

EXHIBIT Y

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

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SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,
v.

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.

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1 Q. The Mets have an office in Manhattan
2 and I'm just asking if the Mets' offices were at 575
3 when you were there.

4 A. I don't know.

5 Q. If you don't know, you don't know.

6 Okay. So this next meeting, the
7 second meeting that you recall, that was at your
8 offices at 575 sometime in 2002.

9 A. That's correct.

10 Q. Okay. Who was in attendance at that
11 meeting?

12 A. I believe it was Peter Stamos, Saul
13 Katz, and I believe it was Noreen Harrington.

14 Q. And what was Ms. Harrington's
15 position at that time?

16 A. She was the chief investment officer.

17 Q. And what was your position at that
18 time when you started?

19 A. I was an associate.

20 Q. What was the topic of discussion at
21 that meeting?

22 A. The topic was an investment in a fund
23 run by Ezra Merkin.

24 Q. And do you recall which fund
25 specifically?

1 A. We had numerous investments, we had
2 investments in numerous funds of his.

3 Q. At that time in sometime in 2002,
4 what funds -- what Ezra -- let me rephrase that.

5 In 2002 what funds run by Merkin --
6 by Ezra Merkin did Sterling Stamos have investments
7 in?

8 A. I would have to check the exact
9 dates, but I believe, to the best of my knowledge,
10 it was investments in Ascot, Gabriel and Long
11 Horizons.

12 Q. And who called the meeting?

13 A. I don't remember.

14 Q. So tell me what was discussed at the
15 meeting concerning Sterling Stamos' investments in
16 the Merkin funds.

17 A. You know, basically from what I can
18 remember, Noreen, you know, Noreen was chief
19 investment officer and she wanted to, I think,
20 better understand the knowledge and relationship
21 between, you know, or the history, because Peter was
22 quite close to Ezra Merkin and was very supportive
23 of giving him more capital, and from the best of my
24 memory, Noreen was not very supportive of giving him
25 more capital. And I believe Peter wanted Saul to

1 just talk about their personal relationship with
2 Ezra Merkin.

3 Q. Let's start with why Peter was
4 supportive of investing in Merkin. What did Peter
5 say at the meeting -- that meeting as to why he was
6 supportive of investing in Ezra Merkin?

7 MS. BIEBER: I object. You can
8 answer.

9 A. I don't remember exactly. It was a
10 long time ago. I don't remember exactly what
11 Peter's basis was. To the best of my knowledge, he
12 was referring to Ezra's track record.

13 Q. And what was the track record at that
14 time?

15 A. What do you mean by that?

16 Q. Well, you said that Peter referenced
17 Ezra Merkin's track record.

18 A. Yes.

19 Q. So what was his track record at that
20 time?

21 A. I would have to look at the data. I
22 mean, he had a, from what I can remember, quite a
23 long track record of managing capital. I would have
24 to look at the exact record to answer more
25 specifically.

1 Q. But is it your recollection that --
2 actually, I'm more interested in what Peter said at
3 the meeting. So did Peter say that Mr. Merkin had a
4 good track record or a bad track record? Or how did
5 he describe Merkin's track record?

6 A. I don't remember. Like I said, I
7 don't remember specifically what he said. He was
8 supportive of making the investment which he was --
9 he thought it was a very -- he thought it was a good
10 track record.

11 Q. And did he explain at the meeting why
12 he thought it was a good track record?

13 A. I don't remember.

14 Q. At that time in '03 did you have any
15 opinion as to whether Merkin had a good or bad track
16 record?

17 A. You know, I was -- in terms of being
18 in a position of evaluating the funds, my role at
19 the time was more doing quantitative analysis,
20 attending meetings with Noreen Harrington,
21 documenting those meetings. You know, frankly, I
22 was really developing more of my own investment
23 views over time. So at that meeting specifically I
24 didn't feel like I had -- from what I remember at
25 the time, generally speaking, you know, I don't know

1 if I had a view of saying, you know -- comfortable
2 saying you should increase or decrease your
3 allocation. It was more what does the data suggest
4 and providing the analytical support at the time.

5 Q. And I'm glad that you're being very
6 specific on the time frame because that's a good
7 thing, we need to make sure that we're specific.

8 So at that time what sort of data
9 analytics or analysis did you do of the Merkin funds
10 at that time in 2002?

11 A. You know, from what I can remember,
12 we looked at the monthly performance of the fund,
13 the annualized volatility of the fund, the
14 correlation of the fund to the broader equity
15 markets, looked at the distribution of returns, that
16 type of analysis.

17 Q. And you provided -- did you provide
18 that analysis to Peter Stamos --

19 A. I provided it to Noreen Harrington.

20 Q. Was that analysis provided to Peter
21 Stamos at some point?

22 A. You would have to ask Noreen.

23 Q. Now, you said Noreen Harrington was
24 not supportive of investing in Merkin at that time.
25 Why was that?

1 A. From my understanding, to the best of
2 my recollection, she was not -- she did not want to
3 increase it beyond where the current position
4 already was.

5 Q. And why did she not want to increase
6 it?

7 A. You would have to ask her
8 specifically. You know, I vaguely -- I have more --
9 my memory of that meeting is quite vague, to be
10 honest.

11 Q. Do you recall what, if anything, she
12 said at that meeting as to what she believed --

13 A. If I remember --

14 Q. It will work better if you let me
15 finish, I'll let you finish --

16 A. Sure.

17 Q. -- and when you're done -- you have
18 to let me finish, because if we're talking over one
19 another it will just be a mess.

20 A. Yeah.

21 Q. So let's back up. What did
22 Ms. Harrington say at that meeting about why she was
23 not supportive of investing -- increasing the
24 allocation in the Merkin funds?

25 A. I don't remember specifically what

1 she said.

2 Q. Did she cite to any of the analytics
3 that you had prepared in connection with the Merkin
4 funds?

5 A. I don't remember specifically.

6 Q. What did Saul Katz say at the meeting
7 about Merkin?

8 MS. BIEBER: I object. You can
9 answer.

10 MR. BOHORQUEZ: I'm sorry. What's
11 the basis of the objection?

12 MS. BIEBER: I don't know that Saul
13 Katz said anything about Merkin at the meeting.

14 Q. I think he did. I think I did ask
15 him that. But go ahead, you can answer.

16 A. You know, to the best of my memory,
17 which I just want to also state for the record this
18 is over eight years ago, I mean, there is no -- you
19 know, Saul I believe said that Ezra was a long-term
20 season ticket holder of the Mets. He had -- he was
21 very involved in the synagogue; that he had known
22 the Wilpons and the Katzes for many years and had a
23 good standing in the community.

24 Q. Did Saul Katz say anything about
25 Merkin's experience or track record in terms of his

1 investment business?

2 A. I don't -- I don't remember. I don't
3 recall. He may have. I don't remember.

4 Q. And why was Saul Katz at the meeting?

5 A. I don't know. I was just asked to
6 attend.

7 Q. So what was the result of that
8 meeting? Well, actually, do you recall anything
9 else that was discussed at that meeting?

10 A. I mean, the only thing else I do
11 remember is that Noreen, she was -- she did not -- I
12 just remember vaguely like -- and I can't remember
13 if it was that meeting or a different meeting, so I
14 don't remember if I'm confusing things, so I don't
15 want to -- I -- you know, I -- I believe she had
16 mentioned something to the effect of she had had a
17 meeting with Ezra and she did not share the same
18 view of Ezra in terms of -- she just -- they didn't
19 have a very good meeting, something to that effect.
20 So that's the only other thing I remember about it.

21 Q. So let's back up to the meeting that
22 Ms. Harrington had with Merkin. What did
23 Ms. Harrington -- did Ms. Harrington speak to you
24 about the meeting, other than the meeting that
25 you're describing with Saul Katz and Peter Stamos,

1 did Ms. Harrington discuss with you the meeting that
2 she had with Merkin?

3 A. She had mentioned, to the best of my
4 memory, that she had met with him in her previous
5 job.

6 Q. So she knew him before she joined
7 Sterling Stamos?

8 A. That is my understanding.

9 Q. And when did she join Sterling
10 Stamos?

11 A. Late 2000 -- middle, beginning of
12 fourth quarter, around thereabouts in 2002. There
13 was also, I mean, a meeting -- and I don't remember
14 when -- this is the issue, I don't remember when --
15 Noreen Harrington and I did also visit with Ezra
16 Merkin and I do not believe -- I just don't remember
17 when that meeting was.

18 Q. The meeting that you met with Merkin
19 and Ms. Harrington, was that before the meeting with
20 Stamos, Katz and Noreen and yourself?

21 A. I don't remember if it was -- you
22 know, I cannot -- I don't remember exactly if it was
23 before or after.

24 Q. And was that meeting that you and
25 Ms. Harrington had with Merkin, was that in fourth

1 quarter of '02 you believe?

2 A. I don't remember when it was.

3 Q. What was discussed at that meeting
4 that you had with Merkin and Ms. Harrington?

5 A. You know, I really don't remember
6 much about that meeting except I know that I
7 attended it with her. From the best of my memory, I
8 think a lot of it was, frankly, just -- it was --
9 from my memory it was more of an introductory
10 meeting where Noreen was kind of explaining her role
11 and Ezra walked through his background and, you
12 know, kind of -- what was going on with his -- he
13 was managing a number of funds. It was more of an
14 overview-type meeting.

15 Q. Anything else that you recall?

16 A. I don't recall anything else, no.

17 Q. When did -- when did Noreen
18 Harrington leave Sterling Stamos, do you recall?

19 A. Middle of 2003 or thereabouts. I
20 mean --

21 Q. So she wasn't there for very long.
22 So she joined sometime in the fourth quarter of '02
23 is your recollection?

24 A. I think that's what I just said, yes.

25 Q. And then she left sometime in -- and

1 she left I believe you said in mid-2003?

2 A. I think that's what I just said,
3 yeah.

4 Q. Now, I don't have the record in front
5 of me, so bear with me. Okay. So during that time
6 frame that Ms. Harrington was there, did she ever
7 raise any concerns as to whether she believed that
8 Merkin was a feeder for Madoff?

9 A. I don't believe she -- that was
10 exactly her -- I don't remember that exact feedback,
11 no.

12 Q. Okay. Well, what do you remember at
13 all concerning what Ms. Harrington said about any
14 relationship between Merkin and Madoff?

15 A. I really don't remember specifically
16 what she said.

17 Q. Okay. Well, what generally did she
18 say?

19 A. You know, they -- we believed that
20 they had a very similar strategy in different
21 markets. And, you know, I believe she just
22 acknowledged that she believed that they were close,
23 whether they were both trading counterparties. But
24 Ezra was very open with he had a very close
25 relationship and I remember in a few different

1 meetings that he had mentioned with Madoff. So it
2 wasn't -- so I don't remember specifically what she
3 said. I remember she acknowledged that that was a
4 relationship that the two had had.

5 Q. What did Merkin at that time period,
6 from '02 to '03, what did Merkin express to you or
7 anyone at Sterling Stamos about his relationship
8 with Madoff at that time?

9 A. Can you clarify the dates?

10 Q. '02, between 2002 and 2003.

11 A. I mean, I don't remember exactly
12 which meetings happened when. It would be very hard
13 to. I can attempt to say what happened during a
14 nine-month period of time eight years ago. But if I
15 asked you, frankly, I don't know if you could tell
16 me either.

17 From my -- to the best of my
18 recollection, in that time period Ezra Merkin said
19 that Madoff was a trading counterparty for his Ascot
20 fund and that the two executed very similar
21 strategies, but that the Ascot fund was more focused
22 on the longer dated options market called the leaps
23 market, and Madoff was very focused on near term
24 options between, you know, one-week and three-month
25 options.

1 you know -- you know, Peter would say Saul
2 introduced me to, you know, whoever, and that person
3 became a limited partner.

4 Q. Okay. In addition to introducing
5 Peter Stamos to potential investors and limited
6 partners, did Mr. Katz play any role in selecting
7 fund managers do you recall?

8 A. No.

9 Q. Not to your recollection or you know
10 that he did not?

11 A. I don't believe he played a role.

12 Q. Okay. So, to your recollection, he
13 didn't play any role in deciding which funds to
14 invest in?

15 A. No. He didn't actually know many of
16 the fund managers.

17 Q. Okay. With respect to David Katz,
18 he's listed here as a senior investment team member.
19 What was his role at that time prior to
20 registration?

21 A. Saul's son. There was no role. He
22 attended one -- after Noreen left, he attended one
23 fund manager interview with me.

24 Q. Okay.

25 A. He happened to be in the city that

1 day and I was going to a meeting, and he said can I
2 come along and I said sure.

3 Q. So other than that one fund manager
4 meeting, you don't recall any other --

5 A. No.

6 Q. -- investment-related meetings that
7 Mr. David Katz attended?

8 A. He attended, no.

9 Q. Why -- you didn't draft this, but why
10 would Saul Katz and David Katz be identified as part
11 of the senior investment team if to your
12 recollection they didn't play much of a role in the
13 investment portion of the business? I'm just
14 confused by the document, that's all.

15 A. I'm confused as well.

16 Q. Now, David Katz you mentioned had
17 managed a fund, an account.

18 MS. BIEBER: Object. But you can
19 answer.

20 A. I don't think I --

21 Q. Not a fund. You identified it as
22 some sort of an account.

23 A. It was like a brokerage account.

24 Q. So other than that management of that
25 account and the one meeting with the fund manager,

1 A. I don't know.

2 Q. Do you know why Fred Wilpon would be
3 listed as another investment professional?

4 A. No.

5 Q. Do you know what role, if any, Fred
6 Wilpon had in any of the Sterling Stamos'
7 investments?

8 A. I don't believe Fred Wilpon or Saul
9 Katz or David Katz had anything to do with the
10 investments of Sterling Stamos.

11 Q. So with respect to Saul Katz, the
12 only thing that you recall was helping Peter bring
13 in clients?

14 A. Yes.

15 MR. BOHORQUEZ: Okay. Can I get tab
16 7. Okay. If you can mark that as Exhibit 4,
17 please.

18 (Exhibit Chachra-4 marked for
19 identification.)

20 Q. I've handed you, Mr. Chachra, a short
21 two-page document. And why are you laughing?

22 A. I've never seen this document.

23 Q. That was going to be my first
24 question. So you've never seen this document. Is
25 this document another marketing document?

1 A. No.

2 Q. Based on the fact that it's a hedge
3 fund manager questionnaire, do you think it was
4 Kevin Okimoto or part of his team?

5 A. I don't know who drafted it.

6 Q. On page 3 where it has listed Saul
7 Katz, it says, "Mr. Katz is a general partner of
8 Sterling Stamos and is actively involved in the
9 investment decisions as well as the management of
10 Sterling Stamos." Do you think that is an accurate
11 statement?

12 A. He was a member -- it's half
13 accurate. He was a member of the general
14 partnership, but from my -- I'm not attesting to be
15 a lawyer to understand how the corporate structure
16 worked. He owned half the company was my
17 understanding, but he was not -- he didn't interact
18 with me on the investment decisions, so I view that
19 as an inaccurate statement. He may have interacted
20 with Peter, and that he may have talked to Peter
21 about.

22 Q. To your understanding he was not
23 actively involved in the investment decisions?

24 A. My understanding he was not involved
25 at all in the investment decision-making. As it

1 relates to introducing clients and/or the revenue
2 and profits of the business, my understanding he was
3 involved.

4 Q. And with respect to -- we talked
5 about introducing clients to the business. With
6 respect to the revenue and profits of the business,
7 what was his role in that --

8 A. I think he advised Peter on when
9 Peter wanted to open up an office in California and
10 we were going to spend money, my understanding he
11 consulted Saul. If we were going to make -- you
12 know, we were going to open up our own office when
13 we moved from 575 Fifth to 455 Park, he consulted
14 Saul. We were spending the firm's money.

15 Q. Anything else that you recall? If
16 you can go to the next page which ends in 410, you
17 see under David Katz it says the same thing, David
18 Katz "is actively involved in the investment
19 decisions, as well as the management of Sterling
20 Stamos." Do you consider that to be inaccurate as
21 well?

22 A. Yes.

23 MR. BOHORQUEZ: Why don't we take a
24 break there because it's pushing 1:30, and to try to
25 accommodate you, Mr. Chachra, let's take a 15-minute

1 Q. And in addition to potential
2 investors, did you discuss the creation of the firm
3 and one of the reasons being diversifying the
4 Katz/Wilpon's interest away from Madoff with Merrill
5 Lynch, anyone from Merrill Lynch at any time?

6 A. Isn't that the same question you just
7 asked?

8 Q. Well, clarify for me then, because
9 this morning I thought you said you had had those
10 discussions with Merrill Lynch.

11 A. Yeah, it was with people, employees
12 of Merrill Lynch. When I would have to go present,
13 you know, Sterling Stamos, I would have to walk
14 through the history of the firm and say we were
15 created -- in certain instances we would say the
16 single manager concentration was with Madoff, and in
17 other instances we would say we just were created
18 because the family had had a single manager
19 concentration and we wanted to diversify.

20 Q. So when you were identifying, for
21 example, financial advisors from Korea --

22 A. They are Merrill Lynch employees.

23 Q. That's what was confusing me, but
24 we've cleared that up.

25 And in connection with any of those

1 discussions that you had concerning the history of
2 the firm and the purpose of the firm to diversify
3 the Katz/Wilpon investments from Madoff, did anyone
4 ever ask why Katz/Wilpon wanted to diversify their
5 investments from Madoff?

6 A. I think it was obvious. No. People
7 said -- I don't remember anyone specifically asking
8 why, because if they had a single manager
9 concentration it would be implicit within that
10 statement.

11 Q. So the answer is no, you don't
12 recall?

13 A. I don't recall anyone asking me why
14 they would want to diversify, no.

15 Q. During any of those discussions do
16 you recall anyone raising any issues or concerns
17 about Madoff at all in any way in connection with
18 those discussions?

19 A. In those discussions?

20 Q. Yes.

21 A. No.

22 Q. During your time at Sterling Stamos,
23 did there come a time when anyone, whether from
24 Sterling or from Merrill Lynch or any of your
25 potential investors or current investors, did they