

Former Examiner #2

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1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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3 In the Matter of:)

4) File No. OIG-509

5 OIG-509)

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7 SUBJECT: Telephonic Interview

8 PAGES: 1 through 12

9 DATE: Wednesday, May 27, 2009

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13 TAPE TRANSCRIPTION

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

2 MR. KOTZ: We are just going to tape record this
3 just so we get the exact wording. Okay?

4 Former Examiner #2: Okay.

5 MR. KOTZ: I just want to go on and say we are
6 doing an investigation, OIG Case 509. In connection with
7 that investigation we are interviewing Former Examiner #2
8 could you just state and spell your full name for the record?

9 Former Examiner #2
10

11 MR. KOTZ: I am going to ask you a few questions.
12 Some of it relates to the document I provided to you, a
13 memorandum dated November 16, 1992. The first thing I would
14 like to ask is if you could state formally that you will keep
15 all matters in this memorandum that I provided to you, as
16 well as the information in this interview, confidential.

17 Former Examiner #2: Yes, I will.

18 MR. KOTZ: Did you get a chance to look at this
19 document?

20 Former Examiner #2: I did.

21 MR. KOTZ: I really want to get from you what your
22 recollection is going back all these years to November of
23 1992. Do you remember how you initially got involved doing
24 this examination?

25 Former Examiner #2: I do not.

3

1 MR. KOTZ: What type of examination was it exactly?

2 Former Examiner #2: I can tell from the memorandum that

Former Examiner #2

3 it was a cause exam.

4 MR. KOTZ: A cause exam of Bernard L. Madoff; is
5 that right?

Former Examiner #2

6 That is what it says on the
7 document, right.

8 MR. KOTZ: What was your position at that time?

Former Examiner #2

9 I guess I was an examiner at that
10 time. Actually, I was a branch chief, but I do not remember
11 when that happened.

12 MR. KOTZ: When did you first join the SEC?

Former Examiner #2

13 June of 1990.

14 MR. KOTZ: What did you do prior to that? Was that
15 one of your first jobs?

Former Examiner #2

16 That was my job out of college.

17 MR. KOTZ: Where did you go to college and what
18 degree did you get?

Former Examiner #2

19 I had a bachelor's in finance from
20 GW (phonetic).

21 MR. KOTZ: So not too long after you started at the
22 SEC you became involved in this Madoff cause exam; is that
23 right?

Former Examiner #2

24 Right. About two years.

25 MR. KOTZ: Who is Demetrios vasilakis?

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4

Former Examiner #2

1 He was another examiner.

2 MR. KOTZ: Was he more senior or less senior than
3 you at that time?

Former Examiner #2

4 I think we started the same day or
5 weeks apart.

6 MR. KOTZ: Former Examiner #2 what about John Gentile (phonetic)?
7 Former Examiner #2 John was the branch chief on it.
8 MR. KOTZ: And so he was your branch chief or just
9 the branch chief on the exam?
10 Former Examiner #2 I do not think he was ever my
11 branch chief. He just happened to be the one on the exam.
12 MR. KOTZ: Who was your branch chief in your first
13 few years at the SEC?
14 Former Examiner #2 Personal Privacy was I believe at one
15 point, although I am not sure -- I think she was a branch
16 chief at the time.
17 MR. KOTZ: Personal Privacy
18 Former Examiner #2 Right. I do not know if she was
19 the only one. I just do not remember.
20 MR. KOTZ: And then you were eventually promoted to
21 branch chief?
22 Former Examiner #2 Yes.
23 MR. KOTZ: When was that?
24 Former Examiner #2 I do not remember. Honestly, I do
25 not know. At this point on this exam I was just an examiner.

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5

1 I do not know if it was --
2 MR. KOTZ: when did you leave the Commission?
3 Former Examiner #2 I left in about August of 1996. My
4 separation date was probably November of 1996.
5 MR. KOTZ: And so you were branch chief when you
6 left?
7 Former Examiner #2 Correct.
8 MR. KOTZ: And so do you remember at some point

Former Examiner #2

9 that there was an enforcement investigation of Avellino and
10 Bienes?

Former Examiner #2

11 I do not really remember this.
12 Really what I can tell you is just from reading this report.
13 I do not remember it without help of this report. It is just
14 too long ago.

15 MS. STEIBER: At that time did you work closely
16 with enforcement attorneys? Were they also in your group
17 like in trading and markets?

Former Examiner #2

18 No. I was in broker-dealer
19 inspection program.

20 MS. STEIBER: And you did not have any enforcement
21 attorneys or investigators in that program?

Former Examiner #2

22 There must have been, but
23 normally -- I do not remember. I do not remember that much
24 interaction with them.

25 MR. KOTZ: Looking at this memorandum, the cause

6

1 exam memorandum dated November 16, 1992, do you have a sense
2 of how long this exam took?

Former Examiner #2

3 I think from what I read on there
4 we were only at Madoff's a day it sounded like from what I
5 read.

6 MR. KOTZ: Do you think it was a very limited
7 examination?

Former Examiner #2

8 I think it was very limited in
9 scope from what I can tell from here.

10 MR. KOTZ: From reviewing the document what did you
11 understand the scope of the examination to be?

Former Examiner #2
12 Former Examiner #2 Just from reviewing the document we
13 were just going there to verify some positions that Madoff
14 was holding for standard accounts.

15 MR. KOTZ: When you say "verify positions," what do
16 you mean?

17 Former Examiner #2 It looked like we were comparing
18 this customer's statements from Avellino and Bienes -- it
19 looks like -- I do not remember the business that well. I
20 guess that Madoff was their clearing firm so we were just
21 comparing -- I know part of it was comparing what Madoff
22 records to what DTC's records said.

23 MR. KOTZ: Does it look from this document, based
24 on your experience, that you were doing an examination
25 relating to allegations of a Ponzi scheme?

7

1 Former Examiner #2 I do not think so.

2 MR. KOTZ: why do you think you would be verifying
3 assets or positions? why would you go and verify someone's
4 records vis-a-vis DTC?

5 Former Examiner #2 It has been so long I do not even
6 remember what we were doing. I do not know. It seemed like
7 we were just making sure the records that this Avellino and
8 Bienes said matched what the carrying firm had and then that
9 matched what the clearing agency had.

10 MR. KOTZ: So there would be an effort, though, to
11 check Madoff's stock records and positions to DTC's records
12 and positions to see if they matched up?

13 Former Examiner #2 Yes. It looks like that is what we
14 were doing, right.

15 MR. KOTZ: Former Examiner #2 Now, at that time when you would go in
16 and do a cause exam to determine whether a particular
17 broker-dealer or registrant's positions matched up with DTC,
18 would you go to DTC itself to get those records, or would you
19 ask the company, the broker-dealer or registrant, for the
20 records?

21 Former Examiner #2 No. I think we would get them from
22 the registrant.

23 MR. KOTZ: Any particular reason why you would do
24 that do you know?

25 Former Examiner #2 I do not know. I do not remember.

8

1 I cannot think for sure that is what we did, but I am pretty
2 sure that is how it happened.

3 MR. KOTZ: Anything else that you can remember
4 either from your recollection or from reviewing this document
5 about the examination?

6 Former Examiner #2 No. It is not familiar to me other
7 than looking at the document.

8 MR. KOTZ: Do you know if you knew the name Bernard
9 Madoff back then? Did that name mean anything to you?

10 Former Examiner #2 I know that when this came out in
11 the news this past year it sounded familiar to me and I
12 thought to myself I wonder if I had ever been there. I
13 honestly did not know I was there for sure until I talked to
14 you last week.

15 MR. KOTZ: You do believe now after looking at this
16 document and talking to me that you did go to Madoff's
17 offices on that one day with Demetrios Vasilakis?

18 [REDACTED] Former Examiner #2 It looks that way, yes.

19 MS. STEIBER: Have you done any other Ponzi exams
20 or any Ponzi examinations?

21 [REDACTED] Former Examiner #2 I do not think so.

22 MR. KOTZ: Do you know if there was any report back
23 to the enforcement attorneys about what you found as the
24 result of this examination of Madoff?

25 [REDACTED] Former Examiner #2 I do not recall. I do not know if

9

1 John -- John was the branch chief on that. I am not sure if
2 he maybe went back to them. I do not recall going back to --
3 I do not remember how it was wrapped up.

4 MR. KOTZ: Do you remember if you might have
5 drafted this memorandum?

6 [REDACTED] Former Examiner #2 I cannot tell for sure. I do not
7 know if it was either Vackie (phonetic) or me. I am not
8 sure. Sometimes I did. It depends on who was working on the
9 exam.

10 MR. KOTZ: Normally when you would do this kind of
11 exam would you and Vackie be the only ones, Vackie meaning
12 Demetrios Vasilakis, who went on site, or would John have
13 gone too?

14 [REDACTED] Former Examiner #2 It is possible he went. I do not
15 know. I do not see anything about that in here. It is quite
16 possible. Sometimes the branch chief would go and sometimes
17 they would not. It would just vary.

18 MR. KOTZ: Was it unusual for an exam to be so
19 limited and so short?

20 [REDACTED] Former Examiner #2 Yeah. well, I do not know. I did