

EXHIBIT V

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

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

-----x
SECURITIES INVESTOR PROTECTION
CORPORATION,

Videotaped

Plaintiff-Applicant,
v.

Rule 2004
Examination of:

BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC,

DAVID KATZ

Defendant.

(Volume I)

-----x
In Re:

BERNARD L. MADOFF,

Debtor.

-----x

TRANSCRIPT of testimony as taken by and before
NANCY C. BENDISH, Certified Court Reporter, RMR, CRR
and Notary Public of the States of New York and New
Jersey, at the offices of Baker & Hostetler, 45
Rockefeller Plaza, New York, New York on Tuesday,
August 31, 2010, commencing at 10:10 a.m.

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1 triggered that discussion with your father?

2 A. That's enough.

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

5 A. Yeah, I'm sure.

6 Q. Do you recall when?

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

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

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

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

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

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

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

25 Q. Why would he think you are insane?

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

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

6 A. Excuse me. '90s.

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

11 A. I don't recall.

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

14 A. Angry?

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

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

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

24 MS. SESHENS: Objection to the form.

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

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

2 Q. Did you agree with that decision?

3 A. It's not my decision.

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

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

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

15 A. No.

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

18 A. No.

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

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

23 Q. Yes.

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

1 A. I don't. I don't know.

2 Q. The reference to the fund of funds in
3 the memo, is that a reference to SS -- to Sterling
4 Stamos?

5 A. I believe so.

6 Q. But you don't recall any discussions
7 with Mr. Lifton about investing in Stamos?

8 A. Me, personally?

9 Q. Yeah.

10 A. No.

11 Q. Do you recall if any of your partners
12 had discussions with Mr. Lifton about investing in
13 Stamos?

14 MS. SESHENS: Objection to the form.

15 A. No, I don't know if they would -- how
16 would I know if they had a conversation with him?

17 Q. Well, did they tell you?

18 A. No.

19 Q. You see in the second paragraph --
20 oh, MK is your uncle, Michael Katz, right?

21 A. Correct.

22 Q. Okay. The second paragraph is, "I
23 spoke to Ron, and the name of his hedge fund is
24 Bedford Oak." Do you see that paragraph?

25 A. Um-hum.

1 Q. And then Michael goes on to write:
2 "He wanted to know if we will be interested in
3 investing in this fund. I told him that Peter or
4 David would follow up" --

5 A. Right.

6 Q. -- "since they are in charge of the
7 fund."

8 A. Right.

9 Q. Did you or Mr. Stamos follow up with
10 Bedford Oak?

11 A. I have no -- I didn't. I didn't
12 follow up.

13 Q. Do you know what Bedford Oak is?

14 A. No.

15 Q. And reading this doesn't refresh your
16 memory in any way?

17 A. No.

18 Q. And you see where Mr. -- Michael Katz
19 writes that, "I told him that Peter and David were
20 to follow up since they are in charge of the fund"?

21 A. Um-hum.

22 Q. What does that mean to you?

23 A. I was the point --

24 MS. SESHENS: Objection to the form.

25 Go ahead.

1 BLMIS?

2 A. What's that?

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

5 A. No.

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

8 A. No.

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

11 A. Yup.

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

14 A. In what way?

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

17 A. No.

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

21 A. Yes.

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

24 MS. SESHENS: Objection to the form.

25 A. Why would it be problematic?

1 Q. Yeah.

2 A. I don't know.

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

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

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

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

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

12 A. It's a proprietary trading method.

13 Q. Proprietary trading method meaning
14 what?

15 A. Meaning it's secret.

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

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

20 Q. Why not?

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

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

1 A. Um-hum.

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

4 A. Um-hum.

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

7 A. No.

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

11 A. Right.

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

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

16 Q. Okay.

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

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

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

1 Ashok's, whoever that was at the time, and maybe
2 Peter's brother.

3 Q. What was Peter's brother's name?

4 A. Well, there was a bunch. There was
5 Chris.

6 Q. Basil?

7 A. Chris and Basil. Basil wasn't around
8 a lot; Chris was around more.

9 Q. Okay.

10 A. Maybe Chris and actually maybe his
11 father, because his father was at the Long Island
12 Investors one, too. And that's all I remember.

13 Q. I think you also mentioned being
14 present at some internal meetings?

15 A. Um.

16 Q. At Sterling Stamos?

17 A. Correct.

18 Q. What internal meetings were those?

19 A. It would range, you know, depending
20 on when I walked in. If I saw the conference door
21 closed, I would always stick my head in, probably
22 unwanted, you know, and sit down. Or asked to be.
23 You know, it'd be rude if they didn't ask me, so...

24 Q. Would you say that prior to Sterling
25 Stamos registering as an investment advisor that you

1 were involved in the investment decisions of
2 Sterling Stamos?

3 A. Not even close.

4 Q. Would you say that you were on the
5 senior investment team at Sterling Stamos prior to
6 registering?

7 A. That would defeat the whole purpose
8 of having Sterling Stamos.

9 Q. What do you mean?

10 A. If we were going to do it, we'd do it
11 ourselves, we'd do it. Right? We wanted Peter's
12 brain.

13 Q. Do you know, aside from Peter, who
14 else was involved in the investment decisions of
15 Sterling Stamos?

16 A. Yeah. Depending on who you asked.
17 If finances, but it was Peter and Ashok and I guess
18 depending on who -- there's a few other people
19 floating around the office. I don't remember their
20 names. They're probably not there anymore.

21 Q. Prior to Sterling Stamos registering
22 as an investment advisor, did your father, Saul
23 Katz, have any involvement in the investment
24 decisions at Sterling Stamos?

25 A. About the same I did. Nothing.

1 Except he went to less meetings, I'm sure.

2 Q. So he had no involvement in deciding
3 which investment managers the funds would invest in?

4 A. Not that I know, not that I know of.

5 Q. Do you know if any meetings were
6 scheduled with Madoff and Mr. Stamos as well as some
7 Sterling partners to discuss the issue of Sterling
8 Stamos registering as an investment advisor?

9 A. Wouldn't surprise me.

10 Q. Why wouldn't it surprise you?

11 A. Madoff was registered. He's a close
12 friend, give maybe the ins and outs. Logical
13 choice.

14 Q. Do you recall learning of any
15 meetings with Madoff?

16 A. No.

17 Q. Let me just make sure I have that
18 question formed as an actual question. Do you
19 recall learning of any meetings that took place with
20 Madoff regarding the subject of Sterling Stamos'
21 registration?

22 A. No.

23 Q. Do you know Ezra Merkin?

24 A. Yeah.

25 Q. How do you know Ezra Merkin?

1 MS. SESHENS: Objection to the form.

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

4 Q. Yeah.

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

7 Q. Overheard?

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

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

14 A. I wouldn't talk.

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

18 A. That was my understanding.

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

21 A. None that I know of.

22 Q. Okay.

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

1 A. Yeah. Yes.

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

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

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

15 BY MS. ZUNNO:

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

19 A. No.

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

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

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JURAT

I, DAVID KATZ, do hereby certify that I have read the foregoing transcript of my testimony taken on August 31, 2010, and have signed it subject to the following changes:

PAGE	LINE	CORRECTION
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DAVID KATZ

Sworn and subscribed to before me on this day of

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JURAT

I, DAVID KATZ, do hereby certify that I have read the foregoing transcript of my testimony taken on September 1, 2010, and have signed it subject to the following changes:

PAGE	LINE	CORRECTION
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DAVID KATZ

Sworn and subscribed to before me on this day of

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SIPC v. BLMIS No. 08-01789-BR:
Rule 2004 Examination of David Katz
EXHIBIT A

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REDACTED

81	3	and it's not -- doesn't make sense.	and it's not -- it doesn't make sense.	Transcription Error
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REDACTED

91	1	Met him, one day walked into his office and he was	I met him, one day I walked into his office and he was	Transcription Error
91	13	Do you know about Peter Stamos'	Do you know about Peter Stamos's	Grammatical Error

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