

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

2

3 In the Matter of:)

4) File No. OIG-509

5 OIG-509)

6 SUBJECT: Telephone Conversations with
7 former Securities Compliance Examiner and John Ehinger

8 PAGES: 1 through 79

9 DATE: Tuesday, March 17, 2009

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TAPE TRANSCRIPTION

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C O N T E N T S

Interview of [redacted] former Securities Compliance Examiner, 3/17/09 3

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P R O C E E D I N G S

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MS. STEIBER: This is the interview of [redacted] former Securities Compliance Examiner

[redacted] It is March 17, 2009, at 1:00 p.m.

1 kind of robots and accounting geeks -- and their personal
2 skills.

3 Like, when I think of someone who's a manager, that
4 means they're managing people, and they're supposed to have
5 people skills. And it seemed like it was lacking quite a
6 bit, especially when you got up -- a little bit higher up to
7 the ARD level, that they just didn't -- they didn't relate
8 well with the people they were supposedly managing, so that
9 might be something to look at, too.

10 But I think that's it, and if I do think of
11 anything, I guess I will give you a call.

12 MS. STEIBER: That sounds great. Now, just to
13 see -- we have ^{Personal Privacy}

14 ^{former Securities Compliance Examiner} : It's ^{Personal Privacy}

15 MS. STEIBER: Okay, great. Okay, well, thank you
16 so much.

17 ^{former Securities Compliance Examiner} : All right.

18 MS. STEIBER: It was nice to speak with you. Thank
19 you for spending your time.

20 ^{former Securities Compliance Examiner} : Well, it was nice to have a chance
21 to -- a chance to maybe (inaudible).

22 (End of conversation.)

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

2 MS. STEIBER: Anyway, is your -- do you spell your
3 last name E-h-i-n-g-e-r?

4 MR. EHINGER: Yes.
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5 MS. STEIBER: Okay. And the first name is John?

6 MR. EHINGER: Mm-hmm.

7 MS. STEIBER: Okay. Could you just start by
8 telling us what your current employment is?

9 MR. EHINGER: I am the chief compliance officer and
10 general counsel for Placemark Investments, a registered
11 advisor in Dallas, or Addison, actually.

12 MS. STEIBER: Great. And at some point of time,
13 did you work at the SEC?

14 MR. EHINGER: Yes, I worked at the division of what
15 was then Market and Regulations, from either late August or
16 early September, 1999 through about the same time in
17 2000 -- when was that -- 2003.

18 MS. STEIBER: 2000. And what positions did you
19 hold?

20 MR. EHINGER: My grade and title changed. I was
21 just a staff attorney. I may have been a law clerk,
22 technically, at one point, but I think it was either that
23 or -- until I passed the bar exam -- a staff attorney.

24 MS. STEIBER: Okay. And what responsibilities did
25 you have as a staff attorney in Trading and Markets, or --

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1 MR. EHINGER: Is this call in response to when I
2 called the OIG's office about the Madoff case?

3 MS. STEIBER: Yes.

4 MR. EHINGER: Okay. All right.

5 MS. STEIBER: Yes.

6 MR. EHINGER: Okay, because I'm -- obviously
7 offered that information in a personal capacity, not on

8 behalf of Placemark.

9 MS. STEIBER: Absolutely.

10 MR. EHINGER: I was -- I worked with the financial
11 responsibility group in market regulation. I don't remember
12 the exact title of the group. And then that was under risk
13 management, Office of Risk Management for broker dealers.

14 But what I did mainly involved -- and I wasn't on
15 the -- what they call the OIG, but Office of Information,
16 or -- I guess they don't call it that. Anyway, they
17 have -- they had like a -- for six months I did -- just kind
18 of answer the phone when general questions came in, like a
19 lot of the new staff attorneys do.

20 And then the rest of the time I worked with the
21 financial responsibility staff, dealing with interpretive
22 issues around the capital rule, customer protection rule,
23 SIPC, derivatives dealers, the OTC derivatives dealer
24 registrations, books and records rules, those sorts of
25 things.

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1 I don't think I did anything particularly
2 momentous. I think if you search westfall (phonetic), you'll
3 find some fairly routine no-action letters and foreign
4 control location approvals that I did --

5 MS. STEIBER: Mm-hmm.

6 MR. EHINGER: -- and most of the time I worked
7 for -- helped my supervisors do -- deal with securities
8 industry association meetings, requests for interpretations
9 and so on.

10 MS. STEIBER: And at some point, did you meet
11 Madoff?

12 MR. EHINGER: No. We did -- what struck me, and
13 what got me inspired to call was that, on the first day when
14 I got to the SEC, they said, "Buy a plane ticket. You're
15 going to New York." And they said there's, "We go -- we take
16 the junior attorneys on sort of a tour of all the various
17 facilities."

18 And on -- we -- so we, as guests, went into the
19 floor of the New York Stock Exchange, the floor of the Amex,
20 I think either -- the Amex and/or some sort of NASDAQ
21 trading -- trading room, but I can't -- I'm not entirely
22 sure.

23 But then on the second day, or one of the days, we
24 went to two brokerage firms, and that was Credit Suisse,
25 First Boston's -- I think it was institutional equity trading

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1 floor, and then the other place we went was Madoff
2 Securities.

3 And you know, I remember being told by someone from
4 there, who was not Bernie Madoff, it may have been one of his
5 sons or grandsons, but being told that -- how they're a
6 friend of the Commission's, support the Commission's mission.

7 And when -- obviously when the news broke about how
8 he was regarded as a -- Bernie Madoff was regarded as sort of
9 I guess, a good guy, it occurred to me that -- and when I saw
10 that the Inspector General's office was looking into it, it
11 seemed like if that type of invite, if that was --

12 MS. STEIBER: Mm-hmm.

13 MR. EHINGER: -- in fact an invite from Madoff
14 Securities, was -- could be incorporated into a larger

15 pattern of kind of being friendly with the regulator. It
16 might help explain --

17 MS. STEIBER: Mm-hmm.

18 MR. EHINGER: -- to some extent, you know,
19 that -- which -- it may have been the only trip that -- any
20 visit -- we had -- that anybody ever took. It may have been
21 a request from the people at the staff to Madoff, to say,
22 "Hey, can we come visit," because they had worked on
23 something recently.

24 So -- no, we didn't meet Bernie Madoff. That's
25 pretty much the extent of it. We just kind of stood there,

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1 and were shown around, and we wore little SEC badges, and
2 they had little placard name tags they gave us, and
3 then -- we were there for maybe an hour or so, and then we
4 left, and so that was it.

5 MS. STEIBER: Did you have a feeling that you and
6 the people you were with, because of the tour, got to be very
7 impressed with Bernie Madoff, and had a feeling that he was
8 close to the regulator?

9 MR. EHINGER: Well, the first part of your
10 question, did we feel that -- say that again?

11 MS. STEIBER: Did you feel that during the tour,
12 that the other people that you were with became very
13 impressed with Madoff, or that you had this feeling like,
14 "Wow, he's a really prominent person"?

15 MR. EHINGER: Well, I mean, I think it was less
16 spectacular than that. I mean, I think, you know, at least I
17 in particular, was just kind of, you know, sensory overload
18 in general.

19 You know, just started a first job out of law
20 school and stuff, and then -- but yeah, I mean, I came away
21 with the impression that, "Oh, okay, I see how it -- how it
22 is. There are -- there are these people that are engaged in
23 fraud, or manipulation, or whatever, and then there are
24 people that are -- parts of the industry that are generally
25 cooperative and will help you."

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1 And I mean I think that -- that that's still true,
2 but, you know, it seemed -- it was definitely a very friendly
3 visit.

4 MS. STEIBER: Mm-hmm.

5 MR. EHINGER: It was definitely a sense that
6 the -- that Madoff Securities was doing a favor for the
7 staff, to let the junior attorneys come in and have a look at
8 all the stuff on the trading screens and so on, and then
9 leave.

10 MS. STEIBER: Mm-hmm.

11 MR. EHINGER: And so I don't think anyone came away
12 with, oh, they're very impressed. I think, at least me in
13 particular, and I think a lot of the other people that we
14 were -- that were there as well, didn't really have any
15 context for whether this was something that was normal, or
16 impressive, or not.

17 It looked -- it looked a little bit less involved
18 and intense than -- intensive than the Credit Suisse First
19 Boston trading floor. But that's really the only type of
20 general impression I came away with.

21 MS. STEIBER: Did you feel like it was

22 inappropriate that the regulator was that close to one of the
23 regulated entities?

24 MS. STEIBER: Well, I mean I think that's
25 what -- the question you're trying to answer. It only

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1 occurred to me when the news broke about the Madoff
2 securities, and I remembered that we'd actually been invited
3 to the office, that it seems like, you know -- if it's -- I
4 would say this.

5 In my opinion, if I were -- if I were working in
6 the office, an Inspector General's office or I were a
7 Commissioner, I would think that, okay, maybe if the staff
8 called -- you know, periodically, they did these types of
9 trips, and somebody from the staff just called somebody at
10 Bernie Madoff Securities and said, "Hey, would you mind if we
11 brought some of our people up," and that was kind of an
12 isolated event, then it wouldn't seem inappropriate.

13 That would be, you know, the same as going to the
14 Exchange, because they're regulated, going to Credit Suisse,
15 because they're regulated, going to SIA meetings and so on.

16 But I think if it fit into a larger pattern of
17 Madoff's people bending over backwards to be seen as helpful,
18 then it would suggest to me that that might have been part of
19 a strategy for Bernie Madoff to avoid detection, by
20 being -- presumed to be always compliant, no matter what
21 level of complaints came in, or what kind of red flags might
22 have been raised in an exam.

23 MS. STEIBER: Did you hear other things after that,
24 or during that tour about Bernie Madoff's reputation?

25 MR. EHINGER: I can't quote specifically, and I
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1 don't remember who it was, but one of the staff that we were
2 with (inaudible) you know, very general comments, you know,
3 "we appreciate so and so's help," and -- on something that
4 had -- maybe something that had had happened on I-8.

5 My memory here, exactly what was said, and the
6 impressions that I have are all kind of mixed up with what I
7 sort of maybe in hindsight think might have been said.

8 MS. STEIBER: Mm-hmm.

9 MR. EHINGER: But you know, I think there was a
10 general sense by the more senior staff that brought us, that
11 they were appreciative of the efforts of the Madoff team in
12 general.

13 MS. STEIBER: Mm-hmm.

14 MR. EHINGER: And you brought up SIA meetings.
15 Did -- in your experience, did it seem that too many people
16 that worked at the SEC were going to these industry
17 breakfasts, or these industry events?

18 MR. EHINGER: No. I mean, we would take -- if
19 there was anybody who was unnecessary, it was me, just
20 because of seniority, and it also sort of explains why I was
21 left to take the notes. But we would take a handful of
22 people to the SIA meetings, and we'd discuss fairly
23 detailed -- you know, they were looking for no-action relief
24 or certain types of different haircuts on, quasi-government
25 securities, and asset backed securities, and so on and so

1 forth, and so we were just working on that.

2 No, that seemed pretty much -- I would assume
3 that's just how the SEC does and should continue to interact
4 with groups like the -- I know it's not called the SIA
5 anymore, but you know -- in that capacity.

6 No, that was actually negotiations. We'd fly up on
7 a Monday, sort of meet with them all day, and we would meet
8 in one of the brokerage's offices or -- it was always
9 somebody's office, and we would discuss a few of these
10 pending no-action letters, and then we'd all fly back to
11 Washington, unless we had other business.

12 MS. STEIBER: Mm-hmm. And do you think that the
13 people you worked with at the SEC, or other people that you
14 observed were -- seemed to be at the SEC so that they could
15 get these high paying jobs in industry?

16 MR. EHINGER: No. Most of the people -- of all the
17 people that I've worked with, I think -- I think I'm the only
18 one who's actually in-house somewhere. I think one guy's at
19 a law firm, but -- no. I mean, I got the sense that in my
20 little group, that people were doing -- were -- to the extent
21 that they were looking to go work somewhere else, it was
22 through developing general experience, rather than, you know,
23 trying to get favor with any one particular potential
24 employer.

25 I mean, you know, full disclosure, I mean, that was

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1 kind of my career path and intent as well, and so, you know,
2 I ended up leaving the SEC, and went to work for a law firm,
3 somebody I'd never dealt with before. I never dealt with the