

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

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In the Matter of:

OIG-509

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WITNESS: NUMBER 64

PAGES: 1 - 39

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

DATE: June 10, 2009

The above-entitled matter came on
for hearing at 4:20 p.m.

COPY

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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P R O C E E D I N G S

1
2 MR. KOTZ: We are on the record at
3 4:20 p.m. on June 10, 2009 at the United States
4 Securities and Exchange Commission.

5 Enforcement Assistant Regional Director
[REDACTED]

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

9 EXAMINATION BY

10 MR. KOTZ:

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

13 Enforcement Assistant Regional Director
[REDACTED]

14
15 Q. My name is David Kotz. I'm the
16 Inspector General of the United States
17 Securities and Exchange Commission. I have
18 with me Noelle Frangipane from the office of
19 Inspector General.

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

1 A. You know, my conversations with
2 Peter over the course of a couple years were
3 about how we do our jobs better as examiners
4 and in enforcement. And it's very important
5 just for me to explain that context because a
6 lot of what we started to do here back in 2006
7 was about making sure that hedge funds in
8 particular and other trading vehicles, whether
9 it's institutional traders, mutual funds, that
10 we get true transparency as to what's
11 happening.

12 So, Pete was very helpful to me in
13 compiling a lot of information so that we can
14 share it with the staff. Ultimately that ended
15 up being the groundwork for the hedge fund
16 working group and the stuff we were doing.
17 Pete on that front is one of the people that I
18 really admire around here because of his
19 ability to know operationally what things are
20 happening. And also we bring a lot in terms
21 of, you know, what it is that can happen out of
22 the marketplace that we got to know about. And
23 so, these types of conversations are taking
24 place in the context of how do we make
25 ourselves be better in terms of examinations

1 and enforcement.

2 You know, in terms of your question
3 it would help if you just repeat it.

4 Q. Sure. Peter in the E-mail says,
5 "our hesitancy toward rocking the boat also is
6 something that should be reconsidered." Do you
7 know what he was referring to when he says
8 "hesitancy toward rocking the boat"?

9 A. I think, and this is -- I have a
10 vague recollection, but in terms of dealing
11 with industry people, you know, I think
12 sometimes there's more acceptance of things at
13 face value when we could be, you know, going
14 underneath some of what people are saying. To
15 me that's a lot about gaining access and
16 getting transparency to trading issues and
17 things like that. And so, what I remember
18 about that is sort of this hesitancy to rock
19 the boat is, you know, there's a lot of players
20 in the industry that are significant players
21 and sometimes there's a tendency to take at
22 face value what industry people are saying, and
23 it's our job in enforcement and on the
24 examination staff to insure that we don't take
25 things sort of at face value and that, you

1 know, we're looking at things from a
2 perspective of understanding really what's
3 happening. So, that's my understanding in
4 terms of my recollection.

5 Q. Do you think that's the case in
6 OCIE exams and enforcement investigations?

7 A. Well, maybe you can -- can you be
8 more specific.

9 Q. I mean, you said there are times
10 where, and I'm paraphrasing, by virtue of the
11 figures that you're dealing with there may be
12 instances where you take things at face value
13 rather than perhaps pushing further, and you
14 stated that in the context of that comment that
15 Peter made. My question to you is, were you
16 talking about in terms of OCIE exams which
17 Peter was involved in or enforcement
18 investigations that you would be involved in or
19 what?

20 A. You know, those two things can be
21 confusing. And this is my perspective, one
22 thing that's happening right now, which is very
23 positive, and, you know, we are thinking about
24 things in a different way and we have been for
25 several months. I think there's many of us