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1 UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

2 -----X
In the Matter of:

3
4 OIG-509

5 -----X
WITNESS: NUMBER 61

6
7 PAGES: 1 - 30

8
9 PLACE: Ascendant Compliance Management
10 140 West 57th Street
11 New York, New York

12
13 DATE: June 10, 2009

14
15 The above-entitled matter came on
16 for hearing at 12:10 p.m.

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1 A P P E A R A N C E S :
2
3 On behalf of the Securities and Exchange
4 Commission

5
6 H. DAVID KOTZ, ESQ.
7 NOELLE FRANGIPANE, ESQ.
8 United States
9 Securities and Exchange Commission
10 100 F Street NE
11 Washington, DC 20549

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1 P R O C E E D I N G S
2 MR. KOTZ: We are on the record at
3 ten minutes after 12 on June 10, 2009 at the
4 offices of Ascendant Compliance Management.
5 Q. I'm not going to swear you in, but
6 could you just state your full name for the
7 record.

8 A. Demetrios Vasilakis.
9 Q. My name is David Kotz. I'm the
10 Inspector General of the United States
11 Securities and Exchange Commission. I have
12 with me my colleague from the Office of
13 Inspector General Noelle Frangipane. This is
14 an investigation by the Office of Inspector
15 General, Case Number OIG-509.
16 I'm going to ask you certain
17 questions. Please try to provide verbal
18 answers to the questions because a nod of the
19 head or a non-verbal response won't be picked
20 up by the Court Reporter. Please let me finish
21 my question before you provide your response.
22 I'll try to let you finish your response before
23 I ask the next question so the record will be
24 clear.

25 It is important that you understand
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1 the questions and give accurate answers. If
2 there's anything you don't understand or
3 anything you do not know or not sure about
4 please let me know. Otherwise I will assume
5 that you heard and understood the question.
6 Do you understand those
7 instructions?

8 A. Yes.
9 While we are not swearing you in,
10 this is an official U.S. Government law
11 enforcement investigation. The claims asserted
12 in this case are serious ones. It is very
13 important you tell me everything you know about
14 the matter at hand and are completely
15 forthcoming and truthful.

16 A. Okay. Will do.
17 Q. I just want to start with some very
18 basic kind of background. Could you describe
19 for me your education beginning with college?

20 A. I have my undergraduate degree and
21 an MBA.

22 Q. What year was that?

23 A. 1990 was the undergraduate. I
24 think '95 was the MBA, but I'm not a hundred
25 percent sure.

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1 Q. Where did you get your
2 undergraduate degree from?

3 A. Hofstra.

4 Q. What about your MBA?

5 A. NYU.

6 Q. What was your first job after you
7 got your undergraduate degree?

8 A. SEC. I worked at the SEC.

9 Q. When did you join the SEC?

10 A. June of '90.

11 Q. What was your initial position in
12 June of '90?

13 A. Broker dealer compliance examiner.

14 Q. At this point in time I'd like to
15 show you Exhibit 1, which is this
16 Confidentiality and Nondisclosure Agreement, if
17 you could take a look at it. If you're
18 comfortable with it put your name on it and
19 sign it.

20 (whereupon, the aforementioned
21 Confidentiality and Nondisclosure Agreement
22 were marked as Exhibit 1 in evidence as of
23 this date by the Reporter.)

24 A. I have a question.

25 Q. Sure.

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1 A. Since I signed, I think I signed a
2 confidentiality agreement when I left the SEC,
3 just to get it on the record, I'm allowed to
4 talk about my experiences at the SEC with you
5 because you work with the SEC, right?

6 Q. Yes.

7 Let the reflect Exhibit 1,
8 Confidentiality and Nondisclosure Agreement,
9 which Demetrios Vasilakis signed today. Is
10 that right?

11 A. Yes.

12 Q. So, June 1990 you worked as a
13 broker dealer compliance examiner, what were
14 your duties?

15 A. Go out in the field to visit broker
16 dealers and to conduct compliance inspections.

17 Q. How long were you in that position?

18 A. That position until '94, I believe.

19 Q. At that point did you leave the
20 SEC?

21 A. No. I got promoted to branch
22 chief. I left the SEC in '96, I believe.

23 Q. What were your duties as a branch
24 chief?

25 A. Supervising examinations.

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1 Q. Same type of examinations?

2 A. Yes, the same duties, just
3 supervising them and sending examiners out into
4 the field.

5 Q. You got your MBA during that period
6 at night

7 A. Yes, at night.

8 Q. And then what were your jobs after
9 the SEC?

10 A. I worked at Goldman Sachs, UBS,
11 Tudor, now at Atticus Capital.

12 Q. When did you start with Atticus
13 Capital?

14 A. February 2007.

15 Q. What is your current position?

16 A. Chief compliance officer.

17 Q. What were your positions at the
18 other entities, Goldman, UBS, Tudor?

19 A. Goldman, compliance officer. UBS,
20 member of the equities regulatory control
21 group. Tudor, deputy U.S. compliance, deputy
22 head of the U.S. compliance.

23 Q. In the time period of November 1992
24 you were still at that point an examiner; is
25 that right?

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1 A. I'm sorry, what date.

2 Q. November 1992.

3 A. Yes.

4 Q. Let me show you a document. We're
5 going to mark this document as Exhibit 2. A

6 November 16, 1992 memorandum to you and
7 Former Examiner #2, subject Bernard L. Madoff,
8 885 Third Avenue, New York, New York.
9 (Whereupon, the aforementioned
10 memorandum was marked as Exhibit 2 in
11 evidence as of this date by the Reporter.)
12 A. Okay.
13 Q. Prior to working on this matter in
14 Exhibit 2 regarding Bernard L. Madoff, had you
15 ever heard of Bernard L. Madoff?
16 A. No.
17 Q. At the time you began to conduct
18 the examination, did you learn anything about
19 Bernard Madoff or about his reputation, who he
20 was?

21 A. No.
22 Q. Now, if you look at the next page
23 of this Exhibit 2, November 20, 1992, maybe if
24 you could take a minute and just read the
25 examination report, that might help and refresh

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1 your recollection. It was a couple years ago.

2 A. Okay.
3 Q. I'm trying to get, I guess, your
4 recollection that has been refreshing by this
5 document of the examination. Do you remember
6 what the purpose of the examination was, do you
7 remember there being an investigation of
8 Avellino and Bienes regarding the sale of
9 unregistered securities?

10 A. No, I actually don't. Reading
11 through this I don't recollect much of any of
12 this.

13 Q. Let me ask you about a couple
14 things in the document itself.

15 A. Sure.
16 Q. It says, "through prior requests
17 made to be BLM the staff obtained A and B's
18 customer account statements for August,
19 September and October of 1992." Do you think
20 that would have been a request the SEC made to
21 Madoff or a request from Avellino and Bienes
22 made to Madoff?

23 A. I don't know.

24 Q. It says, "the staff examination has
25 been conducted to verify BLM's proper

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1 segregation of A and B's October '99 to month
2 end security positions to BLM Security
3 segregated account to DTC." why would the
4 staff conduct that kind of examination?

5 A. You know, I look at this, and the
6 only thing I can think of from this, is that we
7 did a review and I would think that I looked at
8 the net capital. I don't remember doing any of
9 this, and Former Examiner #2 may have done the reserve
10 formula. I don't think I really had done
11 reserve formula until, you know, a time after.
12 So, maybe that's why we were paired up. I
13 don't remember any of this, I really don't. I
14 remember net capital, I remember going in and
15 doing the review, but tracing to stock
16 record...

17 Q. What's a net capital, what would
Page 4

18 you be doing with that?
19 A. Well, that's to check the financial
20 stability of the broker dealer.

21 Q. So you believe you did do an
22 analysis to check Bernie Madoff's financial
23 stability?

24 A. Yes. I think the reason that I
25 recall that is because that is something we did

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1 everywhere at every firm. I also think we were
2 -- another thing I can remember about being in
3 here is we were in and out of this place pretty
4 quickly. You can probably tell that from the
5 records. I don't believe we were in there for
6 more than two or three days.

7 So, back to your question on
8 obtaining customer prior requests, we must have
9 been, you know, I'm just surmising here, this
10 is 17-years ago, we must of had documents
11 before we even walked in the door, which led it
12 to be a little quicker.

13 Q. In your experience is that a very
14 short examination?

15 A. Yes.

16 Q. And it seems to be relatively
17 limited?

18 A. Yes.

19 Q. It says, "Madoff informed the staff
20 there had been no activity in any of the A and
21 B accounts in question. Madoff also furnished
22 the staff a BLM stock record and DTC
23 participant statement as of the previous date
24 closed. The staff traced all of A and B's
25 positions to BML stock records. All the

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1 securities in A and B's accounts were listed on
2 the November 12, 1992 stock record. The staff
3 then traced all of BLM stock record positions
4 and DTC participant statement for November 12,
5 1992."

6 Do you remember doing any of that?

7 A. No.

8 Q. Do you know why one would do
9 something like that, what would be the purpose
10 there?

11 A. I would just be guessing if I gave
12 you an answer.

13 Q. It says, "Madoff also furnished the
14 staff a BLM stock record and DTC participant
15 statement." And we've asked this to Former Examiner #2
16 and to John, their recollections were likely
17 you would have received the DTC statements from
18 Madoff as opposed to going to DTC
19 independently; is that right?

20 A. I would agree with that. I don't
21 think at any firm, whether it was Madoff,
22 Goldman Sachs, you got the statements directly
23 from DTC. But you did -- well, it's still
24 statements from them. It would always be from
25 the firm.

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1 Q. And that was your experience with
2 the SEC?

3 A. Yes.

4 Q. Let me show you a couple other
5 documents. I'm going to show you a memorandum.
6 We're going to make this as Exhibit 3. This is
7 a June 24, 1992 memorandum from ^{former New York} Enforcement Staff Attorney to
8 the file, subject in the matter of King Arthur.

9 (Whereupon, the aforementioned
10 memorandum was marked as Exhibit 3 in
11 evidence as of this date by the Reporter.)

12 Q. And then I'm going to show you
13 another document we're going to mark as Exhibit
14 4. This is a King Arthur account fact sheet.

15 (Whereupon, the King Arthur account
16 fact sheet was marked as Exhibit 4 in
17 evidence as of this date by the Reporter.)

18 Q. If you could look at these two
19 documents. First the Exhibit 4, which is the
20 King Arthur account fact sheet. You see it
21 says, "what does it pay, 13.5 percent? Is it
22 safe? Yes, a hundred percent. At no time is a
23 trade made that puts your money at risk. In
24 over 20-years there has never been a losing
25 transaction." If you see on the second page of

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1 the document it says, "how does it work? The
2 funds you send to Avellino and Bienes are
3 treated as a loan by them. All of these funds
4 are sent to a New York broker who invests on
5 behalf of Avellino and Bienes."

6 So, just kind of generally looking
7 at this document in terms of the interest that
8 is paid and the fact that it states in 20-years
9 there's never been a losing transaction. It's
10 safe a 100 percent and is characterized as a
11 loan. Would you say that this is suspicious or
12 somewhat of a red flag, just generally based on
13 the information here?

14 A. Well, am I answering now or as a
15 person with two-years experience looking at
16 this? As a person with two-years experience
17 this wouldn't hit me over the head as anything.
18 Looking at it now with the benefit of 17-years
19 experience, I would question it.

20 Q. And then the other document, which
21 is Exhibit 3, is a memorandum that talks about
22 the information that was received from
23 customers who invested money through Avellino
24 and Bienes. It talks a little bit about the
25 transaction. "An investor would send money to

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1 Avellino and Bienes, in turn Avellino and
2 Bienes would invest the money in the securities
3 market. Once the investor gave Avellino and
4 Bienes money, Avellino and Bienes would send
5 back a letter indicating the investor gave them
6 X amount of money and was giving them between
7 13.5 and 18 percent."

8 with these two documents, do you
9 remember anything about, you know, what was the
10 investigation looking at?

11 A. No. Again, this is 17-years ago.

12 Q. Do you know if other than the cause
13 examination that was referenced in Exhibit 2
14 that you participated in, was there any other
15 exam work that you did in connection with this

16 Avellino and Bienes and Madoff matter?
17 A. NO. Madoff, I believe, that was
18 the only investigation -- well, examination is
19 the right term, that I did of the broker
20 dealer. And to the best of my recollection,
21 unless you pull something out and proves me
22 otherwise, I don't remember working on the
23 Avellino and Bienes either, outside of what's
24 listed in Exhibit 2.

25 Q. Do you remember at all the
0016 resolution of the case, if it was an effort to
1 try to get the investors their money back, do
2 you remember things like that?

3 A. I vaguely remember, you know,
4 hearing about it in the offers or reading about
5 it in the paper and, obviously, it was nice to
6 hear that people got their money back.

7 Q. Do you recall anything about what
8 the suspicious was of Avellino and Bienes --

9 A. Sorry. I'm not following you're
10 instructions, I'm nodding.

11 Q. You know, we've heard that the
12 concern was since the returns were so high and
13 investments were so safe, that it could have
14 been a Ponzi scheme?

15 A. I remember doing the exam of the
16 broker dealer. Avellino and Bienes I just
17 remember hearing the words, you know, as people
18 were walk through the office.

19 Q. Do you remember at any point anyone
20 saying to you we need to do a follow-up exam on
21 Madoff, not just focus on Avellino and Bienes'
22 accounts with Madoff?

23 A. No, that I don't remember.

24 Q. Do you remember, you know, and
25

0017 1 maybe from reviewing Exhibit 2, what were the
2 kind of conclusions that were drawn from the
3 examination, was it a very short limited exam?

4 A. Yes. My personal conclusions were
5 that he was a pioneer in the industry, to use
6 the term that's been thrown around now, but
7 that he really used, you know, technology to
8 bring trading to the next level. It was
9 strictly -- when I walked out of there it was
10 more along the lines of wow, this guy is a
11 third market guy that does X percent of the
12 volume on the exchange. This is where I
13 actually learned about third market. I didn't
14 even know the so called term that that's what
15 it was called. I knew about the trading, but I
16 did not know that that's what it was called.

17 Q. And you weren't aware of any
18 specific kind of unanswered questions after
19 this exam in 1992?

20 A. No, if there were we would have
21 followed up and/or gone back out. So, I don't
22 think there were any follow-ups. I should
23 rephrase that, if there were follow-ups we
24 would have gone back out and we didn't, so. I
25 don't think that proves it, but.

0018 1 Q. Let me just ask you kind of

2 generally. If you have an entity like Avellino
3 and Bienes and they are providing investments
4 to customers, and they then indicate that all
5 the investing is done through Madoff.

6 A. Okay.

7 Q. And there's concern about whether
8 Avellino and Bienes are actually trading
9 because of the high level of returns that
10 they're getting as well as the fact that they
11 say the returns are entirely consistent, and
12 you look at to see whether there were actual
13 positions by looking at the records, Avellino
14 and Bienes' records at Madoff, and you confirm
15 through DTC records that there were positions,
16 and then the money is then refunded to the
17 investors of Avellino and Bienes.

18 A. Okay.

19 Q. But if Avellino and Bienes were
20 suspected of running a Ponzi scheme and the
21 decisions were made by Madoff, wouldn't it also
22 be a concern that Madoff could have
23 misappropriated other customers' funds in order
24 to provide the capital to pay back the
25 investors of Avellino and Bienes?

0019 A. Well, you could always -- now, is
1 this my professional opinion now?

2 Q. I guess, yes.

3 A. You could always surmise that Peter
4 stole from Paul to pay John.

5 Q. But that would be more logical if
6 you were investigating a Ponzi scheme; don't
7 you think?

8 A. I guess it also depends on if you
9 thought, and this is the crux of it, if you
10 thought the Ponzi scheme -- if you thought
11 Avellino and Bienes were the ones operating the
12 Ponzi scheme and stole the money, then you
13 would wonder how did they pay everybody back,
14 right. But if they're the ones that stole,
15 okay, they could have taken it out of their
16 personal account, they could have taken it out
17 from under their mattress, they could have just
18 refunded it that way.

19 Q. Right. So, do you recall at any
20 point in the cause exam that you conducted, an
21 effort to kind trace where the money came from
22 that was used to repay the investors of
23 Avellino and Bienes?

24 A. No.

0020 Q. Would that have been something that
1 would logically had been done in order to kind
2 of resolve the matter?

3 A. Well, I think actually maybe it's
4 in reverse. You would say the investors from
5 Avellino and Bienes got their money, it's
6 easier to trace where that money came in from
7 at that point rather than scour all of Wall
8 Street to find out where money could be sent to
9 these investors.

10 Q. How would you figure out where that
11 money came from?

12 A. Find out what bank account, he's

14 got a wire transfer number. I'm sure it came
15 via wire. I don't know whether it was checks,
16 if it's checks it's drawn off a bank account.

17 Q. Could you figure out whether that
18 money came from other people's account?

19 A. Then it would be a chain. Then you
20 would have to say, all right, well, it came
21 from, you know, Demetrios Vasilakis' account,
22 well, there it is, and then you could further
23 trial down. If I were doing the investigation
24 I would say, all right, well, the easiest
25 answer to find out where the money came from

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1 which is when it came into investor A's
2 account.

3 Q. But you don't remember at any point
4 undertaking that analysis?

5 A. No. We never had any of the
6 reviews or records. I hate to say this, but
7 that would be common sense to do, probably. I
8 don't know where the Avellino and Bienes case
9 started from, whether it came from the
10 investment advisors side or the broker dealer
11 side, and, you know, I would think that they
12 would ever traced that there.

13 Q. And at the point in time where it
14 was a receiver appointed and there was effort
15 to get the money paid back and the money was
16 paid back and the investigation was closed, you
17 were not involved at that point with that at
18 all?

19 A. No.

20 Q. Do you remember anything about
21 another matter involving Telfran, does that
22 name ring a bell?

23 A. It doesn't ring a bell. If you
24 have an exhibit or document I can take a look
25 at it. That doesn't ring a bell at all.

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1 Q. Let me show you a document. I'll
2 mark this as Exhibit 5.

3 (whereupon, the aforementioned
4 document was marked as Exhibit 5 in
5 evidence as of this date by the Reporter.)

6 A. I'm going to quickly scan through
7 it right now. Nothing rings a bell.

8 Can I ask you a question?

9 Q. Sure.

10 A. Was I, and I'm almost frightened
11 I'm getting too old here at the young age of
12 41, was I involved in Telfran, because that
13 doesn't ring a bell at all or King Arthur, or
14 it's just tangential.

15 Q. Well, there's no record, I guess,
16 of any specific involvement in Telfran. I mean
17 the King Arthur I think was the name of the
18 investigative matter that led to the cause
19 exam. I don't know if you were directly
20 involved in King Arthur per se, but I think the
21 Avellino and Bienes matter that you were
22 looking and the cause exam came from the King
23 Arthur case. Evidently, from what I understand
24 is, during the course of the matter involving
25 Avellino and Bienes they located another entity

12 Bernie Madoff's offices more than once?
13 A. We may have been there over two
14 days. So, to answer your question did we go, I
15 would treat it as one visit, the exam. Like,
16 for instance, sometimes we're at Goldman Sachs
17 for three months, I treat that as one, not 60
18 times. So, I do not remember going, doing the
19 exam, coming back to the office, you know,
20 after a meeting or something like coming back
21 to the office and saying hey, we have to go
22 back, I do not remember that.
23 Q. But you think you were there
24 probably two days at Madoff's offices?
25 A. Yes, I could almost definitively

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1 say it was less than a week. I would be --
2 actually if you were to tell me it was more
3 than three days, I mean I would just chalk that
4 up to not recollecting, but I would be
5 surprised if we were there more than three
6 days.

7 Actually if I could take a look at
8 that, that Exhibit 2. Let me take a look
9 because you can probably gage from this.
10 Former Examiner #2 and I were very efficient, but I don't
11 want to chalk this up to us -- November 16,
12 1992. Do we know what day of the week that is?
13 I could look it up on my Blackberry. Because
14 the exam was done by November 20th, done and
15 reviewed and signed off and approved. So, at
16 most -- I'm just curious. Let me look at my
17 Blackberry to see when November 16th was.

18 MS. FRANGIPANE: But that wouldn't
19 be unusual to have a short turn around time
20 like that?

21 THE WITNESS: No, you know, it was
22 a quick exam.

23 A. So, anyway, I won't look it up, but
24 it was at the most four days, in and out.

25 Q. Anything else you remember about

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1 talking to folks there? Was it in the lipstick
2 building?

3 A. Yes, that I remember as well.

4 Q. Do you remember what floor you made
5 it to?

6 A. No.

7 MS. FRANGIPANE: I just have a
8 question. You had mentioned that, you know,
9 you had known, I guess, around that time that
10 Bernie had spoken on panels and kind of was a
11 respected individual; is that fair to say?

12 THE WITNESS: Yes. I think I was
13 made aware of that in his office.

14 MS. FRANGIPANE: How so?

15 THE WITNESS: He probably mentioned
16 it. I don't know if he mentioned panels, but I
17 knew he was on committees and stuff like that.
18 We used to have an NASD manual and his name was
19 in there.

20 MS. FRANGIPANE: Did you ever get
21 the sense when you worked at the SEC that maybe
22 certain persons of influence might have gotten
23 some preferential treatment in terms of how

24 their cases were handled as opposed to lesser
25 known individuals?

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1 THE WITNESS: No, I don't believe
2 that. I did move up while I was there, but I
3 don't think I ever got up to the level where --
4 I mean we pursued things, you know, whether it
5 was influential people or big firms. We worked
6 on the NASDAQ antitrust case. We were at all
7 the big firms grilling everybody the same way.

8 Q. Anything also you remember we
9 haven't covered?

10 A. No.

11 MR. KOTZ: Thank you.
12 (Time noted: 12:40 p.m.)
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I N D E X

3	EXAMINATION BY	PAGE	
4	MR. KOTZ	3	
6	EXHIBITS	DESCRIPTION	PAGE
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C E R T I F I C A T E

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3 I, SHERRY SPALLIERO, a Notary Public for
4 and within the State of New York, do hereby
5 certify:

6 That the witness whose examination is
7 hereinbefore set forth was duly sworn and that
8 such examination is a true record of the
9 testimony given by that witness.

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