

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

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In the Matter of:

OIG-509

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WITNESS: NUMBER 48

COPY

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PLACE: Securities and Exchange Commission
3 World Financial Center
New York, New York

DATE: May 11, 2009

The above-entitled matter came on
for hearing at 3:31 p.m.

A P P E A R A N C E S :

On behalf of the Securities and Exchange
Commission

H. DAVID KOTZ, ESQ.

United States

Securities and Exchange Commission

100 F Street NE

Washington, DC 20549

1 MR. KOTZ: Let's go on the record
2 at 3:31 p.m. on May 11, 2003. We are at
3 the United States Securities and Exchange
4 Commission.

5 The Court Reporter will swear you in.

6 IM Staff Accountant

7 having first been duly sworn by a Notary
8 Public of the State of New York, was
9 examined and testified as follows:

10 EXAMINATION BY

11 MR. KOTZ:

12 Q. Could you state and spell your full
13 name for the record.

14 A. My name is Paul, P-A-U-L, Pocrress,
15 P-O-C-R-E-S-S.

16 Q. Mr. Pocrress, my name is David Kotz,
17 I'm the Inspector General of the United States
18 Securities and Exchange Commission.

19 This is an investigation by the
20 Office of Inspector General, case number
21 OIG-509. I'm going to ask you certain
22 question, you'll provide answers under oath.
23 The Court Reporter will record and later
24 transcribe everything that is said. Therefore,
25 please provide verbal answers to the questions,

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1 as a nod of the head or another non-verbal
2 response will not be picked up by the Court
3 Reporter.

4 Also, so the record will be clear
5 please let me finish my question before you
6 provide your response, and I'll try to let you
7 finish your response before I ask the next
8 question. It is also important that you
9 understand the questions and give accurate
10 answers. If there's anything you don't
11 understand or anything you do not know or not
12 sure about, please let me know. Otherwise, I
13 will assume that you heard and understood the
14 question.

15 Do you understand those
16 instructions?

17 A. Yes I do.

18 Q. I'll give you the perjury warning.
19 As you can see your responses and statements
20 given today are provided after you swore an
21 oath and will be taken down verbatim by the
22 Court Reporter. This is an official U.S.
23 government law enforcement investigation. The
24 claims asserted in this case are serious ones.
25 It is very important you tell me everything you

1 know about the matter at hand and are
 2 completely forthcoming and truthful with me.

3 I'm formally advising you that your
 4 testimony today is subject to the laws of
 5 perjury. Providing false and misleading
 6 testimony under oath is a very serious offense.
 7 If the evidence shows that testimony you
 8 provided is false we may refer it as
 9 appropriate.

10 Do you understand those
 11 instructions?

12 A. Yes, I do.

13 Q. Can you tell me your current
 14 position at the SEC?

15 A. I'm a staff accountant.

16 Q. How long have you been in that
 17 position?

18 A. I believe it's 21-years.

19 Q. Have your duties changed at all
 20 during those 21-years?

21 A. I don't understand the question,
 22 what do you mean by --

23 Q. Have you had the same position, has
 24 the position been the same?

25 A. I started off as an examiner, and

1 Q. Have you ever done a cause exam
2 where it was done without a branch chief at
3 all?

4 A. No. All my cause examinations have
5 always been issued by branch chiefs.

6 Q. Have you ever done a cause exam
7 where you felt like you didn't have enough
8 guidance?

9 A. No. I think the Commission and the
10 appropriate individuals above me have given us
11 the right resources and opportunity to be
12 independent in doing research and suggesting
13 examinations or even working in the field.
14 We've attained a certain status that is
15 required by us at this point in the Commission
16 to be somewhat independent and think for
17 ourselves. Not to say that we don't need some
18 guidance, but for the most part we're expected
19 at this level to have a certain amount of
20 knowledge and independence to conduct
21 examinations.

22 Q. Is there is a particular focus on
23 timelines when it comes to these examinations?

24 A. Well, overall there are timelines
25 for all type of examinations. It depends on

1 the type of exam that we're doing. If we're
2 doing a large warehouse you're going to be
3 given a lot more time to conduct the
4 examination, you're going in with a lot more
5 people. With smaller firms it's going to be a
6 much smaller time frame.

7 Q. Have you ever had a situation where
8 you felt like you needed more time to examine a
9 particular entity but, you know, the time for
10 the examination was over and so you had to end
11 it?

12 A. Well, I think the branch chief and
13 the assistant regional director give us enough
14 time. We're allowed to come back and if we
15 need to follow-up with the particulars of a
16 broker dealer transfer agent, we relay these
17 concerns to them and they do tell us develop
18 them more.

19 Q. How many cause exams do you think
20 you've done?

21 A. Over my entire --

22 Q. Yes.

23 A. I would say about 50 to 60.

24 Q. Have you ever been in a situation
25 where you worked on an exam and you dealt

1 A. I have been involved in a number of
2 sweeps, but I'm not aware of the incidents you
3 just relayed to me.

4 Q. So, generally the exams that you've
5 done, you've of one entity and then you
6 wouldn't go back to that entity so soon?

7 A. That is correct.

8 Q. Have you dealt with Enforcement a
9 lot?

10 A. A number of my examinations have
11 resulted in Enforcement referrals, so I have
12 worked with them on occasion.

13 Q. Have you felt that the Enforcements
14 folks that you worked with generally took your
15 views seriously and listened to what you had to
16 say based on your examination, or was there
17 sometimes a feeling of, you know --

18 A. No, I've never had that. Everyone
19 was courteous, asking a lot of questions,
20 coming back to me and asking for follow-up. I
21 never had a problem with Enforcement.

22 Q. When you did your cause exams, do
23 you rely on exams done by the NASD or FINRA?

24 A. I look at all types of -- I
25 particularly no matter what type of

1 examination, I will go to the FINRA or New York
2 Stock Exchange and ask them -- I will try and
3 speak with the supervisor there and ask them --
4 the supervisor or the examiner or someone in
5 management who is responsible for overseeing
6 that firm, what they believe -- any thoughts
7 about the firm that I can possibly have prior
8 to going into a firm.

9 Q. And so something that FINRA has
10 done would be included within that?

11 A. Yes. I always talk to FINRA prior
12 to starting a FINRA audit.

13 Q. Have you ever had a situation where
14 you felt the exam focus was too narrow?

15 A. No. I am on an examination right
16 now that's truly, truly a focus examination,
17 and I think it's appropriate for the type of
18 firm that I'm at.

19 Q. Had you heard of Bernard Madoff
20 other than through these E-mails?

21 A. Yes.

22 Q. What was his reputation?

23 A. I knew that he was one of the
24 largest market makers in off-exchange listed
25 securities, but I didn't know anything about

1 his personal life or anything related to that.
 2 I new that he was very, very big in third
 3 market making, that's about it.

4 Q. Were you aware that this Madoff
 5 exam was going on after you expressed an
 6 interest and then other people did it, did you
 7 follow-up to see what happened with it?

8 A. Well, I can't recall, but perhaps I
 9 was on another examination, and when I had come
 10 back they had said or maybe William had said
 11 I'm already doing the examination.

12 Q. Okay. That's all I have. I just
 13 ask if you not discuss your testimony with
 14 anyone else so we can preserve the integrity of
 15 the investigation.

16 A. Absolutely.

17 (Time noted: 3:45 p.m.)