

WALKER

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1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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3 In the Matter of: )

4 ) File No. OIG-519

5 OIG-519 )

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9 DATE: Friday, May 8, 2009

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13 TAPE TRANSCRIPTION

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

2 INTERVIEWER: Are you there?

3 MR. WALKER: Yes.

4 INTERVIEWER: I just want to say for the beginning  
5 of the tape, this is an interview with Dick walker and it is  
6 May 8, 2009. Just to get started, do you mind just stating  
7 your name and the position you are in now at Deutsche Bank  
8 and the approximate years you worked at the SEC and the  
9 positions while you were here?

10 MR. WALKER: I am the general counsel of Deutsche  
11 Bank. My name is Richard walker. I worked at the SEC from  
12 late September/early October 1991 until September 2001. I  
13 was the regional administrator at first and then the title  
14 was changed to regional director of the New York Regional  
15 Office, subsequently the Northeast Regional Office, from 1991  
16 through 1995.

17 From 1996 to about April or May of 1998 I was the  
18 general counsel of the Commission in Washington. From May  
19 1998 until September 2001 I was the director of enforcement.  
20 I will go back to the year 1992 to tell you what I recall  
21 about the case that then I think the New York Regional Office  
22 brought against two individuals, who now we have learned are  
23 involved in a larger fraud by Bernie Madoff.

24 First of all, the New York Regional Office had two  
25 different enforcement branches. One enforcement branch

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1 handled a multiplicity of different matters. That was headed  
2 by Personal Privacy at the time. Then there was an

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3 enforcement team, or group, that was headed by a gentleman  
4 named [Personal Privacy] that handled broker-dealer  
5 matters. He had a number of different attorneys as well as  
6 examiners reporting to him.

7 I remember in the fall of 1992 learning about a  
8 situation in which two individuals from Florida, whose names  
9 were Avellino and Bienes, had some kind -- to the best of my  
10 recollection it was an investment club I think it was  
11 described as. I have a vague recollection that someone  
12 showed me a letter or solicitation that was sent to some  
13 individuals to encourage them to participate in the  
14 investment club.

15 I remember at the time that the solicitation  
16 promised high returns. I do not recall exactly what they  
17 were. I seem to recall, but I am not 100 percent sure, that  
18 there may have been different solicitations to different  
19 people so that it was not something that was a formal SEC  
20 registered investment. It was something more of the nature  
21 of a letter or a piece of paper and there may have been  
22 different pitches made to different people to join this club  
23 or participate in this investment.

24 I remember that the staff involved were an  
25 assistant regional director named [former Enforcement Assistant Regional Director] and

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1 a branch chief named [former New York Enforcement Staff Attorney]. I am not sure whether a  
2 gentleman named [Personal Privacy] was involved in the matter or  
3 not. I simply do not recall. I do recall seeing one of  
4 these letters or leaflets, having a conversation just  
5 generally about this matter, and the staff concerns, which

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6 were my concerns as well that this had the look of potential  
7 illegality.

8 We were concerned that it seemed to be an  
9 unregistered security, which violates the law, we felt.  
10 Number two; we were not sure whether or not this was an  
11 unregistered investment company, mutual fund that had not  
12 registered. I have a vague recollection of concerns about  
13 the two individuals. I do not know if their testimony had  
14 been taken or they had been interviewed, but I think there  
15 were a lot of concerns about their credibility and what they  
16 were doing.

17 Frankly, I think the concern first and foremost in  
18 all of our minds when confronted by a situation like this was  
19 had these two individuals been stealing money and are they  
20 taking money from investors and investing it or are they  
21 using it for their own purposes. That was something we had  
22 seen in a number of different kinds of instances, so I think  
23 that was the concern.

24 I recall that Ike Sorken (phonetic) represented the  
25 two people. I recall that I had some telephone conversations

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1 with probably Personal Privacy, possibly Personal Privacy in what  
2 was then called BROA, branch of regional office assistance.  
3 BROA at the time was a division of the division of  
4 enforcement that was supposed to work with all the regions  
5 and in effect vent their cases and discuss cases with them.

6 I can remember having some discussions to alert  
7 them of the situation and to discuss with them whether we  
8 should treat this as an emergency matter and try to use the

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21 do recall that was one of the fears that this was a lot of  
22 money. This was a big case and I think when I learned about  
23 it we all, in consultation with the BROA people, we realized  
24 this case had to be expeditiously handled. We could not run  
25 the risk that the money was going to disappear between the

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1 time we found out about it and getting some kind of an asset  
2 freeze. We realized this had to be fast-tracked and we had  
3 to take action quickly.

4 INTERVIEWER: To your recollection, do you remember  
5 learning at any point while you were doing all these  
6 maneuvers just before Thanksgiving finding out that these two  
7 gentlemen, Avellino and Bienes, were turning over their money  
8 to just one broker or manager?

9 MR. WALKER: I cannot tell you when I learned about  
10 Bernie Madoff for the first time. I honestly do not know  
11 whether I learned about that before or later. I just do not  
12 recall. At some point I did learn that at least some of the  
13 money had been invested with Bernie Madoff. I just do not  
14 recall when.

15 INTERVIEWER: Do you recall the first time you  
16 heard the name Bernie Madoff? Would it be with respect to  
17 this case?

18 MR. WALKER: I believe that is right.

19 INTERVIEWER: It is not that you would have heard  
20 of his reputation prior to --

21 MR. WALKER: No.

22 INTERVIEWER: As you know, you were quoted in The  
23 Wall Street Journal article back in 1992. In the article you

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24 said something about going into it thinking it could be a  
25 major catastrophe. I guess that is the parade of

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1 horribles --

2 MR. WALKER: The catastrophe was that the money  
3 that had been raised by these two had been stolen or  
4 misappropriated. That is exactly the fear. They were  
5 conducting a fairly flimsy unregistered investment program  
6 that was, from our point of view, not in conformity with SEC  
7 rules and requirements.

8 I think that we had concerns and apprehensions  
9 about their credibility and veracity and so the fear was they  
10 were stealing money.

11 INTERVIEWER: Some of the staff that I talked to  
12 mentioned that there may have been suspicion that these two  
13 were running a Ponzi scheme.

14 MR. WALKER: That is when I say stealing money --  
15 taking the money, diverting it, and using the money that was  
16 left to pay people off. So Ponzi scheme/fraud. In my mind I  
17 thought people were stealing money and that was the long and  
18 the short of it.

19 INTERVIEWER: Some people have mentioned, and I do  
20 not know if this is true, that Ponzi schemes generally were  
21 frowned upon as something to pursue as an enforcement  
22 attorney at the SEC.

23 MR. WALKER: Absolutely not. No.

24 INTERVIEWER: You never heard anything like that?

25 MR. WALKER: Absolutely not. To the contrary, I

1 think Ponzi schemes -- certainly the New York Office we had  
2 some big celebrated cases. A case against Steven Hoffenberg  
3 and Towers Financial. A case involving new era philanthropy  
4 where this guy promised that he would match charitable  
5 contributions in their name.

6 There were a number of really big celebrated cases  
7 at the time, which is why I think, frankly, the staff was  
8 quite alert to situations that looked or smelled funny, such  
9 as this situation where you had these two unknowns in Florida  
10 that were not raising money as they were required to.  
11 Without knowing more I think the concern was are they taking  
12 money and stealing it.

13 INTERVIEWER: In the letters or brochures that they  
14 sent out to potential investors promising these high returns,  
15 do you think that maybe would have been a red flag to say how  
16 are they generating these returns?

17 MR. WALKER: I do not recall. I do not think I was  
18 even -- I was not aware of how they were generating the  
19 returns. My concern was were they promising something they  
20 were not delivering. In other words, luring people in with  
21 false promises that they are not going to be able to meet. I  
22 thought that was, in effect, the bait to get the money and  
23 then the money would be misappropriated and the returns would  
24 not be generated. Sort of like an attractive lure or  
25 something.

1 INTERVIEWER: I have one other question about The

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2 Wall Street Journal in terms of your interview with them, if  
3 you remember. Did they ask you who -- they referred to  
4 Madoff in their article back in 1992 as a mystery money  
5 manager, or something like that. Did they ask you about who  
6 he might have been? Do you recall?

7 MR. WALKER: I do not recall. I do not recall when  
8 I learned the money had been invested with Madoff.

9 INTERVIEWER: After that 1992 came out did you read  
10 that article?

11 MR. WALKER: Oh, sure.

12 INTERVIEWER: I figured you must have. Did that  
13 change your perspective on how the case ultimately was  
14 resolved?

15 MR. WALKER: What do you mean?

16 INTERVIEWER: I mean in terms of did The Wall  
17 Street Journal article identify and point out there is this  
18 one man, Bernie Madoff --

19 MR. WALKER: To be honest, I do not know. I cannot  
20 tell you because I just do not recall what our exam staff  
21 did, what the investigative staff did, or what Lee Richards's  
22 staff did. I do not have any recollection.

23 INTERVIEWER: I just have one other thing. It  
24 appears that this matter was at some point referred to the  
25 NASD. Do you have any recollection with respect to the

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1 referral?

2 MR. WALKER: I do not.

3 INTERVIEWER: It looks like that is the point to  
4 our investigation somebody might have referred it over there

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