

EXHIBIT AA

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,

v.

NOREEN HARRINGTON

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 Friday,
December 30, 2011, commencing at 9:34 a.m.

1 insurance for his wife's jewelry, he -- it's like
2 saying he put money with Bernie each year instead of
3 paying for a policy.

4 Q. When you were the chief investment
5 officer of Sterling Stamos, did there ever come a
6 time that anyone -- I'm sorry, SP Capital -- did
7 there ever come a time that it was suggested that SP
8 Capital invest with Madoff?

9 A. No, not -- not prior -- not up until
10 August of 2003. Or around that time, I'll say the
11 summer, the summer of 2003.

12 Q. What happened in August of 2003 where
13 the topic of SP Capital and Madoff came up?

14 MS. GORDON: Object to form.

15 Q. Can you describe for me what you
16 meant when the topic of SP Capital investing with
17 Madoff came up in August of 2003?

18 MS. GORDON: Object to form. I think
19 she said it was the summer of 2003. She wasn't sure
20 about the date.

21 MS. GRIFFIN: Okay.

22 Q. Around the summer of 2003, with that
23 correction.

24 A. Saul Katz and Peter Stamos wanted us
25 to meet with a man named Ezra Merkin, who ran Ascot

1 and Gabriel in the -- in that time, and that's
2 when -- it was about our returns and wanting to, you
3 know, have less volatility in the returns that SP
4 Capital had and that we should meet with Ezra
5 Merkin.

6 Q. When you say that Saul Katz and Peter
7 Stamos wanted "us" to meet with Merkin, who is "us"?

8 A. Ashok Chachra and myself.

9 Q. Did you have a meeting with Ezra
10 Merkin?

11 A. I did. With Ashok. With Ashok.

12 Q. Do you recall generally when that
13 was?

14 A. In the summer of 2003. In August,
15 actually, I believe. I don't have -- I looked for
16 my date book. I don't have the exact date of the
17 meeting.

18 Q. And what was Ascot?

19 A. Ascot and Gabriel were funds run by
20 Ezra Merkin.

21 Q. Did they have any relationship to
22 Madoff?

23 A. Yes.

24 Q. And what relationship was that?

25 A. Well, they cleared through -- they

1 did clearing of their transactions through the
2 Madoff broker-dealer, and in the meeting I learned
3 that they could give money -- Ezra Merkin could give
4 money to a third party, and he gave money to Madoff.

5 Q. When you say that you learned at the
6 meeting Ezra Merkin could give money to a third
7 party and he gave money to Madoff, I'm sorry, what
8 do you mean by that?

9 A. So, normally when you give money to a
10 hedge fund, that's where the money resides. But the
11 documents for Ezra Merkin allowed him to give money
12 to a third party. So that means that if you give
13 him money, he has the ability to give that out to
14 another manager, is what it means.

15 Q. And how did you come to learn that
16 Ezra Merkin gave money to Madoff?

17 A. In the meeting.

18 Q. Do you know who, if anyone, said
19 that?

20 A. Ezra Merkin.

21 Q. And did you have an understanding as
22 to which fund, Ascot or Gabriel, he was referring
23 to?

24 A. Just backing up, this was a
25 preliminary meeting on the funds Ezra had, so it was

1 meant to be an introductory meeting, where we were
2 trying to learn about his investment strategies.
3 And how -- similar to what I said earlier -- how he
4 would deploy the money he was given. And this fell
5 out of that conversation.

6 Q. What did Merkin say to you in that
7 meeting?

8 A. Let me take you back to the beginning
9 of the meeting. Ashok and I got there and it was a
10 lot of small talk about the Mets and non-business
11 related things. His background, a little bit about
12 his background, who he was, of which we had already
13 learned of that prior, from -- internally, before we
14 went, so we had an idea of his background already
15 before we got there. But he went over his
16 background.

17 We had a series of preliminary
18 questions we were going to add. I wasn't given any
19 documents to prepare for this and it is eight years
20 ago, so I believe I had the pitch books for his
21 strategies, but I actually don't remember the
22 difference between his individual funds. And there
23 were more than the main -- I mean, there are more
24 funds here. There's a fund call Ariel, there's a
25 fund call Long Horizons, there's more than just

1 Gabriel and Ascot, although they would be the, what
2 I would consider more the flagship funds.

3 Q. Did you ask him any of the
4 preliminary questions that you indicated?

5 A. I asked -- I was able to ask some
6 questions. I can actually not -- I have a general
7 recollection of the meeting and I can give you a
8 general recollection of the meeting. I cannot give
9 you a specific he said, I said, he said, I said. So
10 it's eight years ago --

11 Q. I understand. Your general
12 recollection will be great.

13 A. I can give you what I walked out
14 with, my general recollections of that meeting.

15 So, I would walk out with this: We
16 had a couple of things that we got out of the
17 meeting, but I would categorize the meeting as
18 disappointing, and I would say disappointing for the
19 fact that we were hitting a brick wall and we hadn't
20 even started. So, he was not forthcoming, in my
21 opinion, on the kind of information that we would
22 need.

23 One of the things that I did in the
24 meeting was try to explain to Ezra Merkin our
25 process of what we would need to do at SP Capital in

1 order to make this investment.

2 So, one of my roles in the meeting
3 would have been to talk about some of the things I
4 mentioned to you earlier about our due diligence.
5 So, what would need to occur for us to be able to go
6 forward with this investment. And I will highlight
7 a few of them.

8 I know that we would want to meet
9 with his traders, that we would want to actually
10 maybe even sit with them, see them, see them
11 trading. That we would like to look at some -- one
12 of the things we did, and we may have had and it's
13 not a great recollection, but we normally looked at
14 investor letters that were old, to see the kind of
15 attribution of returns that you had.

16 We would have -- you know, I would
17 have said -- this was a general speech I gave a lot
18 of people. So, whether I did all these topics, it
19 was pretty rote for me, this speech. So, I told him
20 that, you know, we would start this process and then
21 we would end up back at him. We normally don't
22 start -- we normally end up back at the senior
23 person at the end.

24 And he -- the meeting ended
25 reasonably abruptly, because after I went through

1 some of this, he said to me that I don't get to ask
2 questions. First he said I didn't get it. He said:
3 You don't get it, do you? And he paused, and then
4 he repeated that: You don't get it, do you? This
5 is a privilege. You don't get to ask questions.

6 And I had a response to that. I
7 said, I actually need to ask these questions, and
8 many more, as a fiduciary. Might I add, Mr. Merkin,
9 so do you. And that sort of was very close to the
10 end of the meeting.

11 Q. Did you have an understanding as to
12 how Madoff was connected to Merkin's funds?

13 A. The third party issue definitely came
14 up, that he could give cash to other managers. That
15 is what I'm referring to in the back part of my
16 closing statement. If you're giving money to
17 someone else, you have the same exact -- you're in
18 the same exact position as me. Okay? So if you're
19 passing money to someone else, you're acting as
20 fiduciary to your investors. So you should be
21 looking out for their interests.

22 So, if you're passing money to a
23 third party, my due diligence is going to have to go
24 through you, through you, to see some of the same
25 things we would require of you if you're feeding

1 discussions you did have with Ashok about the
2 meeting with Merkin?

3 A. Other than the one, what I said
4 earlier? You know, I don't recollect, although we
5 would have been preparing for the meeting we were
6 ultimately going to have on this, so there would
7 have been a dialogue, but I don't recollect, you
8 know, the specific conversation.

9 Q. The meeting that you were going to
10 ultimately have regarding this, what do you mean?

11 A. The investment meeting on the -- on
12 the investment.

13 Q. In Merkin?

14 A. In Merkin.

15 Q. Did there come a time that you did
16 have an investment meeting on the investment with
17 Merkin?

18 A. Yes.

19 Q. Do you recall generally when that
20 was?

21 A. Generally, I don't have the date, but
22 it would have been around August 2003.

23 Q. Do you know who was at that
24 investment meeting?

25 A. Yes.

1 Q. Could you tell me who that was?

2 A. David Katz, Saul Katz, Peter Stamos
3 telephonically, Ashok Chachra, myself.

4 Q. Anybody else?

5 A. Not to my recollection.

6 Q. Did you discuss the meeting with
7 Merkin at that investment meeting?

8 A. We did.

9 Q. Can you tell me what you said at that
10 meeting?

11 A. Again, I can tell you in general
12 terms about the meeting. We had -- we definitely
13 had papers that we had prepared, and we discussed in
14 general terms the meeting with Merkin. And, again
15 in general terms, I gave a negative assessment of
16 doing this investment.

17 Q. I'm sorry, when you say you gave a
18 negative assessment of doing this investment, are
19 you referring to the investment in Merkin?

20 A. I am.

21 Q. And can you tell me how you gave a
22 negative assessment at that meeting? What did you
23 say?

24 A. Okay. I said that given the meeting,
25 and, you know, not -- and the comments that

1 that meeting, I remember he held Ezra Merkin in high
2 regard and he, as a member of the -- as a member of
3 the community, as -- you know, he just held him in
4 high regard. And so my comments were not well
5 received. And in addition to that, my Madoff
6 comments were not well received as well. So...

7 Q. What do you mean your Madoff comments
8 were not received as well by Saul Katz?

9 A. I basically have an inherent problem
10 with feeders, just in general, I'll say that,
11 because, again, if we're telling our investors that
12 we're transparent and we can't see where the money's
13 going, again, it's sort of a non-starter, that we
14 wouldn't be able to make those kind of investments.
15 But I also -- I -- and I brought up the numbers
16 again because I said, you know, I don't really see
17 how -- you know, I don't really understand the math
18 here of how somebody can get these kind of returns
19 that are so positive.

20 Q. Who are you referring to?

21 A. Well, I could -- I was referring to
22 Madoff at that time, I believe, when I said that,
23 but you have to remember, even what I'm doing today,
24 I was sort of commingling the two because if
25 somebody is -- if my belief is, from that meeting

1 based on what I heard, that this is a feeder, then
2 they become linked in, you know -- ultimately I'm
3 investing in Madoff for whatever percentage.

4 So, anyway, Saul Katz wasn't happy
5 with me and he actually asked me a question. He
6 asked me what I -- it was fairly linked to what I
7 said before, which was about me having, you know,
8 all the answers. And I said to him, you know, quite
9 to the contrary, I don't have enough answers and,
10 you know, that's part of the problem. But he said,
11 well, what do you think Madoff does with the money?
12 He asked me specifically for my own opinion. And I
13 gave it. And my answer was this, which is, I made
14 an accusation of front-running, which is profitable
15 and non-correlated, but also illegal. And I said,
16 if it wasn't that, I believed it was fiction. And
17 to that he said, what do you mean by fiction? And I
18 said, I don't believe the numbers are worth the
19 paper they're written on.

20 Q. What numbers were you referring to?

21 A. Returns.

22 Q. And what was the basis on which you
23 believed that the returns were fiction?

24 A. They were too good. The numbers were
25 too good to be true.

1 Q. And how did you reach that
2 conclusion?

3 A. I don't know. Experience.
4 Experience could be, you know, just -- as I said
5 earlier, I've had the privilege of working with
6 extremely bright people in this industry, some of
7 the best and some of the brightest, and yet they
8 didn't seem to be this good to me. You know, they
9 didn't have returns that were this good.

10 Q. Did you have an understanding of
11 whether Saul Katz had done any diligence into
12 Madoff?

13 A. I don't know what he did.

14 Q. Did you have an understanding as to
15 whether David Katz had done any diligence into
16 Madoff?

17 A. Not to my knowledge.

18 Q. What was the basis for your, I think
19 you said accusation that Madoff might be
20 front-running?

21 A. When you have your own broker-dealer,
22 it allows you the ability to see other people's
23 transactions, and transactions which could -- you
24 know, could move a market. And so front-running
25 simply means you jump in front of those orders, and

1 you sort of get a quick return that wouldn't have
2 any correlations to the overall return of the market
3 that day.

4 Q. And was front-running one of the
5 explanations for the returns that you saw in Madoff?

6 A. It was, when I was asked my opinion
7 by Mr. Katz, I offered up two possibilities that
8 were my opinions at the time.

9 Q. And you're saying when you were asked
10 your opinion by Mr. Katz -- what were you referring
11 to again?

12 A. Bernie Madoff.

13 Q. And what did he say in response to
14 your suggestion that Madoff might be front-running?

15 A. He, he didn't pick out the
16 front-running. He picked out the latter thing that
17 I said. So he picked out the fiction and said, what
18 did I mean by that. And that's when I said, you
19 know, I don't think the numbers are worth the paper
20 they're written on. Obviously he was visibly angry
21 with me, because these were people he respected a
22 great deal, and my responses, whether it be
23 front-running or fiction, portrayed something
24 illegal or bad. And I responded after he was angry
25 that I have been wrong before, I could be wrong now,

1 and I would, if I could sit in front of Bernie
2 Madoff and we could execute our process, so, in
3 other words, we could do the due diligence required
4 for the investment, and he -- and the answers were
5 good, then I am wrong and we can go forward. And so
6 I asked for the meeting, I asked for the meeting.

7 Q. With who?

8 A. Bernie Madoff.

9 Q. And did you get a meeting with Bernie
10 Madoff?

11 A. I did not.

12 Q. Did Saul Katz respond in any way when
13 you asked for the meeting with Madoff?

14 A. He did not.

15 Q. Did David Katz react to any of the
16 things that you said at this meeting?

17 A. My recollection is David said very
18 little at the meeting.

19 Q. Was Ashok at this meeting?

20 A. He was.

21 Q. What did he say?

22 A. Ashok spoke in the beginning,
23 particularly on the papers we had and the numbers we
24 had, and -- but I was definitely in the hot seat and
25 he was definitely not looking to get in the

1 crossfire, so he didn't say particularly much at the
2 end, that I can recollect.

3 Q. When you say you were definitely on
4 the hot seat, what do you mean?

5 A. I was sitting in a seat at the end of
6 the table like this one and I'm delivering a bad
7 message. I'm delivering a bad message. I'm
8 definitely -- the answers I'm giving or the things
9 I'm saying are not what they want to hear.

10 Q. Did Ashok give any recommendations
11 with regard to this investment, at that meeting?

12 A. My recollection is Ashok did not say
13 much, so...

14 Q. What was Peter's response to what was
15 discussed about Merkin?

16 A. You know, again, not positive. I
17 don't remember the exact words, but totally in
18 disagreement with me on the assessments I had made.

19 Q. Did you tell the people at this
20 meeting that you had looked into the options volume?

21 A. You know, I don't remember
22 specifically, but I said, look, we -- I have thought
23 a lot about these -- I have thought a lot about this
24 investment. I have thought about some of the things
25 that came up in the meeting, but do I have an exact,

1 work on the new investments that we were going to
2 make.

3 So, my recollection is these
4 investments were existing when I got to SP Capital.
5 That's my recollection, having seen this.

6 Q. And given your understanding of the
7 mandate that Mr. Stamos gave you, why then did he --
8 why then did you meet with Mr. Merkin in 2003?

9 A. I was asked to meet with Mr. Merkin
10 in 2003 because they wanted to make a new
11 investment, or additional investment with Ezra
12 Merkin.

13 Q. And at the time, in preparation for
14 that meeting with Mr. Merkin, did you do anything to
15 educate yourself on the existing investments that SP
16 Capital had with Mr. Merkin?

17 A. Yes. I would have, I would have
18 looked at -- as I said earlier, I would have looked
19 at pitch book returns, letters. Yes, we would have
20 gone through and I would have familiarized myself a
21 little bit before I went to the meeting with him.

22 Q. And again, I appreciate what you
23 would have done. I'd like to know what you remember
24 that you did do.

25 A. Okay.

1 Q. Do you recall how you got to and from
2 the meeting?

3 A. I think I walked, but I don't -- I
4 mean, I don't really remember.

5 Q. And you told us earlier that you
6 recall talking to Mr. Chachra immediately after the
7 meeting about it not going well, correct?

8 A. That's right.

9 Q. Do you remember where you were with
10 Mr. Chachra when you had that discussion?

11 A. Outside of the building that Ezra
12 Merkin was in because I said not to say anything in
13 the elevator.

14 Q. Okay. And do you remember where
15 Mr. Merkin's offices were at that time?

16 A. I don't.

17 Q. Now, you told us earlier this morning
18 that following this meeting you felt like you needed
19 to do some work, correct?

20 A. Yes.

21 Q. And what was the purpose of the work
22 you were going to do?

23 MS. GORDON: Objection. Asked and
24 answered. You can answer again.

25 A. You know, to see if we could -- as I

1 testified, I had a negative view of the meeting
2 based on the fact that we couldn't fulfill our
3 fiduciary role and -- but I was going to -- you
4 know, we were going to do some work to try and see
5 if we could substantiate the returns, the comments
6 that were made in the meeting. So -- but I had
7 already a predetermined negative view.

8 Q. And in your mind the work that was to
9 be done to substantiate the returns or the comments,
10 was that specific to Merkin or was that related to
11 Madoff?

12 MS. GORDON: Objection, asked and
13 answered. You can answer again.

14 A. I actually felt I had to think about
15 both invest -- both people, Merkin and Madoff after
16 the meeting.

17 Q. And did you task Mr. Chachra with any
18 specific work that related to either Merkin or
19 Madoff?

20 A. I don't remember exactly what I told
21 him to do.

22 Q. Do you remember if you told him to do
23 anything?

24 A. I do remember saying we have to do
25 some work on this, it's not going to go well.

1 A. I don't remember specifically the
2 work that Ashok did versus what I did.

3 Q. Okay. And in terms of the work that
4 you did, Ms. Harrington, what work was specific to
5 Madoff?

6 A. You know, I think I looked him up. I
7 took -- I looked -- I think I both, you know, I
8 looked at both of them in more detail with the
9 background information or what I could find. I
10 think I -- as I said earlier, I did some work on
11 looking at options. I thought a lot about split
12 strike conversion. I thought a lot about the math.
13 I thought a lot about why does somebody go to cash
14 to fly under the -- you know, to stay out of
15 regulatory filings. I thought about a lot of the --
16 those kind of issues.

17 Q. Okay. When you looked up Mr. Madoff,
18 do you recall what that research revealed?

19 A. Biography-type research, it was a
20 little bit more biographical, I would say, but I
21 don't recall specifically. I may have seen a
22 Barron's article or -- I remember specifically on
23 Merkin I saw something about a man named Victor.

24 Q. Um-hum.

25 A. But I really don't have a

1 A. No, not specifically.

2 Q. Now, you told us also, in terms of
3 the work that you were doing, that you thought a lot
4 about the math; is that correct?

5 A. Yup.

6 Q. And what did you mean when you said
7 you thought a lot about the math?

8 A. I think I testified earlier today
9 that doing these options strategies don't
10 necessarily produce results that lack volatility or
11 uncorrelated, or -- you know, there is some
12 uncorrelation, but it -- they look like they're
13 related to each other, you know, the investments
14 should look like they have some relationship.

15 You know, I can't point to exactly.
16 I thought about -- I did look up how big Madoff
17 Securities was, the broker-dealer. My recollection
18 again, I can't give you the specific number of the
19 size, but they weren't massively big.

20 Q. Did you ever -- well, withdrawn.

21 Ms. Harrington, did you think about
22 the math specifically as it related to Madoff?

23 A. Again, I have two people with similar
24 strategies. The difference is maturity or length of
25 duration of the investment. So in my own mind I was

1 it?

2 A. It seems like something -- because I
3 have an experience or something in the market that I
4 was involved in in 1994 that was similar and I --
5 but more tangible, and it was like me to, you know,
6 try and validate in some way or form if I could, use
7 the math to back up what I was saying.

8 Q. And do you remember what you did to
9 do the math?

10 A. You know, I don't remember exactly
11 what I did, but I think I looked at, you know -- I
12 looked at coloring options to see what kind of
13 returns I might get. You know, I don't, I don't
14 have a specific recollection of what I did.

15 Q. And do you remember discussing the
16 math with Ashok Chachra?

17 A. I remember saying these returns are
18 too good to be true.

19 Q. And did you say that to Mr. Chachra?

20 A. I not only said it to him, I said it
21 in the investment meeting to everybody.

22 Q. Which you told us about this morning?

23 A. Yeah.

24 Q. And in terms of the math that you
25 did, do you remember giving an analysis or any sort

1 of analytics to anyone at SP Capital with regard to
2 Merkin or Madoff?

3 MS. GORDON: Objection, asked and
4 answered. You can answer again.

5 A. I remember specifically saying I want
6 the meeting so we can do the work, so we have all
7 the due diligence to make the assumption as to
8 whether this was right or not. What we had now was
9 not nearly enough to do this investment. We
10 could -- again, you have to go back to one of the
11 premises of why we can't make this investment. We
12 can't make this investment based on transparency, we
13 can't make this investment based on, you know,
14 process.

15 I asked for the meeting to be able to
16 get all the information to be able to look at the
17 math much more closely and to ascertain whether we
18 were right or wrong. And, as I said, we needed more
19 information to be -- I wasn't certain. I was not
20 certain, so -- and as I said in the meeting, I could
21 have been wrong. But without access to allow our
22 process to take place, I had -- I had an opinion
23 which I voiced when Saul Katz asked for an opinion,
24 but I didn't have the hard tangible facts to be able
25 to say that it was right or wrong.

1 Q. We were talking a bit before the
2 break about the investors meeting wherein you shared
3 your views of Ezra Merkin and Bernie Madoff, and I
4 just want to return to that for a moment.

5 You testified earlier today that you
6 shared your opinions in that meeting concerning
7 Messrs. Merkin and Madoff, correct?

8 A. That's correct.

9 Q. And one of those opinions was that --
10 and correct me if I'm wrong -- Mr. Madoff
11 potentially was front-running; is that correct?

12 A. Yes.

13 Q. And in that meeting, did Peter Stamos
14 agree with your view?

15 A. Of front-running?

16 Q. Of front-running.

17 A. I don't remember if Peter made a
18 comment particular to front-running. He did not
19 agree with my views in that meeting.

20 Q. So he didn't agree with your views as
21 a general matter in that meeting?

22 A. Yeah, as a general matter.

23 Q. And specifically as to front-running,
24 you don't recall a specific -- a particular
25 disagreement?

1 A. I don't recall a particular
2 disagreement.

3 Q. Do you recall whether Peter Stamos
4 disagreed with your views as to whether Madoff's
5 statements were fiction or returns were fiction,
6 rather?

7 A. He didn't agree with my views that I
8 had expressed in that meeting on either front, is my
9 recollection.

10 Q. Did Saul Katz agree with your opinion
11 that Madoff potentially was front-running, in that
12 meeting?

13 MS. GORDON: Objection. Asked and
14 answered this morning. You can answer again.

15 A. Saul Katz did not comment on the
16 front-running. He only commented on the fiction.

17 Q. And with respect to your opinion
18 regarding the returns being fiction, Mr. Katz did
19 not agree with your views; is that correct?

20 A. That's correct.

21 Q. And did David Katz agree -- express
22 an opinion or a view one way or the other as to your
23 opinions at that meeting?

24 A. As I said this morning, David Katz --
25 my recollection is he was fairly quiet. I don't

1 Q. And any particular analysis you can
2 recall that reflected them being too good to be
3 true?

4 MS. GORDON: Same objection.

5 A. Nothing that I haven't already
6 stated.

7 Q. You told us earlier today that in
8 that particular investors meeting you asked for a
9 meeting with Bernie Madoff; is that correct?

10 A. I did.

11 Q. And who did you ask for that meeting?

12 MS. GORDON: Same objection.

13 A. I directed the question towards Saul
14 Katz.

15 Q. And I think you told us earlier today
16 Mr. Katz did not respond; is that correct?

17 A. He did not respond.

18 Q. And did you ever follow up with him
19 again to seek a meeting with Mr. Madoff?

20 A. There wasn't any time, really.

21 Q. What do you mean there wasn't any
22 time?

23 A. I have to go back for a second, if I
24 can.

25 My recollection is this took place in

1 August. My recollection is I quit after this. My
2 recollection is not June, not July. It's August. I
3 asked for the meeting. I was told they would make
4 the investments, and I stand by the conversation I
5 had with Peter Stamos that said, if you're going to
6 make this investment, I'm gone.

7 So, there was no time, but my
8 recollection is August. It's not June, it's not
9 July. My recollection is I had the meeting with
10 Ezra Merkin in August of '03.

11 Q. Do you recall leaving Sterling Stamos
12 and not returning to the office until you packed it
13 up on or about August 7th, 2003?

14 MS. GORDON: Object to form.

15 A. You know, I may have come back. I
16 don't remember.

17 Q. Do you have any records that would
18 reflect when you left Sterling Stamos?

19 A. You know, I looked for my date book
20 as part of discovery, and I didn't have it. So,
21 it's eight years ago and I really don't remember my
22 schedule in August of 2003, sorry.

23 Q. So is it fair to say that it's
24 equally as possible that the meeting was in fact in
25 June as it was in August?

1 MS. GRIFFIN: Objection.

2 MS. GORDON: Objection.

3 A. It's not fair to say that because I
4 have a recollection. I'm certain of the
5 recollection I have, but that is my recollection,
6 that it's August of 2003.

7 Q. And you were telling me that there
8 was no time to ask for a follow-up meeting with
9 Mr. Katz as an explanation as to why you did not
10 seek one; is that correct?

11 MS. GORDON: Objection.

12 A. I asked for the meeting. To be real
13 honest, I don't know if I saw Saul Katz again after
14 that. I don't have a recollection of seeing him
15 after that meeting.

16 Q. Did anyone in that meeting tell you
17 you couldn't meet with Bernie Madoff?

18 A. I don't recall them saying that.

19 Q. I think you told us earlier today --
20 and this is just, I want to see if I understood your
21 testimony correctly -- that there were some
22 positives and some negatives discussed at that
23 meeting. Is that correct?

24 A. That would be correct.

25 Q. And we talked about some of those, I

1 Q. Well, did you return the money to the
2 victims of the mutual fund timing that Mr. Stern was
3 engaged in?

4 MS. GRIFFIN: Objection.

5 MS. GORDON: Objection.

6 A. I did not. I asked Elliot Spitzer, I
7 fully acknowledged to Elliot Spitzer and his staff
8 that I had this investment, I made money on this
9 investment, and he categorized me as a victim of the
10 crime and, therefore, he did not feel that I was
11 obligated to do anything about it.

12 The mutual fund scandal cost me money
13 and I benefited nothing from it.

14 Q. Now, in terms of the mutual fund
15 scandal, there came a time, did there not, Ms.
16 Harrington, when you called Attorney General Elliot
17 Spitzer's office and left an anonymous tip about
18 the -- what you had observed at Stern Asset
19 Management?

20 A. That's correct.

21 Q. Is that correct?

22 Do you recall when that was?

23 A. Yes.

24 Q. And when did you do that?

25 A. While I was working at SP Capital and

1 it would have been April of 2003.

2 Q. And why did you call the Attorney
3 General at that time?

4 A. To report what I believed was a
5 crime.

6 Q. And how regularly were you
7 communicating with the Attorney General's office in
8 and around the time that you left this anonymous
9 tip?

10 MS. GORDON: Object to form.

11 A. My belief is I made five phone calls
12 before I actually got a human being.

13 Q. And after you got a human being, did
14 you have a regular communications with the Attorney
15 General's office?

16 A. I think the word "regular"
17 overstates, but if you would allow me, I'll --

18 Q. Sure.

19 A. -- categorize it.

20 Q. Absolutely.

21 A. When I did get a person, I tried to
22 walk them through the crime on the phone, and since
23 I had left so many anonymous messages already, she
24 was prepared for my phone call and she said, we need
25 your help in figuring this out, and you can remain

1 investigation after I left Stern, and I wasn't sure
2 where to go. And so I really weighed my options,
3 either being the SEC or the Attorney General. And
4 things influenced me during this time period that
5 sent me in the direction of the Attorney General.

6 But it is -- so, I wasn't certain I
7 was going there, but I just want to say, I was
8 trying to build a roadmap myself if I would do this.
9 Obviously, this was the first time I ever did
10 anything like this.

11 Q. So at least you, in your own mind,
12 had thought about whether you could go to the SEC or
13 the Attorney General; is that correct?

14 A. Yeah.

15 Q. So you knew that those were two
16 avenues that you could take if you wanted to
17 report --

18 A. Yes.

19 Q. -- evidence of illegal activity?

20 A. Yes.

21 Q. Now, at any point, Ms. Harrington,
22 between the summer of 2002 and December 11th, 2008,
23 did you reach out to the New York Attorney General's
24 office to communicate to him your views about
25 Madoff?

1 A. I did not.

2 Q. And at any point in time between the
3 summer of 2003 and December 11th, 2008, did you
4 reach out to the SEC to communicate your views about
5 Madoff?

6 A. I did not.

7 Q. At any point between the summer of
8 2003 and December 11, 2008, did you reach out to the
9 NASD or FINRA -- I'm not sure when they switched
10 over -- to communicate your views about Madoff?

11 A. I did not.

12 Q. At any point in time between December
13 2 -- the summer of 2003 and December 11th, 2008, did
14 you reach out -- thank you -- to any of your former
15 colleagues at Goldman Sachs to communicate your
16 views about Madoff?

17 A. Not that I recollect.

18 Q. And Jon Corzine was a mentor of
19 yours, correct?

20 A. Actually, I have to just -- hold on a
21 second, I think I just said something wrong.

22 I just said no and I had that
23 conversation I reported earlier with Herb Miller.

24 Q. Was Herb Miller a colleague of yours
25 at Goldman Sachs?

1 Q. And prior to December 11th, 2008, in
2 anything you ever wrote, did you pen or disclose
3 your views about Madoff?

4 A. Not to my recollection.

5 Q. And did you not share or disclose
6 your views about Madoff with anyone because you were
7 uncertain as to whether they were true?

8 A. That is not why I did it.

9 Q. And why didn't you do it?

10 A. The situation between the mutual
11 funds and Bernie Madoff, in my mind, were incredibly
12 different, and I'll explain to you why.

13 In the case of the Attorney General
14 on the mutual funds, I had factual, tangible,
15 physical evidence that a crime was taking place.
16 And in the case of Bernie Madoff I never had the
17 meeting. I made -- you know, I voiced an opinion,
18 but I did not have -- they're light years apart in
19 my mind, they are light years apart.

20 Reporting a crime is incredibly
21 difficult, and they question everything that you
22 say. When you're being interrogated at the Attorney
23 General's office, every word you say they look into,
24 they check. You have to substantiate every single
25 thing that you say, and I didn't have nearly enough

1 evidence in the other situation with Madoff or
2 Merkin to speculate and, with no tangible proof, I
3 felt very strongly that I would diminish my own
4 credibility in a crime I felt very strongly about.

5 Q. When you say you would diminish your
6 credibility, you mean with respect to the mutual
7 fund issue?

8 A. Well, I did feel that you can't just
9 walk in there and say, you know, by the way, you
10 should look at this. Because I actually -- I
11 understood the process. I understood the process
12 that one goes through when they make a statement.
13 The process is difficult, okay, and extensive. I
14 can't even think of the words. But when you go in
15 to report a crime, what happens to you is, they
16 don't believe anything you say and they question
17 everything you say. And you really need to show
18 them where the evidence of that crime is. It's --
19 it's a daunting, difficult process. And I had
20 firsthand, tangible information in the mutual funds,
21 and I didn't have that because I never got to that
22 level.

23 I'll say this: Had I, if I had
24 firsthand information, if I knew with some certainty
25 that this was fraud, I believe I would have said

1 something.

2 Q. And after you left SP Capital, did
3 you do anything to try to follow up on your opinions
4 that you had expressed at SP Capital regarding
5 Madoff?

6 MS. GORDON: Object to form.

7 A. Anything? I don't -- well, could you
8 just -- I'm sorry, I'm tired. Could you just say
9 that again?

10 Q. Sure.

11 After you left SP Capital, did you do
12 anything, did you take any steps, did you undertake
13 any efforts to explore the opinions you had
14 expressed regarding Madoff while at SP Capital?

15 MS. GORDON: Objection.

16 A. I did not.

17 MS. SESHENS: Hang on one second.
18 Let me just see -- could we go off for two minutes?

19 MS. GORDON: You bet.

20 THE VIDEOGRAPHER: We're off the
21 record, the time is 6:02.

22 (Recess taken.)

23 THE VIDEOGRAPHER: We're back on the
24 record. The time is 6:12.

25 MS. SESHENS: Ms. Harrington, subject