

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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

**ECOPY**

WITNESS:   Number 3  
PAGES:      1 through 61  
PLACE:      Securities and Exchange Commission  
              100 F Street, N.E.  
              Washington, D.C. 20549  
DATE:       Thursday, February 19, 2009

The above-entitled matter came on for hearing, pursuant to notice, at 2:20 p.m.

Diversified Reporting Services, Inc.

(202) 467-9200

1 APPEARANCES:

2

3 On behalf of the Securities and Exchange Commission:

4 H. DAVID KOTZ, ESQ., Inspector General

5 HEIDI STEIBER, ESQ. Investigator

6 CHRISTOPHER WILSON, ESQ. Investigator

7 Office of Inspector General

8 Securities and Exchange Commission

9 100 F Street, N.E.

10 Washington, D.C. 20549

11 202-551-6037

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13 On behalf of the Witness:

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OCIE Staff Accountant

, PRO SE

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## C O N T E N T S

## WITNESSES

## EXAMINATION

OCIE Staff Accountant

6

## EXHIBITS

## EXHIBITS:

## DESCRIPTION

## IDENTIFIED

1	3/4/06	Sadowski/Swanson e-mails	23
2	4/7/06	Sadowski e-mail to Swanson	25
3	4/17/06	Swanson e-mail to OCIE Staff Accountant	29
4	8/15/06	Swanson e-mail to OCIE Staff Accountant	31
5	4/22/06	Swanson e-mail to Sadowski	34
6	8/21/06	OCIE Branch Chief invitation to McCarthy for Swanson farewell reception	42
7	4/18/06	McCarthy e-mail to Sadowski	48
8	4/24/06	Swanson e-mail to Sadowski	49
9	3/1/07	McCarthy e-mail to Swanson	50

P R O C E E D I N G S

1  
2 MR. KOTZ: We are on the record at on February 19,  
3 2009 at the United States Securities and Exchange Commission  
4 Office of Inspector General.

5 I'm going to give you the oath. Would you please  
6 raise your right hand?

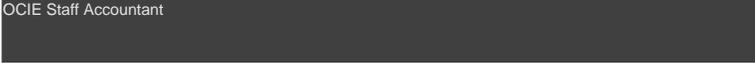
7 Whereupon,

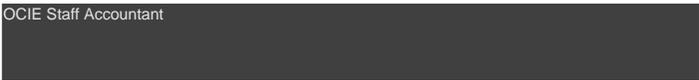
8   
OCIE Staff Accountant

9 was called as a witness herein, and after being first duly  
10 sworn, was examined and testified as follows:

11 MR. KOTZ: Could you state and spell your full name  
12 for the record?

13 THE WITNESS:

  
OCIE Staff Accountant

14   
OCIE Staff Accountant

15 MR. KOTZ: Great. My name is David Kotz. I'm the  
16 Inspector General of the United States Securities and  
17 Exchange Commission. This is an investigation by the Office  
18 of Inspector General, case No. OIG-509.

19 I'm going to ask you certain questions. You're  
20 going to provide answers under oath. The court reporter will  
21 record and later transcribe everything that is said.

22 Please provide verbal answers to your questions.  
23 If you give a nod of the head or another nonverbal response,  
24 it won't be able to be picked up by the court reporter.

25 Also, so the record will be clear, please let me

1 Q Okay. Did he ever confide in you about romantic  
2 relationships he was having?

3 A He did.

4 Q Okay. When you first met him in February 2001, was  
5 he involved with somebody, do you remember?

6 A If I remember correctly, he was dating a girl from

7  Personal Privacy

8 Q And how long did that last?

9 A I don't have numbers on that, not that far back.

10 Q Do you know if he ever had a very serious  
11 relationship with somebody other than Shana Madoff, who he  
12 eventually married?

13 A Yes.  Jane Doe . As far as the serious nature of a  
14 relationship, meaning like somebody I know he was with for a  
15 period of time,  Jane Doe,  Personal Privacy

16  Personal Privacy

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Personal Privacy

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24           Q     Okay. Now, in the 2003 time period, around say  
25     April to August 2003, we have some documents which I can show

1 you which demonstrate some communications between Eric and  
2 Shana Madoff.

3 A Okay.

4 Q Do you know if during that period of time he was  
5 friendly with Shana?

6 A All I know is that I really never even heard of  
7 Shana Madoff until he started dating her.

8 Q Okay.

9 A But I will -- but I do know that he was -- he and  
10 John McCarthy used to go and do these symposiums, these  
11 speaking events. And as far -- and I did have a very -- I  
12 had a front-row seat with him and Shana as their relationship  
13 grew once I -- you know.

14 But in my opinion, and this is -- I'm almost  
15 certain of it, Eric's a very emotional guy, okay, to the  
16 point to where he and I would really talk and he would -- you  
17 know. He had -- things just sprang up between him and her.  
18 And basically what happened was is somewhere between the  
19 dissolving of his marriage, the marriage that was supposed to  
20 happen, and I would probably say late spring/early summer --

21 Q And this is 2005?

22 A No. This is 2006.

23 Q Okay. Because October 2005 --

24 A October 2005 he was supposed to be marrying

Jane Doe

25

1 Q Right.

2 A And they were in a very serious relationship.

3 Q Right.

4 A I never even heard of Shana probably -- and I'm  
5 telling you what -- my dates could be off by two or three  
6 months. I would say -- but I will say the earliest that I  
7 probably heard of Shana was probably late spring 2006.

8 Now, once again, I would probably err to a month  
9 before that. But it could have been -- I guess it couldn't  
10 have been too far after that because basically what happened,  
11 it was just out of the blue, bam, all of a sudden, you know.  
12 I know from his conversations with me that they had known  
13 each other through the symposium, but that it was never  
14 anything more than a working relationship for most of that  
15 time.

16 After the dissolving of the relationship and  
17 probably into the spring, it remained the same until at some  
18 point during, I don't know, one of the dinners or something  
19 afterwards, you know, I think it became a little more  
20 personal. I think there was some kind of connection there.

21 Q And you think, given your relationship with Eric,  
22 that if he had feelings for her prior, in the 2003/2004 time  
23 frame, you would have known about it?

24 A Absolutely.

25 Q So when he first talked about the fact that

1           A     I can't -- I don't remember. I don't -- in my  
2 mind, until this thing came up in the news, I had no idea  
3 that she was compliance. He may have said it and I just  
4 didn't -- I wasn't really paying attention to that part of it  
5 because, you know, all I remember is being -- I always  
6 thought it was kind of funny how she kind of did what I did  
7 but she did it in the industry, you know.

8           Q     And so when was the first time you heard that Eric  
9 was interested in her?

10          A     Once again, I think it was either late spring or  
11 early summer. He kind of bemoaned his relationship with  
12 Jane Doe for a period of time, to the point to where I was  
13 almost kind of like, hey, Eric, you know, you've been broken  
14 up with her almost as long as you were with her, you know,  
15 like in my head.

16                   So he really did go through a mourning period. So  
17 let's just say November, December, January, February, March,  
18 April, May. You know, now you're talking about six or seven  
19 months. They might have been together for nine months before  
20 things broke down with the wedding.

21                   BY MS. STEIBER:

22          Q     Had he ever dated anyone during the time that he  
23 met Jane Doe to the point where he met Shana? Do you know if he  
24 ever saw any other women?

25          A     No. Eric Swanson is a -- he's not the type of guy

1 that plays the field. He's a relationship guy. When he gets  
2 in a relationship, you know, he kind of -- just kind of sets  
3 the tone. But he also gets very involved very quickly, you  
4 know.

5 MR. KOTZ: Okay. I'm going to show you a couple of  
6 documents.

7 This is an e-mail on March 4, 2006. And it's from  
8 Alex Sadowski to Eric Swanson. And then --

9 THE WITNESS: This is it right here?

10 MR. KOTZ: Yeah. And then Eric Swanson to Alex  
11 Sadowski. And we're going to mark this as Exhibit 1.

12 (SEC Exhibit No. 1 was marked for  
13 identification.)

14 BY MR. KOTZ:

15 Q Take a look at this, and maybe this will give you a  
16 better sense of the time frame in which the relationship  
17 between Swanson and Shana Madoff started.

18 A Oh, okay. (Examining) This is Eric to Alex.  
19 "There was an option. I took a pass."

20 Q Then it says, "Quite an earful from [REDACTED] Last night  
21 re Madoff. Apparently I'm a sycophant."

22 Do you have any idea what that refers to?

23 A Who's [REDACTED] Personal Privacy

24 Q Could it be [REDACTED] OCIE Branch Chief ?

25 A It could be because I know [REDACTED] Personal Privacy was a branch chief

1 Eric truly did not want to lose John as a friend. He didn't  
2 want to end the relationship with Shana because he was  
3 falling in love with her.

4           Honestly, I'm not so sure how -- I think  
5 eventually -- let's just say none of this stuff happened, and  
6 let's say John never mentioned any problems with Eric dating  
7 Shana. I'm pretty sure that, down the road, Eric probably --  
8 because she was firmly planted in New York. I'm sure he  
9 would have left the SEC, taken a job in New York anyway. But  
10 I think he left earlier because of the deteriorating  
11 relationship with John McCarthy.

12           Q     So did his relationship -- Eric's relationship with  
13 John McCarthy ever recover from this situation?

14           A     I do believe so. John McCarthy was at the wedding.

15           Q     Okay. But there was -- how long of a time period  
16 where John McCarthy and Eric Swanson were at odds, so to  
17 speak, over this matter?

18           A     Once again, I don't have a definitive time. But I  
19 would say six weeks, maybe more. Can I ask, when did this  
20 stuff start hitting the fan, and when did Eric leave? Do you  
21 have those dates?

22           Q     Yeah. Let me show you another document. This is a  
23 farewell reception for Eric Swanson.

24           A     Yes. And when did this stuff start?

25           Q     We'll mark this as Exhibit 6. And this is from

1 met Shana. I don't remember the first time I've gone out,  
2 once again, date-wise. But I do have specifics of when, you  
3 know --

4 Q And was John McCarthy ever out as well?

5 A John McCarthy out? I was never -- I can't recall  
6 ever being at a restaurant with Shana, Eric, and John at a  
7 time that this was happening. I was at the wedding. I  
8 can't -- I don't believe I was ever -- off the top of my  
9 head, I don't remember ever being with John, Shana, and Eric  
10 during the time -- with all three together at a time that  
11 this stuff was going on.

12 Q Okay. As Eric and Shana's relationship got more  
13 serious, did Eric ever talk to you about the fact that, you  
14 know, Shana was from a well-to-do family or a rich family?

15 A Well, yeah. He told me who she was, you know. But  
16 he didn't --

17 Q How did he describe that as who she was?

18 A You know, he didn't really go into detail. Eric --

19 Q That she was the niece of Bernie Madoff?

20 A Yeah. I don't know if he said the niece of Bernie  
21 Madoff. He said -- let's put it this way. When the stuff  
22 hit the fan, I didn't know whether her father was Bernie or  
23 the other guy. Okay? Honestly --

24 Q So Eric talked about the fact that Shana was in the  
25 Madoff family?