

# Exhibit 31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

-----x  
SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,  
v.

Rule 2004  
Examination of:

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,  
Defendant.

ASHOK CHACHRA

-----x  
In Re:

BERNARD L. MADOFF,  
  
Debtor.

-----x

TRANSCRIPT of testimony as taken by and before  
MONIQUE VOUTHOURIS, Certified Court Reporter, RPR,  
CRR and Notary Public of the States of New York and  
New Jersey, at the offices of Baker & Hostetler, 45  
Rockefeller Plaza, New York, New York, on Friday,  
October 8, 2010, commencing at 10:16 a.m.

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

64			66				
1	A.	I've told you I don't recall. You've	11:33:33	1	Q.	Anyone else you recall?	11:52:43
2		asked the question five different ways.	11:33:35	2	A.	Not really. I don't remember anyone	11:52:46
3	Q.	But I'm now asking you about certain	11:33:37	3		else. I mean, there may have been. He was the	11:52:49
4		documents, and your recollection is you can't recall	11:33:39	4		primary point.	11:52:52
5		any memos concerning this issue. Right?	11:33:43	5	Q.	And by primary point, what do you	11:52:53
6	A.	Yes.	11:33:46	6		mean by that?	11:52:57
7	Q.	And your recollection is that the	11:33:46	7	A.	He was involved at all points of the	11:52:57
8		issue may have been discussed in e-mails. Correct?	11:33:47	8		process.	11:53:05
9		Is that a "yes"?	11:33:51	9	Q.	Did Mr. Dunleavy make inquiries of	11:53:09
10	A.	Yes.	11:33:52	10		you in connection with Merrill's diligence prior to	11:53:13
11	Q.	Other than in any e-mails, would	11:33:53	11		becoming a distribution agent?	11:53:18
12		there be any documents concerning the possibility of	11:33:55	12	A.	What do you mean by that?	11:53:19
13		Merrill Lynch acquiring an interest in Sterling	11:34:00	13	Q.	Well, did he ask you for information	11:53:20
14		Stamos that you can recall?	11:34:03	14		concerning Sterling Stamos?	11:53:24
15	A.	I don't recall.	11:34:04	15	A.	We had had conversations. I mean, I	11:53:25
16	MS. BIEBER:	Is this a good time for	11:34:06	16		don't remember if he asked me -- what do you mean if	11:53:28
17		a break?	11:34:07	17		he asked me for information? Did we meet? Yes, we	11:53:30
18	MR. BOHORQUEZ:	Sure. We've been	11:34:09	18		met.	11:53:34
19		going for what, about an hour?	11:34:15	19	Q.	Okay. And what did you talk about at	11:53:34
20		(Brief recess.)	11:34:18	20		those meetings?	11:53:36
21	BY MR. BOHORQUEZ:		11:51:14	21	A.	Funds that we had invested in, funds	11:53:38
22	Q.	Just to clear up a couple of things	11:51:23	22		we did not invest in.	11:53:42
23		for the record, before we took a break you had	11:51:25	23	Q.	In connection with the due diligence	11:53:44
24		mentioned that Merrill Lynch became a distribution	11:51:28	24		process, Merrill's due diligence process becoming a	11:53:48
25		agent for Sterling Stamos at around late 2004.	11:51:31	25		distribution agent, did Mr. Dunleavy have any	11:53:54
65			67				
1		Right?	11:51:36	1		discussions or any meetings with Saul Katz or David	11:54:01
2	A.	Yes.	11:51:36	2		Katz that you're aware of?	11:54:04
3	Q.	What does that mean?	11:51:37	3	A.	I don't know.	11:54:15
4	A.	They -- they served the role of a	11:51:40	4	Q.	With respect to the due diligence	11:54:16
5		third-party marketer for the fund -- for our funds.	11:51:48	5		process that Merrill Lynch conducted prior to its	11:54:17
6	Q.	And as a role of a third-party	11:51:52	6		acquisition of its interest in Sterling Stamos, so	11:54:19
7		marketer for your funds, what did Merrill Lynch do	11:51:54	7		we're talking about between late 2004 and June 2007,	11:54:23
8		for Sterling Stamos?	11:51:59	8		who from Merrill Lynch was involved in that due	11:54:30
9	A.	Introduced Sterling Stamos to	11:52:00	9		diligence process?	11:54:33
10		clients.	11:52:04	10	A.	Kevin Dunleavy. I mean, I don't	11:54:35
11	Q.	Prior to Merrill Lynch becoming a	11:52:07	11		think I can vouch for everyone that was involved. I	11:54:45
12		distribution agent in late 2004 for Sterling Stamos,	11:52:11	12		can just vouch for people that I interacted with.	11:54:48
13		you said that Merrill Lynch had conducted some	11:52:16	13	Q.	That's all I'm asking you.	11:54:50
14		diligence of Sterling Stamos. Right?	11:52:20	14	A.	An individual by the name of Guy	11:54:53
15	A.	Um-hmm.	11:52:21	15		Hurley and Michael Regy.	11:54:57
16	Q.	You have to say "yes."	11:52:22	16	Q.	Regy, how do you spell that?	11:55:00
17	A.	Yes.		17	A.	R-e-g-y. There is some accents in	11:55:03
18	Q.	Do you recall who was involved from	11:52:26	18		there because he's French, so it's Regy.	11:55:06
19		the Merrill Lynch side in connection with that due	11:52:28	19	Q.	And in connection with Merrill's due	11:55:12
20		diligence process?	11:52:32	20		diligence prior to its acquisition of its interest	11:55:16
21	A.	Yes.	11:52:33	21		in Sterling Stamos, did you have any meetings with	11:55:19
22	Q.	And who were those people for Merrill	11:52:34	22		Mr. Dunleavy?	11:55:22
23		Lynch?	11:52:37	23	A.	When you say did I have any meetings,	11:55:23
24	A.	Kevin Dunleavy was the primary point	11:52:37	24		you mean one-on-one?	11:55:31
25		of contact.	11:52:41	25	Q.	Either one-on-one or with other	11:55:33

116			118		
1	Q. There is a reference to, "Sterling	01:06:50	1	A. Or a potential, more likely a	01:09:28
2	Stamos is able to leverage Sterling Equities' 40	01:06:53	2	potential limited partner.	01:09:31
3	years of alternative investment experience." Do you	01:06:55	3	Q. A potential, okay, that's what I	01:09:32
4	know what alternative investment experience that is	01:06:59	4	thought.	01:09:34
5	referring to?	01:07:05	5	So, then, if you could turn to page	01:09:34
6	A. You know, real estate is alternative	01:07:06	6	18, which ends in 045, Bates number 045, if you can	01:09:37
7	asset class or alternative strategy, and that's	01:07:09	7	just review that quickly and tell me whether or not	01:09:50
8	where the family made their money. They were --	01:07:12	8	that accurately summarizes Sterling Stamos' due	01:09:53
9	private equity is another alternative strategy and	01:07:16	9	diligence processes at that time in February '05.	01:09:59
10	they were part of the founders of American	01:07:19	10	A. I mean, look, I can't say exactly	01:10:14
11	Securities, which is a buyout firm. They also had	01:07:22	11	what it was in 2005, so I would have to go back and	01:10:17
12	had their investment in Madoff, which was thought of	01:07:27	12	look at notes and try to figure it out, but it seems	01:10:20
13	as a hedge fund, and so they had had a successful	01:07:30	13	reasonable.	01:10:23
14	record of investing with Madoff. So they had a long	01:07:34	14	Q. So, generally accurate, more or less?	01:10:23
15	experience in alternatives.	01:07:39	15	A. I believe so.	01:10:25
16	Q. And how did you become familiar with	01:07:41	16	Q. Okay. Was -- the due diligence	01:10:26
17	the alternative investments that the Sterling	01:07:45	17	process is one of the five or six key components of	01:10:33
18	Partners had?	01:07:49	18	your investment strategy. Right?	01:10:39
19	A. Conversations with Peter.	01:07:51	19	A. Yeah. I would assume so, yeah.	01:10:41
20	Q. Was it based on any conversations	01:07:53	20	Q. Was the due diligence process, do you	01:10:44
21	with any of the Sterling Partners?	01:07:55	21	know if it was ever shared or communicated to the	01:10:49
22	A. Not so much. It was really with	01:07:58	22	general partners or the limited partners?	01:10:51
23	Peter.	01:08:00	23	A. So we actually made a rule by which	01:10:54
24	Q. If you can go down to the fourth	01:08:01	24	it would not be shared, because whatever we thought	01:10:57
25	bullet, the one that says, "Alignment of GP and LP	01:08:08	25	I guess when I was told by our compliance -- head of	01:11:01
117			119		
1	Interests," can you explain to me what that means?	01:08:12	1	compliance was whatever you share with one investor,	01:11:05
2	A. I didn't write this document.	01:08:16	2	you have to be willing to share it with everyone.	01:11:07
3	Q. Well, I mean to the extent that you	01:08:23	3	Q. Whether they are a GP or LP?	01:11:10
4	know. If you don't know, you don't know.	01:08:25	4	A. Yeah, exactly, and also because every	01:11:13
5	A. What they were referring to here I	01:08:27	5	GP was an LP and it could be misinterpreted, so we	01:11:16
6	didn't write it, so I don't know.	01:08:30	6	pretty much tried not to share anything.	01:11:20
7	Q. What's your understanding of aligning	01:08:32	7	Q. Other than what's in this document?	01:11:22
8	GP and LP interests, what does that mean to you?	01:08:38	8	A. Yeah. But whatever we sent out,	01:11:24
9	A. That would imply that the general	01:08:43	9	especially after registration, was don't try -- try	01:11:27
10	partner and the limited partner would participate in	01:08:47	10	not to share a lot of details unless you want to	01:11:31
11	investments in a similar way.	01:08:51	11	share with every single limited partner.	01:11:33
12	Q. So the LPs?	01:08:52	12	Q. So that, just so I understand, that	01:11:36
13	A. The general and limited would	01:08:54	13	rule, if you call it, that was implemented	01:11:41
14	participate in the same way.	01:08:56	14	post-registration as an investment advisor?	01:11:45
15	Q. These types of marketing materials	01:09:04	15	A. I think it became more explicit	01:11:50
16	for the funds and for Sterling Stamos in general,	01:09:05	16	post-registration.	01:11:53
17	were they ever shared with any of the general	01:09:09	17	Q. Because of compliance reasons?	01:11:54
18	partners?	01:09:12	18	A. Because of compliance reasons.	01:11:56
19	A. I believe so. I mean, I have no	01:09:16	19	Q. Okay. If you can turn to page 23,	01:11:59
20	reason to believe they weren't.	01:09:19	20	which ends in Bates number 050, this page identifies	01:12:03
21	Q. And were they provided to the limited	01:09:20	21	the senior investment team, and at that time in	01:12:12
22	partners as well?	01:09:22	22	February 2005 who did you understand to be the	01:12:17
23	A. This, from my understanding, was for	01:09:24	23	senior investment team for Sterling Stamos?	01:12:22
24	a limited partner.	01:09:26	24	A. I mean, day-to-day it was --	01:12:24
25	Q. Okay.	01:09:27	25	day-to-day was Peter and myself.	01:12:31

176			178		
1	Stamos redeeming its fund from Bayou?	03:02:28	1	redeeming --	03:04:42
2	A. I vaguely remember having a	03:02:31	2	A. Yup.	03:04:43
3	conversation where I had -- I mean, I had to answer	03:02:33	3	Q. -- was that in a memo or over the	03:04:44
4	to that, as to why we redeemed.	03:02:36	4	phone or in person? How was that done?	03:04:47
5	Q. What do you mean you had to answer	03:02:40	5	A. I think that was -- I can't remember.	03:04:50
6	to?	03:02:42	6	It was definitely verbal. We also had a Bayou	03:04:52
7	A. I was working with Peter on that	03:02:42	7	redemption memo, but he would have never seen that,	03:04:56
8	investment. There were many people working on that	03:02:44	8	not from me at least.	03:04:59
9	investment, but we were -- two of us were closer to	03:02:47	9	Q. But he had -- you had a discussion	03:05:01
10	it.	03:02:50	10	with him about the reasons for the redeeming?	03:05:04
11	Q. Okay. And walk me through what	03:02:50	11	A. Yes, I believe -- I remember having a	03:05:06
12	happened.	03:02:54	12	discussion with him. You know, I felt awful about	03:05:09
13	A. We would invest with the fund	03:02:54	13	the situation, so I felt like it was important that	03:05:13
14	managers a hundred million dollars. He was growing	03:02:56	14	I describe to him exactly why we made our decision.	03:05:15
15	his business. He said to 500 million he was going	03:02:59	15	And basically just said -- you know, I mean, he just	03:05:20
16	from just trading equities to trading currencies and	03:03:02	16	acknowledged it. It wasn't much discussion,	03:05:23
17	commodities, so he was substantially growing and	03:03:05	17	actually.	03:05:25
18	shifting his strategy, and he wasn't adding a lot of	03:03:09	18	Q. And was that in person or over the	03:05:26
19	back office infrastructure personnel.	03:03:12	19	phone?	03:05:32
20	So we had the manager in, we talked	03:03:15	20	A. I can't remember. I remember we had	03:05:32
21	to him about it. He said he would do it in three	03:03:18	21	the conversation. I don't remember if it was in	03:05:36
22	months. We said it takes more than three months.	03:03:20	22	person.	03:05:37
23	We'll redeem, and when you do it, let us know, maybe	03:03:23	23	Q. The reason why I'm asking because if	03:05:37
24	we'll come back. And that's what I told Saul Katz.	03:03:26	24	it was in person, I would want to know if there was	03:05:40
25	Q. In addition to what you just	03:03:33	25	anybody else in the room, if you recall.	03:05:43
177			179		
1	discussed, did you identify any other problems or	03:03:34	1	A. I don't remember.	03:05:45
2	concerns with Bayou that caused you to redeem?	03:03:42	2	Q. Then let's go to the different time	03:05:46
3	A. Those were the primary -- those were	03:03:47	3	frame, after the fraud was revealed, the Bayou	03:05:49
4	the reasons. Obviously, in hindsight after the	03:03:50	4	fraud, and these other two issues were identified,	03:05:52
5	fraud had come out --	03:03:54	5	the fraudulent auditor and the	03:05:57
6	Q. Right.	03:03:55	6	broker-dealer/investment advisor issue, were those	03:06:03
7	A. -- you know, we learned that there	03:03:57	7	two issues --	03:06:06
8	was a false auditor --	03:03:59	8	A. I'm sorry --	03:06:07
9	Q. Right.	03:04:01	9	MS. BIEBER: Let him finish his	03:06:09
10	A. -- there was affiliated	03:04:05	10	question first.	03:06:10
11	broker-dealers, those became two areas that we paid	03:04:07	11	Q. Let me try to clarify because I think	03:06:11
12	more attention to.	03:04:11	12	you're getting at it -- after the lawsuit was filed	03:06:15
13	Q. Okay. But that was after --	03:04:11	13	in Bayou and it was -- it was revealed that Bayou	03:06:21
14	A. That was after.	03:04:14	14	was a fraud, what discussions, if any, did you have	03:06:26
15	Q. -- after the fraud was revealed.	03:04:14	15	with Saul Katz concerning Bayou?	03:06:31
16	A. Yeah. We acknowledged not the	03:04:16	16	A. Once the lawsuit was filed against	03:06:35
17	fraudulent auditor. We acknowledged that there was	03:04:19	17	Sterling Stamos, I did not talk to anyone except for	03:06:37
18	an affiliated broker-dealer in advance of investing.	03:04:22	18	counsel regarding what was going on with Bayou and	03:06:41
19	Just we -- we were lied to about the risk --	03:04:26	19	Sterling Stamos.	03:06:44
20	Q. I see.	03:04:28	20	Q. So after the lawsuit was filed, you	03:06:45
21	A. -- associated with it.	03:04:29	21	had no discussions with Saul Katz concerning Bayou?	03:06:47
22	Q. So I just want to be specific as to	03:04:30	22	A. I don't remember them. And I was	03:06:50
23	time frame. With respect to the redemptions from	03:04:32	23	very particular and had very strict advice about who	03:06:52
24	Bayou before it was discovered that it was a fraud,	03:04:36	24	I could talk to about Bayou once the lawsuit was	03:06:55
25	and you explained to Saul Katz the bases for	03:04:39	25	filed.	03:06:58