

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:                    )  
  ) File No. OIG-509  
OIG-509                                 )

WITNESS:    Number 20  
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PLACE:       McCarter & English  
              265 Franklin Street  
              Boston, MA 02110  
DATE:        Wednesday, April 1, 2009

 ORIGINAL

The above-entitled matter came on for hearing, pursuant to notice, at 1:15 p.m.

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1 APPEARANCES:

2

3 On behalf of the Securities and Exchange Commission:

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13 On behalf of the Witness:

14 DANIEL P. BARRY, ESQ.

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## P R O C E E D I N G S

1  
2 MR. KOTZ: All right. We are on the record. It is  
3 10 minutes -- 15 minutes after 1:00 p.m. on April 1, 2009, at  
4 the United States Securities and Exchange Commission.

5 Whereupon,

6 EDWARD MANION

7 was called as a witness and, having been first duly sworn,  
8 was examined and testified as follows:

9 EXAMINATION

10 BY MR. KOTZ:

11 Q And I'd ask you if you could state and spell your  
12 full name for the record, sir.

13 A Edward F. Manion. Spell it?

14 Q Just spell Manion.

15 A M-a-n-i-o-n.

16 Q Mr. Manion, my name is David Kotz. I have my  
17 associates here, David Witherspoon and David Fielder. I am  
18 the inspector general of the United States Securities and  
19 Exchange Commission.

20 This is an investigation by the Office of Inspector  
21 General, Case Number OIG-509. I'm going to ask you certain  
22 questions, and you'll provide answers under oath. The court  
23 reporter will record and later transcribe everything that is  
24 said. Please provide verbal answers to the questions. A nod  
25 of the head or some other nonverbal response won't be able to

1 A Yeah. Yeah.

2 Q That was the time period when you were working with  
3 Jim?

4 A Yes.

5 Q And in that time period, your duties were to, based  
6 upon your background, to kind of identify potential issues  
7 that the SEC could look at; is that fair?

8 A That's fair. That was not in my job description  
9 but that's what I was doing.

10 Q Okay. And your job description was as a general  
11 examiner?

12 A Yeah. And then later on, it changed to a staff  
13 accountant, just because somebody said to me, one of the  
14 branch chiefs said to me, you know, you took an awful lot of  
15 accounting courses. You were a finance manager. You can't  
16 take accounting courses without first taking finance courses.  
17 So they said you must have all the requirements to be a staff  
18 accountant, and sure enough, I did.

19 Q When was that that it was formally changed to staff  
20 accountant? Do you know?

21 A No, I don't even know.

22 Q And is that the official title of your position  
23 today?

24 A Yes.

25 Q All right. So let's talk about the period of time

1 in -- from 2000 through 2005, okay. Is that a period of time  
2 when you were still working with Jim, do you think?

3 A Jim had gone.

4 Q Okay. So Jim had gone. So let's talk about that  
5 period of time, between 2000 and 2005. Who were you  
6 reporting to at that time?

7 A I was probably -- I've only reported to one person  
8 here and that's John Clark on the examination side.

9 Q Okay. So in the period 2000 to 2005, what kind of  
10 things were you doing?

11 A Almost the same thing I'm doing now, getting  
12 frustrated.

13 Q Okay. So expand on that, if you could, a little  
14 bit.

15 A This is where you have to be ready, Dan, in case I  
16 say the wrong thing. Well, I'll say the right thing but it  
17 will be the wrong thing. Maybe it's, I don't know, not human  
18 nature but, you know, just being on the same wavelength with  
19 somebody. And I'm sure you're going to ask me another  
20 question later, but when Jim left, I mean, Jim was supposed  
21 to interview Harry.

22 Q Okay.

23 A And they met in the corridor and Jim said, Geez,  
24 I'm sorry, I was the one that was supposed to mention it to  
25 you but I'm going back to the private sector.

1 Q All right. Let's get to Harry in a second. I just  
2 kind of want to get generalities first.

3 A Yep.

4 Q So were the things that you wanted to do during  
5 that period, 2000-2005, similar to what you were doing with  
6 Jim; in other words, you know, based on your experience,  
7 identifying issues that the SEC should look at?

8 A Right.

9 Q But did you feel like that you weren't listened to  
10 as much between -- in that period 2000-2005, that you were  
11 trying to do those same things but perhaps you weren't  
12 getting the receptiveness like you were before with Jim?

13 A Right.

14 Q All right. But generally that's what you were  
15 still trying to do?

16 A Yes.

17 Q Okay. So because you had this tremendous  
18 background and expertise, you know, hands-on experience, you  
19 were in a position to be able to identify issues that others  
20 perhaps wouldn't see; is that fair?

21 A Oh, yeah. I mean, that's why I always wanted to  
22 come in on a Monday. Monday is my best day, especially if  
23 there's a three-day holiday because all the information  
24 that's going to pass that shouldn't pass happens over that  
25 weekend.

1 Q And so is there -- are there any other people in  
2 the Boston office who have that same kind of background that  
3 you have?

4 A No.

5 Q Okay. So all right. Let's get into a little bit  
6 of details now, okay. When did you first meet Harry  
7 Markopolos?

8 A You know, I've been trying to think about that. It  
9 had to be 10 to 15 years ago. Harry is a past president of  
10 the Boston Securities Analysts. I think I told you that when  
11 I showed you they're going to have the lunch for him  
12 tomorrow. And I was chair or a member and then chair of the  
13 ethics committee, which is something I like to do and I'm  
14 going to push to get back at it, but unfortunately there were  
15 some politics there too, you know.

16 Q And so what is Harry's reputation generally in the  
17 investment industry?

18 A You know, you might get a splitter opinion, and  
19 this is what I would like to tell you about Harry because I  
20 can see it pervades this office too, I think Harry is the  
21 type of guy, either you like him or you don't like him. Do  
22 you know what I mean?

23 Q Right.

24 A I mean, you've met people like that, you know. I  
25 mean, sometimes Harry is not too smooth, I mean, when it

1 comes to, you know, people-to-people stuff.

2 Q Okay. But what about in terms of his knowledge,  
3 how would you assess Harry's knowledge of the financial  
4 industry or investment industry?

5 A I thought his knowledge was sensational and I  
6 thought his contacts were sensational.

7 Q Okay. So even if some people, you know, found him  
8 quirky or --

9 A They found --

10 Q -- didn't get along with him on a personal level,  
11 could anybody doubt his knowledge of the industry?

12 A From my point of view, yeah, they did doubt his  
13 knowledge in the industry.

14 Q No but I'm asking you do you think that was  
15 appropriate? I'm asking from your point of view, could  
16 anybody, should anybody have doubted his knowledge of the  
17 industry? That's what I'm asking before we get into that.

18 A I don't think so, but I think Harry's personality  
19 fostered it.

20 Q Okay.

21 A And that's why I said in the beginning, either you  
22 liked him or you didn't. And I like him and some other  
23 people here don't like him.

24 Q Okay. Who doesn't like him here?

25 A Well, I think it goes top to bottom.

1 Q Okay. Well, let's talk a little bit about  
2 specifics. Do you remember a point in time in May 2000 when  
3 Harry first came in to talk about Bernie Madoff?

4 A Yes.

5 Q Okay.

6 A But he called me before he came in.

7 Q Okay. Tell me that. Now, there were a few times  
8 that he came in. So tell me what was the conversation like  
9 before he came in?

10 A Well, the conversation was like -- and by the way,  
11 I know his boss too. I used to work with his boss.

12 Personal Privacy

13 Q Who was that?

14 A Personal Privacy

15 Q All right. So --

16 A We should have really grabbed them with a subpoena  
17 first.

18 Q Okay.

19 Personal Privacy

20

21

22 Q Okay.

23 A I'm sorry. Let me get back to your question. I  
24 don't mean to get off --

25 Q No. That's all right. So Harry calls you?

1 A Yeah.

2 Q And what does he say?

3 A He said he's looked at the Madoff -- he's looking  
4 at the Madoff stuff and Personal  
Privacy his boss, said, you know, Harry,  
5 if this Madoff guy can make 10 percent a year, year in and  
6 year out and never has a down year, even when the market goes  
7 down, why can't you do that, you know.

8 Q Right.

9 A So then Harry got Neil Chelo and Frank Casey and  
10 they're -- I mean, I don't really know them but they're  
11 mathematicians too and they cranked it up and they said, Hey,  
12 we don't know how he's doing it.

13 Q Okay.

14 A And then Harry came to me in late, you know, kind  
15 of showed me the stuff and we thought it was a front  
16 running --

17 Q Okay. But let's --

18 A -- your typical -- oh, okay. Am I getting off  
19 topic?

20 Q Yeah. Let's just -- I just want to show you a  
21 document. We're going to mark this as Exhibit 1, and this is  
22 a several-page document. It starts, it says on the bottom  
23 MARK0005 through MARK0012. It says, "This is my formal  
24 presentation to the SEC's Boston office."

25 So if we could mark this as Exhibit 1 and then I

1 want you to just look at it.

2 (SEC Exhibit No. 1 was marked for  
3 identification.)

4 BY MR. KOTZ:

5 Q This document has been represented by Harry as the  
6 document that he first provided to the SEC in May 2000, I  
7 think around that time of that meeting that almost happened  
8 with Adelman that you were talking about. Is this your  
9 recollection that this was the document that Harry provided  
10 in May 2000?

11 A Dave, I think so, but it's been ten years.

12 Q Okay. I got you. I understand. Okay. So when  
13 you were talking about the phone call you had, that was in  
14 that time period, though, May 2000, you think?

15 A I thought we started on this in '99, didn't we?  
16 Didn't we?

17 Q Well, I mean, our information shows that the  
18 document was -- that there was a meeting in May 2000 but it  
19 could be the conversations were before.

20 A I -- when I think of this, I -- the start date is  
21 when Harry came to me. I looked at his stuff. I said, Wow,  
22 this is serious. I want to bring you in and meet the top  
23 guy.

24 Q Okay. But this is in that 1999-2000 time period?

25 A Yes. Yeah. Okay.

1 Q Okay.

2 A And then that's when I brought Harry in to see  
3 Grant Ward, unfortunately. If he'd seen -- I know if he had  
4 seen Jim Adelman, the results would have been different.

5 Q Why do you say that?

6 A When we walked out of the meeting, Harry and I,  
7 with Grant Ward, we looked at each other and we both said, He  
8 didn't understand a damn thing we said.

9 Q And that was your impression as well as Harry's?

10 A Yep. His eyes glazed over.

11 Q Okay. How long was that meeting? Do you remember?

12 A Didn't last that long because he didn't know what  
13 the hell we were talking about.

14 Q So when you say, "didn't last that long," was it  
15 maybe half an hour?

16 A Yeah. Half hour, hour.

17 Q And did Grant ask any questions, if he didn't  
18 understand, to try to understand what Harry was saying?

19 A Not that I remember.

20 Q And so what happened in the meeting?

21 A I mean, I'm sure he asked some questions but they  
22 were not profound questions.

23 Q Okay. So what do you recall about this meeting?  
24 Harry gave a presentation, showed the document?

25 A Yes.

1 Q And he -- what did Harry -- what was Harry's main  
2 point in that meeting?

3 A Well, this -- I know this is when Harry tends to  
4 lose people but, you know, Harry will do a circle over here  
5 and then an arrow come over here to another circle and then  
6 an arrow come down here to another circle and Harry would  
7 say: See, there it is, you know. And you look at this stuff  
8 and say: Well, I don't see it, you know. And if you didn't  
9 know the industry, you didn't have a chance of seeing it.

10 Q But what was Harry saying? If you see on this  
11 document, which we marked as Exhibit 1, it's kind of hard to  
12 read but --

13 A Yeah, it is hard to read.

14 Q If you see on the first page, the number 3, it's  
15 hard to read, but I think what it says is, "The entire fund  
16 is nothing more than a Ponzi scheme." Do you see that?

17 A Oh, yeah. I can tell you where this comment came  
18 from. I do recall.

19 Q Go ahead.

20 A Harry and I felt that this was front running and it  
21 happened back then, it still happens, but just happened so  
22 many times. And Madoff was set up for it beautifully, you  
23 know. He said, well, I used to do a trade after the market  
24 closed and, you know -- I forget what -- I've read everything  
25 Madoff said and, I mean, if you believed one-tenth of him,

1 you deserve to lose money.

2 Q Okay.

3 A Okay.

4 Q So when Harry gave this presentation, is it fair to  
5 say in this May 2000 time period that he indicated there was  
6 something wrong, he wasn't sure whether it was front running  
7 or, as he indicates here, a Ponzi scheme?

8 A Yeah. Harry went back to his office right after  
9 this meeting when we still thought it was a Ponzi -- a front  
10 running scheme, and I'd say within a week, he called me back  
11 and he said, you know, Ed, this is just an old-fashioned  
12 Ponzi scheme.

13 Q Okay. And did you relay that to anyone in the  
14 office?

15 A No, I don't think so.

16 Q So what happened after the meeting? I mean, the  
17 purpose of the meeting, I assume, was to get the SEC to take  
18 action; is that right?

19 A Yes.

20 Q Okay. So you said that Ward at the meeting had  
21 difficulty understanding what was happening. So the meeting  
22 ended and then what happened with the complaint?

23 A Well, to back out of it, Ward said, Well, Madoff is  
24 headquartered in New York. It's not our jurisdiction. So  
25 I'm going to refer it to New York.

1 Q Okay. Do you know if he did refer it to New York?

2 A You know, get rid of it, wipe my hands of it. As  
3 far as I know, because I -- and I just remembered something  
4 this week, I went in there a few times afterwards to say,  
5 Grant, you know, how -- how's New York doing with this thing,  
6 you know what I mean, and I think he -- I think he did refer  
7 it to New York but I think once it left Boston, you know, he  
8 didn't care.

9 Q Why do you think he referred it to New York?

10 A Because Madoff is --

11 Q Right. No but I'm saying why do you think it  
12 actually happened? We don't have any records -- Harry came  
13 back in in 2005, as you know, with a more thick document and  
14 then the matter was referred to New York and various people  
15 worked on it in New York. They had a MUI opened, etc., etc.  
16 We don't have any records showing that Grant at the time  
17 referred it to New York in 2000. So I just -- I'm asking you,  
18 do you know for sure that he referred it to New York or are  
19 you just assuming that because he told you he was going to?

20 A Well, when I went in in follow-up visits, he told  
21 me he did.

22 Q Okay.

23 A Okay. I mean, I can't make him sign something.

24 Q Sure.

25 A But if I go into his office five times and say:

1 Well, how is that thing going in New York, and he says: It's  
2 going great guns, even though it might be dead...

3 Q But you don't know who worked on it in New York, do  
4 you?

5 A No.

6 Q And nobody from New York ever called you to ask  
7 about it?

8 A That's right.

9 Q Okay.

10 A And by the way, Dave, that's why I think you and I  
11 talked a little bit --

12 Q Yes.

13 A That's why when Harry sent the big memo down, I  
14 think with Mike in 2005 --

15 Q Right.

16 A -- and I told you --

17 MR. BARRY: You're referring to Mike Garrity?

18 THE WITNESS: Mike Garrity. -- that he CC'd me  
19 because he wanted my name on that memo to Meaghan Cheung  
20 because he was afraid, A, she would immediately throw it  
21 away; and B, I don't know, she'd deep-six it, you know.

22 BY MR. KOTZ:

23 Q Okay. Why was he afraid she would do that?

24 A I don't know if he had tried to approach her on a  
25 lesser basis before then or not because that -- I was not --