at that time. I recall having a  
07:00:12 18 number of conversations with investors, but I don't  
07:00:14 19 recall who specifically I had conversations with  
07:00:16 20 during that time frame.

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Q. I'm going to hand you what's been marked as Stamos Exhibit 13, it's titled "Talking Points for Exposure to Madoff Securities." If you could just review that and let me know when you're ready, I have a few questions.

A. Yes, I'm ready.

Q. Okay. Do you know who prepared

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07:14:16 1 Exhibit 13?

07:14:18 2 A. I believe this was prepared by the  
07:14:21 3 same team that we referred to for the other talking  
07:14:24 4 points, some combination of members of the  
07:14:27 5 communication team and the partner relations team.

07:14:31 6 Q. That was, I believe, Exhibit 8  
07:14:33 7 earlier, the talking points from December 16th,  
07:14:37 8 2008.

07:14:38 9 A. I believe it was the same team.

07:14:58 10 Q. Okay. Can you go down to the bottom  
07:15:08 11 of the first page of Exhibit 13, the bullet that  
07:15:12 12 reads "Ascot Partners."

07:15:13 13 A. Yes.

07:15:13 14 Q. Now, we discussed how you -- how your  
07:15:18 15 team had additionally identified Gabriel as  
07:15:20 16 potentially having exposure to Madoff.

07:15:23 17 A. Yes.

07:15:23 18 Q. How did your team identify Ascot  
07:15:25 19 Partners as potentially having exposure to Madoff?

07:15:28 20 A. I believe that was reported in the  
07:15:30 21 press.

07:15:31 22 Q. Okay. So based on the press reports,  
07:15:36 23 your team followed up on that with respect to Ascot?

07:15:40 24 A. Yes.

07:15:40 25 MR. GOUDISS: I object.

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07:15:41 1 Q. If you can turn to page 2 of Exhibit  
07:15:48 2 13, the second bullet -- actually, the second circle  
07:15:57 3 bullet because there are various on there, the one  
07:15:59 4 that begins with "In December 2007," do you see  
07:16:03 5 that?

07:16:03 6 A. Yes.

07:16:04 7 Q. It references the fact that Sterling  
07:16:11 8 Stamos redeemed its funds from Ascot.

07:16:14 9 A. Yes.

07:16:14 10 Q. Right? Okay. Can you explain to me  
07:16:17 11 why Sterling Stamos redeemed its funds from Ascot in  
07:16:22 12 December of 2007?

07:16:22 13 A. Yes.

07:16:23 14 Q. Okay. Please do so.

07:16:25 15 A. Mr. Merkin was unwilling to fill out  
07:16:28 16 the disclosure report, the transparency report that  
07:16:33 17 I referred to in my earlier testimony, which we  
07:16:36 18 adopted post the merger with Merrill Lynch, which  
07:16:39 19 was in June of 2000 -- July of 2007.

07:16:43 20 Q. And why did Mr. Merkin refuse to fill  
07:16:47 21 out the transparency report?

07:16:49 22 A. I don't know why he did. He did not  
07:16:53 23 do it, but he said he would not do it.

07:16:56 24 Q. Did you have discussions with him  
07:16:58 25 about the transparency report for Ascot?

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07:17:02 1 A. Yes.

07:17:02 2 Q. And what -- what did you express to  
07:17:05 3 him and what did he say to you?

07:17:07 4 A. I expressed that it was a requirement  
07:17:09 5 that we have from our operational and due diligence  
07:17:15 6 standpoint, and that, reluctantly, because he either  
07:17:17 7 wouldn't or couldn't fill out the transparency  
07:17:20 8 report, we would have to redeem.

07:17:23 9 Q. Were there any other firm managers  
07:17:24 10 that refused to fill out the transparency report?

07:17:28 11 MR. GOUDISS: Fund managers I think  
07:17:30 12 you mean --

07:17:31 13 A. Fund managers?

07:17:32 14 Q. Fund managers, yes.

07:17:33 15 A. If you rephrase the question as  
07:17:35 16 either refused or were unable to, I can answer that  
07:17:38 17 question.

07:17:39 18 Q. Consider it rephrased.

07:17:40 19 A. Refused or were unable, I believe  
07:17:43 20 that D.E. Shaw was not able to complete the  
07:17:48 21 transparency report as well, and I also believe that  
07:17:51 22 Renaissance Capital was not capable of filling out  
07:17:54 23 the transparency report.

07:17:57 24 Q. So D.E. Shaw and Renaissance were  
07:18:00 25 unable, were not capable --



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07:18:02 1 A. Either unable or unwilling, I'm not  
07:18:04 2 sure why.

07:18:04 3 Q. Okay. Any other --

07:18:07 4 A. I believe that's the -- that's the  
07:18:08 5 case with both of those managers.

07:18:10 6 Q. Okay. Any other managers?

07:18:12 7 A. I can't recall.

07:18:16 8 Q. When Mr. Merkin refused to fill out  
07:18:23 9 the transparency report for Ascot, did you share  
07:18:27 10 that fact with anyone at Sterling?

07:18:30 11 A. I don't recall having that  
07:18:32 12 conversation with anyone at Sterling.

07:18:35 13 Q. Did anyone at Sterling Stamos have  
07:18:40 14 any discussions with anyone at Sterling about the  
07:18:43 15 fact that Mr. Merkin refused to fill out the  
07:18:46 16 transparency report for Ascot?

07:18:48 17 A. I don't recall that occurring.

07:18:52 18 Q. Okay. Prior to December 11th, 2008  
07:19:12 19 what is your understanding of how Madoff made money  
07:19:14 20 through his investment advisory business?

07:19:19 21 MR. GOUDISS: Object. Go ahead.

07:19:21 22 A. My understanding in general based  
07:19:25 23 upon my experience as an individual investor and  
07:19:29 24 based upon conversations that I had with Mr. Katz,  
07:19:32 25 was that he didn't charge a management fee, but

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07:19:34 1 instead was compensated on the brokerage commissions  
07:19:39 2 or fees generated through his trading activity.

07:19:47 3 Q. Did you ever have any questions about  
07:19:49 4 his commissions or fee structure?

07:19:52 5 A. As an individual investor?

07:19:53 6 Q. Yes.

07:19:54 7 A. Not that I recall.

07:19:58 8 Q. Did you ever hear any criticisms or  
07:20:02 9 any concerns expressed by others questioning the  
07:20:07 10 commissions or fees that Mr. Madoff made off of his  
07:20:11 11 investments?

07:20:11 12 A. I don't recall specific  
07:20:13 13 conversations. General conversations about the  
07:20:16 14 topic I recall hearing.

07:20:17 15 Q. Okay. And what did you recall about  
07:20:20 16 those general discussions?

07:20:21 17 A. I recall hearing or reading that -- I  
07:20:26 18 believe it was hearing, that -- that Mr. Madoff was  
07:20:33 19 leaving a lot of potential fees on the table by not  
07:20:36 20 charging a management fee and an incentive fee.

07:20:40 21 Q. Do you recall who -- who told you  
07:20:42 22 that?

07:20:43 23 A. No, I don't recall.

07:20:45 24 Q. Did the fact that there were  
07:20:53 25 discussions that Mr. Madoff was leaving a lot of

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07:20:57 1 potential fees on the table by not charging a  
07:21:00 2 management fee or an incentive fee, did that raise  
07:21:03 3 any concerns with you?

07:21:04 4 A. Not that I recall, other than just  
07:21:06 5 curiosity.

07:21:08 6 Q. Earlier we had spoken about an e-mail  
07:21:18 7 that Ms. Ou -- I can't remember her name -- OuYang,  
07:21:24 8 Ms. OuYang?

07:21:24 9 A. Jia.

07:21:25 10 Q. Yes, Jia, thank you. It's been a  
07:21:28 11 long day. That Ms. Jia had -- had written an e-mail  
07:21:33 12 that Sterling Stamos' CIO had expressed that Madoff  
07:21:37 13 was a scam or too good to be true, she had written  
07:21:44 14 that in the e-mail.

07:21:45 15 Did anyone at any time at Sterling  
07:21:48 16 Stamos ever express their belief that Madoff was a  
07:21:52 17 scam or too good to be true?

07:21:54 18 A. Prior to December 11th?

07:21:56 19 Q. Yes.

07:21:57 20 A. I don't recall ever hearing those  
07:21:59 21 phrases in Sterling Stamos prior to December 11th.

07:22:05 22 Q. Do you know if Tim Dick was an  
07:22:09 23 investor in Madoff?

07:22:11 24 A. I don't know. I don't believe so,  
07:22:14 25 but I don't know.

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07:22:16 1 Q. And do you know when the introductory  
07:22:20 2 discussion that Mr. Dick had with Saul Katz  
07:22:23 3 concerning Changing World Technologies, do you know  
07:22:30 4 when that discussion occurred?

07:22:32 5 A. I believe it was roughly at the early  
07:22:35 6 stages of the development of our firm, so I believe  
07:22:37 7 it was late 2002, perhaps early 2003.

07:22:42 8 Q. And do you know why Mr. Dick was  
07:22:44 9 looking into, quote, unquote, Bernie's math as he  
07:22:49 10 wrote in that e-mail if you had -- if you had  
07:22:53 11 referred him to Mr. Katz to discuss Changing World  
07:22:58 12 Technologies?

07:22:58 13 MR. GOUDISS: I object. Go ahead.

07:22:59 14 A. I do not know why.

07:23:05 15 Q. Earlier you testified that Madoff --  
07:23:18 16 that you had had -- let me rephrase -- that there  
07:23:22 17 were discussions about Sterling Stamos investing  
07:23:27 18 some of its funds in Madoff at the beginning of  
07:23:30 19 Sterling Stamos, and that Madoff refused because he  
07:23:33 20 didn't accept funds from -- or capital from fund of  
07:23:37 21 funds. Right?

07:23:38 22 A. Yes.

07:23:39 23 Q. Okay. Did Mr. Madoff explain to you  
07:23:45 24 why at that time he did not accept capital from fund  
07:23:48 25 of funds?

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07:23:49 1 A. I never spoke to Mr. Madoff about  
07:23:52 2 that.

07:23:52 3 Q. Okay. That's right. Mr. Katz, Saul  
07:23:57 4 Katz had relayed to you that Mr. Madoff did not  
07:24:00 5 accept capital from fund of funds. Is that right?

07:24:02 6 A. That was my understanding from  
07:24:05 7 Mr. Katz.

07:24:05 8 Q. Okay. Did Mr. Katz explain to you  
07:24:08 9 why at that time Mr. Madoff had stated that he did  
07:24:12 10 not accept capital from fund of funds?

07:24:15 11 A. I don't recall his explanation.

07:24:17 12 Q. Did you ask?

07:24:19 13 A. I don't recall.

07:24:21 14 Q. Six years later in 2008 you discussed  
07:24:29 15 a board meeting with Mr. Saul Katz in attendance and  
07:24:33 16 Mr. Dunleavy from Merrill Lynch, where the subject  
07:24:39 17 of investigating Madoff was raised by Mr. Katz.

07:24:46 18 Did Madoff's position on accepting  
07:24:49 19 capital from fund of funds change during that time?  
07:24:52 20 Are you familiar with that?

07:24:52 21 A. I'm not sure whether it changed or  
07:24:55 22 whether we just became aware that he was accepting  
07:24:59 23 capital from funds of funds, because what I do  
07:25:02 24 recall is telling Saul that he had -- that we had  
07:25:07 25 learned that at least two fund of funds had had

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07:25:10 1 money with Mr. Madoff.

07:25:11 2 Q. And that was one of them was  
07:25:12 3 Fairfield. Right?

07:25:13 4 A. Yes.

07:25:15 5 Q. And what was the other fund?

07:25:16 6 A. I believe it was Kingate.

07:25:19 7 Q. Kingate. And did Mr. Katz --

07:25:22 8 A. I apologize, and I also believe it  
07:25:24 9 was Tremont. It might have been three.

07:25:26 10 Q. Did Mr. Katz ever explain to you why  
07:25:30 11 Madoff accepted capital from Fairfield, Tremont and  
07:25:34 12 Kingate and not from Sterling Stamos?

07:25:37 13 A. No, I can't recall that, him  
07:25:39 14 explaining that.

07:25:41 15 Q. I know it seems like so long ago, but  
07:25:46 16 this morning we first discussed the fact that you're  
07:25:50 17 the chair of the investment advisory board for Major  
07:25:54 18 League Baseball.

07:25:55 19 A. Yes.

07:25:55 20 Q. Did there ever come a time when there  
07:25:59 21 was any discussion with the board as to whether  
07:26:05 22 Major League Baseball should invest with Madoff?

07:26:09 23 A. With Mr. Madoff?

07:26:10 24 Q. Yes.

07:26:11 25 A. Not to my recollection.

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07:26:12 1 Q. Okay. You also testified that --  
07:26:16 2 well, let me strike that.

07:26:18 3 You're also on the board of  
07:26:20 4 Stanford's -- I think Stanford's hospital investment  
07:26:23 5 advisory board?

07:26:24 6 A. Stanford Hospital University and  
07:26:27 7 Clinic's investment committee.

07:26:27 8 Q. Investment committee, thank you. And  
07:26:31 9 you're the chair. Right?

07:26:32 10 A. Yes.

07:26:32 11 Q. Okay. Was there ever a discussion  
07:26:37 12 while you have been chair of that committee as to  
07:26:40 13 the possibility of investing with Madoff?

07:26:42 14 A. Not to my recollection.

07:26:44 15 Q. Are you or have you ever been on the  
07:26:50 16 board of North Shore Long Island Jewish?

07:26:54 17 A. I've never served on the board of  
07:26:56 18 that institution.

07:26:58 19 Q. Did you -- did you ever attend any  
07:27:01 20 board meetings for that institution?

07:27:03 21 A. Yes.

07:27:03 22 Q. Okay. And what was the time frame as  
07:27:06 23 to when you attended these board meetings for Long  
07:27:09 24 Island Jewish?

07:27:10 25 A. I recall attending board meetings

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07:27:12 1 when I served as a consultant to North Shore  
07:27:15 2 University Hospital and to North Shore Long Island  
07:27:18 3 Jewish.

07:27:18 4 Q. And this is in the '94 to '97 time  
07:27:21 5 frame?

07:27:21 6 A. I believe it was '94 to '97, '8 or  
07:27:25 7 '9.

07:27:25 8 Q. Okay. During any of those board  
07:27:27 9 meetings that you attended for Long Island Jewish  
07:27:30 10 was the subject of their investment with Madoff ever  
07:27:35 11 discussed?

07:27:36 12 A. I don't recall hearing those  
07:27:38 13 conversations.

07:27:40 14 Q. Do you know that they -- that Long  
07:27:43 15 Island Jewish was -- had an investment with Madoff?

07:27:45 16 A. I believe they did.

07:27:48 17 Q. And why do you believe they did?

07:27:50 18 A. Because I believe Saul Katz told me  
07:27:53 19 that they did.

07:27:54 20 Q. With respect to Long Island Jewish's  
07:27:59 21 Madoff investment, what else did Saul Katz tell you  
07:28:02 22 about that investment?

07:28:03 23 A. I don't recall him telling me  
07:28:04 24 anything else about that investment.

07:28:05 25 Q. Other than the fact that they had



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07:28:10 1 one?

07:28:10 2 A. And that it was -- it was a  
07:28:12 3 possibility of us -- for them to invest with us.  
07:28:15 4 Again, I think that was the nature of the  
07:28:16 5 discussion.

07:28:17 6 Q. Okay. Did Long Island Jewish ever  
07:28:21 7 invest with Sterling Stamos?

07:28:23 8 A. I don't recall whether they ever made  
07:28:25 9 the decision to invest with us. I do recall that  
07:28:29 10 they considered investing with us, but I don't  
07:28:31 11 recall whether they actually made the investment. I  
07:28:37 12 don't believe so.

07:28:37 13 Q. And was one of the reasons why they  
07:28:42 14 were considering investing with Sterling Stamos was  
07:28:45 15 to diversify from Madoff?

07:28:47 16 MR. GOUDISS: I object. Go ahead.

07:28:49 17 A. I don't know what their rationale was  
07:28:51 18 for why they were seeking to invest with us. I was  
07:28:56 19 seeking their business.

07:28:57 20 Q. What rationale did they express to  
07:29:00 21 you?

07:29:00 22 MR. GOUDISS: Object. Go ahead.

07:29:02 23 A. I don't recall what rationale they  
07:29:05 24 expressed to me. It may have been the reverse.

07:29:07 25 Q. I'm sorry. It may have been the

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07:29:08 1 reverse?

07:29:08 2 A. It may have been our asking them to  
07:29:10 3 consider investing with us.

07:29:12 4 MR. BOHORQUEZ: All right. Why don't  
07:29:13 5 we take a quick break, make sure that we can finish  
07:29:17 6 this up, but I think just maybe five minutes and  
07:29:20 7 then we can wrap this up.

07:29:22 8 THE VIDEOGRAPHER: Going off the  
07:29:23 9 record, the time is 7:29.

07:29:26 10 (Brief recess.)

07:37:13 11 THE VIDEOGRAPHER: We are back on the  
07:37:21 12 record. The time is 7:37.

07:37:25 13 BY MR. BOHORQUEZ:

07:37:28 14 Q. Mr. Stamos, when did Mr. Chachra  
07:37:31 15 leave Sterling Stamos?

07:37:36 16 A. I believe it was April 1st of this  
07:37:41 17 year.

07:37:42 18 Q. And why did he leave Sterling Stamos?

07:37:45 19 A. What Mr. Chachra expressed to me was  
07:37:53 20 a couple of factors. Number one, he wanted an  
07:37:59 21 opportunity to be the lead investor of a group and  
07:38:06 22 that he wouldn't have that opportunity with our firm  
07:38:09 23 for several years because I intended to stay in that  
07:38:14 24 position. And second, that the opportunity that he  
07:38:18 25 had was one that would allow him to stay closer to

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07:38:23 1 his family and spend more time without travel with  
07:38:27 2 his newborn -- or newly born daughter and wife.

07:38:33 3 Q. And did he express any other reasons  
07:38:35 4 why he left other than those two?

07:38:39 5 A. It was a long conversation and very  
07:38:41 6 cordial conversation about those topics that went on  
07:38:47 7 for quite some time.

07:38:50 8 Q. Where -- where is he now?

07:38:51 9 A. He is now at Allen & Company.

07:38:53 10 Q. And what is Allen & Company?

07:38:54 11 A. It is an investment bank and I  
07:38:58 12 believe he's managing the family office -- or the  
07:39:00 13 investment office.

07:39:01 14 Q. What did you do to prepare for your  
07:39:07 15 deposition today?

07:39:09 16 A. I recall at your request, or at the  
07:39:16 17 request of the subpoena, collecting whatever  
07:39:18 18 documents I could find, sending them to my -- our  
07:39:23 19 attorneys and had -- and they did the same and they  
07:39:27 20 shared those documents with me in aggregate and  
07:39:31 21 reviewed those documents with me.

07:39:32 22 Q. And how many times did you meet with  
07:39:35 23 your counsel in preparation for today's deposition?

07:39:38 24 A. I recall having two video conferences  
07:39:42 25 and one in-person meeting.

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07:39:44 1 Q. And when were the video conferences?

07:39:48 2 A. I believe that one was a couple of  
07:39:50 3 weeks ago and one may have been the week prior to  
07:39:53 4 that.

07:39:53 5 Q. And when was the in-person meeting?

07:39:56 6 A. Yesterday.

07:39:57 7 Q. The first video conference, who was  
07:39:59 8 in attendance over video?

07:40:01 9 A. Over video conference I recall Tammy  
07:40:05 10 being in attendance and one of her colleagues.

07:40:09 11 Q. Anyone else?

07:40:13 12 A. I don't recall anybody else being in  
07:40:15 13 those meetings.

07:40:15 14 Q. And would that apply to the second  
07:40:17 15 video conference as well?

07:40:19 16 A. I believe it was the same attendees.

07:40:22 17 Q. Okay. And with respect to the  
07:40:23 18 in-person meeting yesterday who was in attendance?

07:40:26 19 A. I recall meeting yesterday in the  
07:40:29 20 morning I believe it was with Tammy and with one of  
07:40:34 21 her colleagues, and in the afternoon I recall Tammy  
07:40:38 22 being present, oh, Jared was present as well in that  
07:40:42 23 meeting, and I think Jared may have been present in  
07:40:45 24 the video conferences as well, I apologize. I think  
07:40:49 25 Jared was present in the video conferences as well.

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07:40:52 1 Q. Okay. And anyone else at the  
07:40:53 2 in-person meeting?

07:40:54 3 A. And Alan for the afternoon and early  
07:40:58 4 evening yesterday.

07:40:59 5 Q. Did you have any discussions with  
07:41:01 6 anyone at Sterling within the last few months  
07:41:09 7 concerning the Madoff investigation?

07:41:10 8 A. I have no recollection of any  
07:41:11 9 conversations with Sterling in the last few months  
07:41:14 10 about the Madoff situation.

07:41:17 11 Q. Do you know if your counsel had any  
07:41:21 12 meetings with Davis Polk with respect to your  
07:41:27 13 subpoena or your deposition?

07:41:28 14 A. I don't know if they had meetings or  
07:41:30 15 conversations with Davis Polk, but I believe that  
07:41:36 16 that -- that they had communications with them in  
07:41:41 17 terms of documents, but I'm not sure of that.

07:41:52 18 MR. BOHORQUEZ: Okay. I think we  
07:41:54 19 have completed our examination. Thank you for your  
07:41:57 20 time, Mr. Stamos. We very much appreciate it.

07:42:00 21 THE WITNESS: Thank you very much.

07:42:00 22 MR. GOUDISS: Thank you. And just  
07:42:01 23 for the record, we, obviously, designate the  
07:42:03 24 transcript and the exhibits as confidential within  
07:42:05 25 the meaning of the Protective Order. And we thank

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07:42:08 1 you very much for your time.

07:42:10 2 THE VIDEOGRAPHER: Going off the

07:42:11 3 record, the time is 7:42.

07:42:15 4 (Deposition concluded 7:42 p.m.)

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JURAT

I, PETER S. STAMOS, do hereby certify that I have read the foregoing transcript of my testimony taken on August 19, 2010, and have signed it subject to the following changes:

PAGE	LINE	CORRECTION
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PETER S. STAMOS

Sworn and subscribed to before me on this day of

\_\_\_\_\_

NOTARY PUBLIC:

\_\_\_\_\_

## C E R T I F I C A T E

1  
2  
3 I, NANCY C. BENDISH, a Certified Court  
4 Reporter and Notary Public of the States of New  
5 Jersey and New York, do hereby certify that prior to  
6 the commencement of the examination the witness was  
7 sworn by me to testify the truth, the whole truth  
8 and nothing but the truth.

9 I DO FURTHER CERTIFY that the  
10 foregoing is a true and accurate transcript of the  
11 testimony as taken stenographically by and before me  
12 at the time, place, and on the date hereinbefore set  
13 forth.

14 I DO FURTHER CERTIFY that I am neither  
15 a relative nor employee nor attorney nor counsel of  
16 any party in this action and that I am neither a  
17 relative nor employee of such attorney or counsel,  
18 and that I am not financially interested in the  
19 event nor outcome of this action.

20  
21  
22 Notary Public of the State of New Jersey  
23 Certificate No. XI00836  
24 My commission expires May 18, 2011  
25



## C E R T I F I C A T E

1  
2  
3 I, MONIQUE VOUTHOURIS, a Notary Public  
4 and Certified Court Reporter of the State of New  
5 Jersey, License No. X100834, do hereby certify that  
6 prior to the commencement of the examination the  
7 witness was duly sworn by me to testify the truth,  
8 the whole truth, and nothing but the truth.

9 I DO FURTHER CERTIFY that the  
10 foregoing is a true and accurate transcript of the  
11 testimony as taken stenographically by and before me  
12 at the time, place, and on the date hereinbefore set  
13 forth.

14 I DO FURTHER CERTIFY that I am neither  
15 a relative nor employee nor attorney nor counsel of  
16 any of the parties to this action, and that I am  
17 neither a relative nor employee of such attorney or  
18 counsel, and that I am not financially interested in  
19 the action.  
20  
21  
22

23 Notary Public of the State of New Jersey  
24 My Commission expires April 8, 2014  
25