

# EXHIBIT M

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

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
11-CV-03605(JSR)(HBP)

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IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	Videotaped Deposition of:
Plaintiff,	DAVID M. KATZ
v.	
SAUL B. KATZ, et al.,	
Defendants.	

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TRANSCRIPT of testimony as taken by and before  
NANCY C. BENDISH, Certified Court Reporter, RMR, CRR  
and Notary Public of the States of New York and New  
Jersey, at the offices of Baker & Hostetler, 45  
Rockefeller Plaza, New York, New York on Wednesday,  
December 28, 2011, commencing at 9:32 a.m.

1 Sterling Stamos when it started?

2 A. Sterling Stamos was supposed to be a  
3 family office.

4 Q. Okay. That was back in June of '02  
5 when you started?

6 A. About. About then, yeah.

7 Q. And I think you testified at your  
8 2004 that one of the reasons for starting Sterling  
9 Stamos as a family office was to diversify some of  
10 your investments with Madoff, right?

11 A. That was the main reason.

12 Q. Okay. And Sterling Stamos, as I  
13 understand it, and just so you can confirm it,  
14 basically there's a management company, right, and  
15 then there's a general partnership?

16 A. Um-hum.

17 Q. And those two comprise Sterling  
18 Stamos in your understanding?

19 MS. SESHENS: Objection to the form.

20 A. I'm not sure of the structure, quite  
21 frankly.

22 Q. Okay. So, what is your understanding  
23 of the structure of Sterling Stamos now?

24 A. Now? We own -- we, Sterling  
25 Equities, own a piece, I think it's 25 percent.

1 Q. Did you -- did you help in any way in  
2 getting people to invest in Sterling Stamos?

3 A. No. I mean, I had a friend that  
4 invested, but that was much later. You know, at the  
5 beginning, absolutely not. I didn't know most of  
6 the people that were invested at the beginning.

7 Q. Who were the people who were invested  
8 at the beginning of Sterling Stamos?

9 A. I don't remember. I don't even  
10 remember their names. I think they're mostly out of  
11 Peter's -- Peter's friends.

12 Q. And how -- how did, if you know, any  
13 of the other Sterling partners help in getting  
14 investors in Sterling Stamos?

15 A. I don't know how they helped.

16 Q. Did you or your other partners refer  
17 potential investors to Peter Stamos?

18 A. I'd be guessing. I'd be guessing.

19 Q. Now, with respect to your Madoff  
20 investments...

21 A. Um-hum.

22 Q. ... you had several -- you being the  
23 Sterling partners -- referred several investors to  
24 Madoff, right?

25 MS. SESHENS: Objection to the form.

1           A.           No.  People asked us if they -- if we  
2 could help them.

3           Q.           So, when you say people asked us if  
4 they could help them, what do you mean by that?

5           A.           I mean, I had a friend that would  
6 say, do you know Madoff, do you know of how I could  
7 get in?  So I said maybe, and, you know, see if I  
8 could help him.

9           Q.           And how would you help your friends  
10 get into Madoff?

11          A.           I'd give his name to Arthur, and  
12 Arthur would get him an account.  Probably ask  
13 Frank.

14          Q.           Frank DiPascali?

15          A.           Yes.

16          Q.           And Arthur Friedman?

17          A.           Correct.

18          Q.           And these friends that came to you  
19 for help to get into Madoff, they also approached  
20 other Sterling partners as well?

21          A.           No.

22                       MS. SESHENS:  Objection to the form.

23                       THE WITNESS:  Am I supposed to wait  
24 until you say "objection"?

25                       MS. SESHENS:  You are.  If you could

1 A. Advice from counsel?

2 Q. Yes.

3 A. Not that I know of.

4 Q. So, yes or no, did you ever ask any  
5 lawyer to determine whether Madoff should be  
6 registered as an IA?

7 A. David Katz?

8 Q. Yes.

9 A. No.

10 Q. Did any Sterling partner ever reach  
11 out to an attorney to determine whether Madoff  
12 should be registered as an IA?

13 MS. SESHENS: Objection to the form.

14 A. I don't know.

15 Q. You don't know.

16 At that time, in -- back in 2004 time  
17 frame we're talking about, what was your  
18 understanding as to whether Madoff was registered or  
19 not with the SEC?

20 A. I always assumed he was.

21 Q. So you always believed that Madoff  
22 was registered?

23 A. Um-hum.

24 Q. And what did you base that  
25 understanding on?

1 Q. Did you end up pulling money out of  
2 Bernie in connection with this?

3 A. I don't think so. I don't think so.  
4 I pulled money out of Bernie or not put money in  
5 Bernie to SSP, but I've also put money into Bernie  
6 and not into SSP after this.

7 Q. So you're saying that after this  
8 point you still continued to invest with Bernie?

9 A. I believe so.

10 MR. BOHORQUEZ: Is that it?

11 THE VIDEOGRAPHER: We're off the  
12 record, the time is 3:28.

13 (Recess taken.)

14 THE VIDEOGRAPHER: We're back on the  
15 record. The time is 3:43. This is the beginning of  
16 tape 5.

17 MR. BOHORQUEZ: I can -- I can just  
18 clear it up.

19 THE WITNESS: Okay.

20 BY MR. BOHORQUEZ:

21 Q. Mr. Katz, earlier I had asked you  
22 whether Mr. Tepper provided any legal advice in  
23 connection with the registration issue.

24 A. Correct.

25 Q. Right?

1 A. Yes.

2 Q. Do you want to clarify your response  
3 as to that question?

4 A. Sure. Marvin thought there might be  
5 a downside as -- as it relates to third-party risk,  
6 as far as money goes.

7 Q. And without disclosing the content of  
8 this legal advice on this issue, what third-party  
9 risk are you referring to?

10 A. I -- that's all I remember.

11 Q. And did Mr. Tepper provide this  
12 counsel in the form of a memo?

13 A. I don't believe so.

14 Q. Did Mr. Tepper provide this counsel  
15 in the form of a verbal discussion at a meeting?

16 A. I -- I believe so.

17 Q. And do you know if Mr. Tepper  
18 communicated with any outside counsel with respect  
19 to the registration investment issues, adviser  
20 issues?

21 A. I don't know that.

22 Q. And without disclosing the content,  
23 what is third-party risk in the content -- in the  
24 context of a registration?

25 A. Somehow Sterling would be liable for



1 something Sterling Stamos does.

2 Q. Okay. And --

3 A. That's the way I understood it.

4 Q. Putting aside any communications with  
5 Mr. Tepper, did you have any discussions with your  
6 partners concerning potential liability for Sterling  
7 with respect to what Sterling Stamos would do in  
8 connection with the registration?

9 MS. SESHENS: I just caution, so long  
10 as you can answer that by excluding any  
11 communications with counsel.

12 Q. Why don't I just ask this as a yes or  
13 no.

14 A. Okay.

15 Q. Yes or no, did you have any  
16 discussions with your partners, aside from  
17 Mr. Tepper, concerning any potential liability for  
18 Sterling with respect to whether Sterling Stamos  
19 would have to register?

20 A. Yes.

21 Q. Who were those partners?

22 A. I think most all were there.

23 Q. And when you say "there," are you  
24 referencing a --

25 A. A --

1 Q. No? Did Stamos ever express to you  
2 that -- that as a fiduciary Sterling Stamos --  
3 that -- strike that.

4 Did Stamos ever express to you that  
5 because he was a fiduciary, that he could -- that  
6 Madoff would not be able to pass Sterling Stamos'  
7 due diligence?

8 A. Because he was a black box.

9 Q. For instance.

10 A. For -- that's what it was. Yes, I  
11 knew that beforehand.

12 Q. So, just so I'm clear, Stamos  
13 expressed to you that because Bernie was a black box  
14 he couldn't pass Sterling Stamos' due diligence?

15 A. No. I'm saying that Bernie was a  
16 black box, so he could not pass Bernie's -- Peter's  
17 test, because Peter didn't take in any black boxes.

18 Q. And is that a discussion that you had  
19 with Mr. Stamos?

20 A. No.

21 Q. So how did you understand that Bernie  
22 couldn't pass Sterling Stamos' test because Bernie  
23 was a black box?

24 A. Because I know Bernie is a black box,  
25 and I know they didn't take black boxes.

1 you understood that Madoff was registered?

2 A. Correct.

3 Q. You recall --

4 A. Yes.

5 Q. -- testifying to that generally?

6 A. Yes.

7 Q. And you testified that it was your  
8 understanding, in sum and substance, that Madoff was  
9 always registered; is that correct?

10 A. Correct, yes.

11 Q. And did you have an understanding at  
12 the time as to the capacity in which Madoff was  
13 registered?

14 A. What type of registration?

15 Q. Yes.

16 A. No.

17 Q. Did you distinguish in your mind  
18 between registration as an investment adviser as  
19 opposed to registration in some other capacity?

20 A. No.

21 Q. Did you understand Madoff to be  
22 registered in some capacity during the entire time  
23 that you were invested with Madoff?

24 A. Absolutely.

25 Q. And what did you understand Madoff

1 being registered to mean?

2 A. That there was somebody or some --  
3 some organization that would overlook what he's  
4 doing and, you know, give him the once-over.

5 Q. Now, do you recall that Mr. Bohorquez  
6 asked you some questions about Sterling Stamos  
7 documents that listed some individuals as,  
8 quote/unquote, investment professionals?

9 A. Yes.

10 Q. Do you -- at any point -- at any  
11 point in time, did you ever consider Saul Katz, your  
12 father, to be an investment professional at Sterling  
13 Stamos?

14 A. No.

15 Q. At any point in time did you ever  
16 consider yourself to be an investment professional  
17 at Sterling Stamos?

18 A. No.

19 Q. At any point in time did you ever  
20 consider Fred Wilpon to be an investment  
21 professional at Sterling Stamos?

22 A. No.

23 Q. At any point in time, Mr. Katz, did  
24 you become familiar with Sterling Stamos' due  
25 diligence process?