

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

AVELLINO & BIENES, FRANK J. AVELLINO,  
and MICHAEL S. BIENES,

Defendants.

AFFIDAVIT OF  
FREDERICK M. WERBLOW

RICHARDS SPEARS KIBBE & ORBE

140 BROADWAY

NEW YORK, NEW YORK 10005

(212) 514-9000

Accountant for  
Trustee

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE  
COMMISSION,

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AVELLINO & BIENES, FRANK J.  
AVELLINO and MICHAEL S. BIENES,

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AFFIDAVIT OF  
FREDERICK M. WERBLOW

92 Civ. 8314 (JES)

TO THE HONORABLE JOHN J. SPRIZZO,  
DISTRICT COURT JUDGE

FREDERICK M. WERBLOW states as follows:

1. I am a partner in the accounting firm of Price Waterhouse, 153 East 53rd Street, New York, New York. By court order dated November 17, 1992 (the "Order"), the Honorable Kenneth Conboy directed that Fred Werblow and Price Waterhouse be engaged by the Trustee, Lee S. Richards, to: "(1) conduct an audit of Avellino & Bienes's ["A&B"] financial statements from 1984 to the present; (2) express an opinion confirming the identity of all noteholders in A&B notes and the amount of principal and accrued interest owed to each such noteholder as of November 16, 1992; and as of the date of distribution of principal and accrued interest to each such noteholder . . . and (3) perform such other duties

and functions as the Trustee may request." The Order requires Price Waterhouse to "submit a report on its findings to the Commission, the Trustee, counsel to A&B and the Court" no later than December 30, 1992. Order ¶ IV C. Your Honor extended the time to report to January 19, 1992 upon consent of the parties. The Order also provides for the defendants to pay "the reasonable costs, fees and expenses of Price Waterhouse . . . ." Order ¶ IV D. (A copy of the Order is Exhibit A to the January 15, 1993 affidavit of Lee S. Richards.)

2. I make this affidavit in support of the application of Price Waterhouse (i) for costs, fees, and expenses incurred through December 31, 1992; (ii) to further extend the time to report as required by Paragraph IV D of the Order to be one month after the receipt of all records requested from Avellino & Bienes; and (iii) for an allocation of additional funds to be escrowed for the Trustee to pay for the reasonable costs, fees, and expenses of Price Waterhouse from January 1, 1993 through the completion of its work.

3. The information contained in this affidavit was prepared from my own personal knowledge of the case and that of several of my colleagues, also closely involved,

primarily Mr. Joel Whitman, a partner, and Geoffrey Cook, a manager in our firm.

I. Facts Supporting Fee Application

4. Price Waterhouse seeks payment for fees, expenses and costs incurred from November 17, 1992 through December 31, 1992. Price Waterhouse requests a total payment of \$270,904, which represents \$261,223 in fees and \$9,681 in out-of-pocket expenses for time and expenses incurred in the months of November and December. (Copies of the Price Waterhouse November and December statements are annexed hereto as Exhibits A and B.)

5. The Work In Overview. Since our appointment on November 18, our work has been comprised of two distinct stages: first, from November 18 to November 24, to carry out procedures to check distributions totalling \$329,194,998 to noteholders, to investigate in that time period (which was established by the Order) whether the distributions were being made to actual noteholders and in the amounts shown on the records of A&B, and to inquire whether the distribution by A&B of approximately \$113 million was to actual noteholders and in the amounts reflected in the records of A&B; and second, to conduct

an audit of financial statements of A&B from January 1, 1984 through November 16, 1992.

A. The Distribution of Over \$329 Million to Noteholders (The November Statement)

Procedures carried out on loan noteholder accounts

6. A substantial portion of the charges on our November statement (Exhibit A) was for work related to checking the distribution of \$329,194,998. After receiving notice of our engagement on November 17, I (along with Joel Whitman, a partner and Geoffrey Cook, a manager of our firm) met with the representatives of the SEC, legal counsel for A&B, and the Trustee. Our assignment was to use the seven days up to the Court-ordered date of distribution to do whatever was practical to determine the validity of the list of 3200 noteholders and how much each was owed. Messrs. Whitman, Cook, Robert E. Butler (a partner specialist in investment company computer systems and controls) and I met at various times on November 17 and 18 to plan and formulate the initial procedures and controls we would have to undertake to provide some assurance that the \$329 million borrowed by A&B would be disbursed to the proper persons

in the proper amounts. In addition, we estimated the timing and manpower requirements and arranged with our Human Resources Department for professional staff required to assist us to carry out the assignment.

Accordingly, on November 18, Messrs. Whitman, Cook and I accompanied the Trustee to Avellino & Bienes, took control of their office which included arranging for and supervising the changing of the locks. We met Mr. Avellino and Mr. Bienes, partners of A&B. Mr. Avellino discussed with us, among other matters, their operations and their plans for paying back funds to the lenders. Using three members of our staff, we began our inventory of and inquiry into the nature of records on the premises. We were advised that there were no written procedural or other manuals to document the available books and systems. Accordingly, we learned their procedures mainly by means of a series of discussions with Mr. Avellino and various members of the staff of A&B. Mr. Avellino provided us with a list of noteholders as of November 16, 1992 indicating the amounts of principal and interest owing to each noteholder. To check the accuracy and integrity of this list, we conducted certain procedures on the loan noteholder accounts. Specifically, A&B maintained separate file folders in cabinets for each

noteholder, those folders (which were our principal source for determining what each noteholder was owed) contained varying information that was not consistent among files. Three members of our staff each worked between 11 and 16 hours a day for seven straight days to review the contents of the noteholder folders for all noteholders purportedly owed over \$1 million according to the listing supplied by A&B and a sample of other noteholders selected on a judgmental basis from that same listing. (It was obviously impossible in seven days to review all 3200 folders.) This detailed checking took between one and two hours per folder and involved reviewing the contents of the files, checking the amount of certain transactions against bank deposit slips which in a separate test were traced to cash receipt records or (for disbursements) to returned checks. These procedures required significant interface with A&B staff personnel, to clarify and explain inconsistencies and to answer questions. Approximately 270 hours were spent by our three staff reviewing approximately 150 noteholder files.

7. We were advised that since 1989 the ledger of noteholders was maintained by an outside computer service bureau, Optus Software, on a computerized ledger system. Therefore, Mr. Whitman and a senior Price Waterhouse

consultant specializing in computerized information systems visited the offices of Optus Software in Somerset, New Jersey on November 20. There they met with Mr. Joseph Licht, who represented to us that he was a principal in Optus. He told us that he performed all of the processing tasks and prepared reports and checks for A&B. The objective of the meeting was to obtain an understanding from him of the manner in which information and records flowed between A&B and Optus and the substance of that information and those records, and to discuss the procedures to be followed in preparing the checks to be sent to the noteholders pursuant to the Order. We also arranged to obtain balance and transaction files for A&B for the period January 1 to November 16, 1992, as well as the checks that were to be prepared to liquidate the amounts owed the noteholders as of November 16, 1992. In addition, we coordinated with Optus, the Trustee, legal counsel for A&B, and representatives of the SEC and we designed a confirmation request for use in the check preparation and distribution process.

8. After receiving the computer files from Optus, our information technology specialists recalculated the interest due to be paid to noteholders for the period

October 1 to November 16, 1992 and checked whether the balances reflected on all the files supplied to us added up and agreed with the balances that were previously tested.

9. This process took place in the four days prior to the distribution and involved numerous follow up discussions with Mr. Licht to try to establish if the data that we received from Optus were in agreement with the data Mr. Avellino gave us on November 18. The information technology manager and senior consultant spent sixty hours on this task; and Messrs. Whitman and Cook of Price Waterhouse spent approximately 20 hours attending additional meetings at Optus, dealing with the ongoing inquiries of Joseph Licht, and coordinating our computer testing with our information technology manager and senior consultant. Our bill includes a total of 438 hours for procedures carried out to test the noteholder accounts pursuant to the Order and accounted for \$58,317 of the total amount reflected on our November 1992 statement. Although this project required considerable overtime and weekend work because of the timing and procedures dictated by the Order, no premium was included in our charges for this time.

Planning, preparation and control over mailing of checks to loan noteholders

10. In addition, we planned, staffed, supervised, controlled and carried out the entire process for the distribution of approximately 2500 checks and the sending of ten wires to liquidate the known noteholder balances as of November 16, 1992.<sup>1</sup> In order to find out whether each check was sent to the most recent address, we tested whether the address listed on the Optus computer system used by A&B was consistent with addresses reflected in correspondence files in A&B's office for each noteholder. Our testing included all "care of" addresses. In addition, after meeting with Mr. Avellino and counsel for A&B, the Trustee decided that for security reasons, distributions in excess of \$200,000 should be made by Federal Express and the remainder by regular mail. Ten accounts were distributed by federal wire, those being the accounts where transactions had been regularly undertaken by wire. In order to be able to achieve this in the short time frame allowed in the Order, over the weekend of November 21-22, and on November 23, our

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<sup>1</sup>We did not send out 3200 checks or wires because a number of accounts were bundled and covered by a single wire or check.

representatives carefully controlled the printing of the checks (late Saturday evening and early Sunday morning) at the offices of Optus in Somerset, New Jersey, and brought the 2,500 checks to our New York office. There, mailing labels and/or Federal Express envelopes were prepared for the mailing of the funds. The actual mailing took place on November 24 and included a cover letter and postage paid reply envelope seeking confirmation from noteholders of the balance (principal and accrued interest) due at November 16, 1992. This task also involved obtaining in excess of three hundred Federal Express envelopes, developing and running off a computer program that printed labels for all noteholders with amounts due in excess of \$200,000, obtaining approximately 2,500 double window envelopes from Joseph Licht of Optus Software, making approximately 2,500 copies of the explanatory letter to accompany the distribution, and making two copies of the confirmations and checks (the first as a copy for control purposes, and the second in readiness for a second confirmation request). In addition, it was also necessary to coordinate the wire transfers with Mr. Avellino, the Trustee and Chemical Bank. This involved extracting transfer information from client files, verifying its authenti-

city, and providing this information (which included bank account numbers and Routing/ABA numbers) to Joseph Avellino at Optus Software who prepared the wire release details. We then contacted Chemical Bank with the Trustee, who gave the authority to release the funds. Thirteen Price Waterhouse employees spent 159 hours arranging for and carrying out this extensive mailing, which included 32 hours of a computer systems specialist manager. Our fees for this portion of our work totaled \$23,470. (Again, no premium was assessed for the overtime work.)

Attendance at meetings and other work

11. In all our efforts to carry out the activities discussed above, we coordinated closely with the Trustee, the SEC, Chemical Bank, Optus, Mr. Avellino, the A&B staff, and counsel for A&B when appropriate. In particular, Mr. Whitman and I met and talked with the Trustee on a regular basis; Geoffrey Cook met with and talked to the Trustee and his staff on a daily basis.

12. In addition, we used the services of our Information Center to obtain, among other things, background information on the defendants and other

entities with which they did business. We also assisted the Trustee with Mr. Avellino's depositions. We prepared and discussed questions with the Trustee, prepared exhibits for the deposition, and attended one of the depositions. We coordinated with our Miami office so that one of our managers there could meet with Mr. Bienes to obtain whatever additional books and records existed in Florida for A&B for the period covered in the Order (for example, the general ledger and tax returns relating to A&B). We supervised the signing of approximately 2,500 checks by Mr. Avellino, Mr. Bienes or Mr. Joseph Avellino at the offices of Avellino & Bienes on November 22, 1992, and ensured that checks relating to accounts that had been frozen, numbering fourteen in total, were removed from those to be sent and held separately. We participated in several conference phone calls with the Trustee, the SEC and counsel for A&B, relating to the freezing of the Telfran Ltd. principals' accounts and subsequently organized with the Trustee's staff the transfer of all frozen monies to an escrow account in the Telfran Trustee's name. We had several discussions with Chemical Bank regarding check authorization procedures and provided them with a copy of the register of all checks sent out.

13. A manager specializing in investment partnership taxation in our firm performed a preliminary review of the 1991 tax returns of both the Florida and New York partnerships of Avellino & Bienes, and the individual tax returns of the three partners Frank -- Avellino, Michael Bienes and Diane Bienes. This review was undertaken to gather information which would normally be contained in financial statements and to better understand the status of the partnership.

14. We provided the Trustee with a report summarizing the steps we had undertaken prior to the mailing of the checks, and we discussed with the Trustee and the SEC what information should be given in the event of contact with the media, and subsequently had several conversations with the press.

15. Our fees for attendance at various meetings and other activities (including assisting the Trustee with Mr. Avellino's two depositions, collecting records in New York and Florida, supervising check signing, and providing general assistance to the Trustee regarding inquiries from noteholders and the defendants, etc.) totaled 142 hours of work for \$38,407. (Also, as noted previously, this involved considerable overtime for which no premium was assessed.)

16. Finally, our out-of-pocket expenses (including transportation, courier services, overtime meals, purchase and installment of locks, photocopying, and postage) totaled \$5,560 in November.

17. In total, 27 Price Waterhouse employees spent 739 hours for a total of \$120,194 in fees and \$5,560 in expenses for the month of November 1992.

B. The Audit Work (The December Statement)  
Commencement of audit work

18. Immediately after the November 24 distribution was completed, we completed our planning for and began to try to carry out the audit of the financial statements. The Order requires us to "conduct an audit of A&B's financial statements from 1984 to the present."

["Present" was subsequently defined to be through November 16, 1992.] In our attempt to comply with this Order, we previously had met with Mr. Avellino to obtain the financial statements and any existing audit reports for the years 1984 through 1991 and to obtain the underlying accounting and other records, including the partnership agreement. We were surprised to learn from Mr. Avellino that the partnership had no financial statements or any audit report for any period of time

covered by the Order. Also, Mr. Avellino told us that all accounting records prepared for periods up to and including 1988 had been discarded. Furthermore, there was no written partnership agreement. This was hard for us to understand since we were informed that Mr. Avellino and Mr. Bienes are Certified Public Accountants. It also surprised us since they consented to the Order, which requires that the January 1, 1984 through November 16, 1992 financial statements be audited. We also found the absence of records surprising given the fact that tax returns for the partnership reflect large loss carry forwards which normally require the retention of records documenting the losses.

19. In reviewing the available accounting records, we discovered there was no investment ledger or security purchases and sales journal despite the fact that more than \$400,000,000 of assets of the partnership was comprised of investments in securities. Mr. Avellino told us that A&B did not maintain detailed investment records and, in order to compute the tax results each year, he apparently analyzed monthly statements and trade information supplied by Bernard L. Madoff.

20. In attempting to carry out this assignment, we ran across several obstacles, in addition to the matters

described above, that caused considerable delay and made our work much more difficult. Mr. Avellino advised us that he kept his books and records solely to enable him to prepare the income tax returns of the Florida and New York partnerships. He also informed us that in doing so he exercised his legal right to retain only records for the most recent three years. Thus, for the fiscal years 1984 to 1988 inclusive, none or very few of the accounting records exist. Those in existence covered only fiscal years 1989 through 1991. The records for 1992 are not yet prepared; Mr. Avellino explained to us that he does not write up a significant portion of the books and records until the end of the year. In addition, significant portions of the records for the fiscal years 1989 through 1992 did not exist in a form that facilitated easy review: For example, there was no hard copy documentation from the Optus System and other items we would regard as essential, such as a written reconciliation between the Optus System balances and the manual general ledger and an investment ledger. Therefore, we needed to obtain the necessary missing documents from the principals and we wrote three letters (annexed hereto as Exhibit C) to Mr. Avellino seeking these documents. We

have not as yet received all the documents we need, such as,

(a) IRS Form "1099's" from Bernard L. Madoff for Avellino & Bienes joint venture account for fiscal years 1984 through 1990;

(b) Deposit slips relating to Chemical Bank account number 007-033427 (F&M Associates) from the opening of the account to 8/31/89 and account number 007-033419 from the opening of the account to 12/31/89;

(c) Rental agreement(s) for space occupied prior to 70 East 55 Street, New York;

(d) New York State and City Tax Returns for the New York Partnership for the years 1984 to 1990 inclusive and Florida intangibles tax returns for the Joint Venture Partnership for the years 1984 to 1991 inclusive;

(e) A complete list in writing of documents relating to both the Joint Venture and New York partnerships held in either the houses or offices of the partners in Florida;

(f) Documentation for the income and expenses relating to "The Favorite Fund" for the period January 1, 1984 through November 16, 1992;

(g) A balance sheet as of November 16, 1992 and income statement for the period from January 1, 1992 to

November 16, 1992, including all supporting schedules for the New York and Joint Venture Partnership:

- (i) the schedule of specific investments sold during 1992 showing sale proceeds and date of sale, original purchase cost and date, gain or loss on sale
- (ii) the schedule of dividend income and dividend charges
- (iii) the schedule of margin interest paid
- (iv) schedule of short sales
- (v) schedules giving details of other balance sheet items e.g. loans and exchanges
- (vi) schedule of other income
- (vii) schedule of securities at cost (prior to liquidation)
- (viii) schedule of changes in partnership capital and details of such changes;

(h) Detailed breakdowns of the following items as set out in the tax returns for the years 1984 to 1991 inclusive:

- (i) dividend income and dividend charges
- (ii) interest income
- (iii) other income
- (iv) margin interest paid
- (v) loans and exchanges (part of other assets)
- (vi) securities at cost
- (vii) short sales
- (viii) schedule of changes in partnership capital and details of such changes;

(i) Quarterly check registers showing interest paid and interest rolled over for all directories of loan noteholders for the quarters ended December 31, 1988; March 31, June 30, September 30, December 31, 1989; March 31, June 30, September 30 and December 31, 1990;

(j) Any records or correspondence with or relating to investments with Ken Jordan;

(k) The loan noteholder file for Mr. Jeff Picowor including his Tax Identification Number;

(l) Loan noteholders files for the Estate of Robert Mendelow and the Estate of V.W. Boyd;

(m) A reconciliation of the amounts recorded in the general ledger accounts 50 and 51 from the closing balance for 1989 to the opening balance for 1990 and the closing balance of 1990 to the opening balance of 1991;

(n) Reconciliation of closing partners capital in the extended trial balance to the amount recorded on the tax return for 1990 for the Joint Venture Partnership;

(o) The "advice of credit" for the deposit relating to Larry Rubin of \$200,000 on June 22, 1989;

(p) A reconciliation of the information in the financial statements prepared for Chemical Bank and that reflected in the Joint Venture tax returns for 1984 through 1986;

(q) Explanation for the fact that Schedule M of the federal income tax return for Avellino & Bienes Joint Venture states a capital account deficit at the end of 1987 of \$22,043,358 whereas the capital account at the

beginning of 1988 is recorded at a deficit of \$34,471,564;

(r) An analysis of the 1992 journal entry to transfer the loan balances of the AFG and BFG directories in general ledger account 40 to accounts 50 and 51 "Capital Drawings";

(s) The purpose of rate fields "Comm-1" and "Comm-2" on the Optus system and the use of these fields in quarterly interest calculations and the circumstances in which these fields are assigned a value other than zero;

(t) An explanation for the difference in accounting for "Avellino and Bienes Special Fees"; specifically why in 1989 these "fees" were posted to general ledger account 200 "Bank charges etc." whereas in 1990 they were posted to general ledger account 205 "A&B Special Fees";

(u) Database from Optus Information Systems containing all of the changes in Tax Identification Numbers ("TIN") for the period January 1, 1989 to November 16, 1992, including the following fields:

- Original TIN
- Revised TIN
- Date of Change to TIN;

(v) A complete file of interest transactions from Optus Software relating to loan noteholders included in

the "FM" directory for the period January 1, 1989 to November 16, 1992; and

(w) Documentation supporting all receipts and payments other than those with Bernard Madoff and noteholders for the period January 1, 1984 through November 16, 1992.

21. In addition, by letter dated January 12, 1992 (see Exhibit D), Mr. Avellino said we should "not direct any further questions to Mr. Licht (of Optus Software)." This is unfortunate because we still have significant unsolved problems with information we have downloaded from Optus.

22. In order to keep our charges down, we suggested (and Mr. Avellino initially agreed) that Mr. Avellino would prepare the financial statements. However, subsequently in a letter dated January 5, 1993, Mr. Avellino stated that he was "prone not to attempt this task at this time" i.e., to prepare a balance sheet as at November 16, 1992 and income statement for the period January 1, 1992 to November 16, 1992. Based upon Mr. Avellino's responses to date it is apparent that initially we were not provided with all of the documentation and records. For example, the 1991 extended trial balance was not provided nor various invoices for payments made

by the joint venture. In addition, we had to obtain brokerage statements from Bernard L. Madoff (whom we were told invested essentially all the partnership funds on a fully discretionary basis). His firm has produced records for the A&B accounts only for the period from January 1, 1988 onwards.

23. Moreover, Mr. Avellino initially told us that he was unsure whether there ever were any financial statements of A&B created except possibly once for Chemical Bank; however, on December 30, 1992 Chemical Bank advised that A&B had submitted unaudited financial statements to the bank for each year in the period 1979, 1980 and 1982 to 1986.

24. It was obviously necessary to amend and extend our audit procedures because A&B did not maintain records in a form appropriate for facilitating expedient examination. The following examples illustrate the problem: the legibility of cash receipts and payments journals, the making of adjustments to records without updating subtotals, the absence of narrative explanation for certain transactions, the keeping of manually-prepared records that required more complete testing for arithmetical errors than computer-prepared information, the loan noteholder status reports from Optus that do not display

the date of the balance inquiry, the posting of transactions to inappropriate accounts for expediency. For example, we were told that the 1992 records will not be reclassified with the necessary supporting analysis until a balance sheet and income statement are prepared for the tax returns.<sup>2</sup>

25. Notwithstanding the problems listed above, we commenced the procedures outlined below as part of our audit testing first for the period from January 1, 1992 to November 16, 1992 and subsequently for the year ended December 31, 1991. The most recent periods were selected first because accounting records and other supporting documents were more readily available.

26. We checked the arithmetic of all monthly totals for cash receipts and cash payments journals and resolved any apparent footing errors (as discussed above). We then checked these monthly totals against the general ledger account to which they had been posted. In this way we were able to see if the monthly postings of cash

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<sup>2</sup>Another significant problem we encountered was the practice of recording negative amounts in red in the cash receipts and payments journal. The use of red ink obviously did not appear on the copies we were using, and we were given insufficient time to identify such items on the photocopies because Messrs. Avellino and Bienes took these journals back to Florida. As a result, many apparent arithmetical errors required investigation.

receipts and payments had been made as stated. We also reconciled the opening cash book balance to the closing cash book balance. For 1991 we subsequently reconciled the totals in the general ledger account to the balance sheet and income statement presented in the federal income tax return after requesting the extended trial balance that had initially not been provided. An equivalent exercise cannot yet be undertaken for 1992 because Mr. Avellino has neither completed his postings to the general ledger nor prepared an extended trial balance.

27. To test the authenticity of cash receipts and disbursements and the propriety of classifications, we selected a sample of each type of transaction. Cash receipts primarily comprise monies received from Bernard L. Madoff, A&B's broker, and deposits from loan noteholders, whereas cash payments are mainly interest and principal payments to loan noteholders, and payments to the broker.

28. For amounts over \$1 million we traced these receipts and payments to the bank statement. Additionally, for all cash transactions selected involving the broker, Bernard L. Madoff, we traced amounts and detail to the broker statements. To do this, it was necessary

to obtain broker statements from Mr. Madoff for the period January 1, 1991 to present because A&B was unable to provide broker statements other than for the month ending December 31, 1991. For transactions involving loan noteholders' principal, our computer information systems senior consultant had to produce transaction histories. We have encountered problems in obtaining a report of complete transactions for many accounts. We were able to check selected quarterly interest payments against the interest check registers. For the remainder of selected receipts and payments (other than partners' capital transactions), we sought third party documentation from Frank Avellino. We are still awaiting the documentation for a number of these.

29. In all cases we considered the propriety of the classifications used in those records which do exist, based on our testing. In the case of testing cash receipts it was necessary to refer to the deposit slip to establish the audit trail. In addition, we performed a review of Bernard L. Madoff broker statements and tested a sample of transactions to see if the cash transactions involving the broker account had been recorded. Other procedures included reconciliation of accounting fees paid by the joint venture to the accounting fees recov-

ered by the A&B (New York Partnership), testing of bank reconciliations at period end (1991 only) and the attempted reconciliation of the loan noteholders balance per the general ledger to the total per the Optus system (1991 only). These tests have raised many questions, and we are awaiting a response from Mr. Avellino on those questions.

30. Difficulties have also arisen because A&B did not maintain certain key documents needed for the audit. As a representative (though not a comprehensive) list of examples, we would normally expect that the following records be maintained for an investment company: prime books of entry such as an investment ledger showing open positions and cost at regular periods of time (at least monthly), reports/ledgers of loan noteholder balances, and reconciliations of such ledgers to the general ledger generally on a monthly basis. A&B does not maintain such records, and consequently we have not been provided with records supporting investments at cost, short sales and loan noteholder balances at year ends. It has been necessary for us to obtain downloads of computer data files supporting loan noteholder balances for the period from January 1, 1989 to present, from which we have attempted to learn about loan noteholder transactions.

Additionally, schedules of loan noteholder balances comprising the "Avellino Family Group" and "Bienes Family Group" have not been provided, making reconciliation between the general ledger and the balances recorded on the Optus System virtually impossible. Important third party documentation such as all the broker statements from Bernard L. Madoff for 1991 and 1992 and third party documentation for miscellaneous receipts and payments were initially not provided to us. This has resulted in additional delays.

31. Consequently, to save the cost and time of Price Waterhouse's preparation of A&B's financial statements for 1992, we asked Mr. Avellino to prepare a balance sheet as at November 16, 1992 and an income statement for the period from January 1, 1992 to November 16, 1992 upon which we could base our audit. Additionally, for 1992 we requested schedules of: investments sold and realized gains in the period, dividend income and charges, margin interest paid to broker, short sales, the details of certain balance sheet items, other income, securities at cost prior to liquidation, and activity in the partners' capital account during the period. We have not yet received those items. Furthermore, for the years 1984 to 1991 inclusive, detailed analyses of dividend

income and dividend charges, interest income, other income, margin interest paid, loans exchanges and other assets, securities at cost and short sales have not been provided.

32. Thus, in the month of December, we accomplished the following essentials: meeting with representatives of the SEC and Trustee to establish the scope of audit required; collecting documents on a piecemeal basis from Chemical Bank, A&B, Mr. Frank Avellino, and Bernard L. Madoff and following up to obtain missing items; planning the audit; and commencing the execution of audit procedures and analytical review work for 1991 and 1992. We incurred 470 hours undertaking these procedures, accounting for \$51,605 of Price Waterhouse's December statement.

Follow-up procedures undertaken in relation to the distribution of monies to the loan noteholders

33. In addition, we undertook various procedures relating to the distributions to loan noteholders in November.

34. Subsequent to the mailing of the confirmation requests to loan noteholders, we collected and monitored confirmation replies as they were returned. We received approximately 30 potential claims or requests for further

information from the loan noteholders. The Trustee asked us to investigate such inquiries, and we did so. The procedures we followed included preparation of suggested responses for the Trustee, including presentation of interest calculations supporting amounts paid to loan noteholders, and verification of deposits from and payments to loan noteholders, review of relevant loan noteholder files for propriety of address and account numbers and other relevant information.

35. The most significant of these exercises related to a claim for \$317,654 made by the Trustee for Telfran Associates. In that claim the Telfran Trustee seeks the difference between the interest paid to the Telfran #2 account for the period October 1, 1992 to November 16, 1992 at a rate of 15% instead of 19%, the previous rate.

36. Our work included, but was not limited to, recalculation of interest for this period at 15%, review of the A&B loan noteholder file to identify any evidence to support either payment of interest at 15% or 19%, and performance of a review of the 1992 cash book and quarterly interest check registers for evidence that, among other things, amounts have been paid out or rolled over based on the higher rate. Our investigation into this matter is ongoing.

37. In addition, we received several requests, forwarded by the Trustee, from noteholders who had not received checks in the final distribution. We also received checks returned as undeliverable by the U.S. Post Office and Federal Express. In these instances, we contacted the account officer for A&B at Chemical Bank to request that stop payment be placed on each of these checks. We reviewed each noteholder file, discussed the matter with A&B employees, and, where necessary, contacted the noteholder to verify the mailing address. After receipt and review of the stop payment advice from Chemical Bank, we notified the Trustee that a manual replacement check could be issued. We subsequently mailed, or sent by federal express where requested, the replacement check with a confirmation request and reply postage paid envelope.

38. On December 18, 1992 we mailed approximately 550 second confirmation requests. We prepared an explanatory letter, agreed to by the Trustee, to accompany the second confirmation request.

39. Additionally, the Trustee and SEC Staff asked us to organize the mailing of the "Notice to loan noteholders" to all loan noteholders who had accounts from the earliest use of the Optus Information Systems to

November 16, 1992.<sup>3</sup> We identified approximately 3,600 accounts in total (including former accounts) and the printing of labels was undertaken by one of our information technology senior consultants. We coordinated with our mailing department and photocopied approximately 3,600 notices. It took four staff people approximately 32 hours to fill the envelopes for mailing.

40. Price Waterhouse employees spent 411 hours on the procedures described above relating to distributions to loan noteholders made in December for fees of \$39,322.

Attendance at meetings and other work

41. Joel Whitman, Geoffrey Cook and I met with the Trustee and his staff on December 7 and December 31, 1992, primarily to discuss the status of the audit and the lack of certain books and records and to review our requests for additional information from Mr. Avellino. In addition, Joel Whitman and Geoffrey Cook met with the Trustee and his staff and representatives of the SEC on December 17, 1992 to discuss the status of the audits.

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<sup>3</sup>That notice also appeared in the December 24, 1992 edition of The Wall Street Journal.

42. Pursuant to an agreement between the SEC and defendants, we undertook to prepare a "Statement of Net Surplus" held in the bank accounts of the Joint Venture and the Partnership. The purpose of this was to determine the amounts from those accounts which were to be wired from the Joint Venture and Partnership accounts to Messrs. Avellino and Bienes at the end of 1992. To accomplish this task, we first reviewed and adjusted the entries recorded in A&B's cash receipts and payments journals. Additionally, we compiled a list of December checks written based upon Mr. Avellino's correspondence with the Trustee in which he submitted checks for approval to pay A&B's normal business expenses. We also prepared a bank reconciliation at November 15 for the Joint Venture bank account to establish the amount of unrepresented checks. We performed a review of the partnership bank reconciliation at November 30 as well as Chemical bank statements and transaction reports for that time period for both accounts. Transactions recorded in the cash book were matched to those displayed on the Chemical Bank reports. The purpose of these procedures was to identify any receipts and disbursements not recorded or not otherwise known to us.

43. As a further check, we reconciled cash balances calculated by us at December 28, 1992 to the balances recorded by Chemical Bank and quantified checks written but not as yet presented. We discussed our findings on several occasions with officials at Chemical Bank.

44. Additionally, we met with Mr. Avellino on December 22, 1992 to discuss the audit testing and information required and, following that meeting, drafted a formal request letter. We subsequently reviewed responses from Mr. Avellino and had several telephone conversations with him. As for problems encountered with the Optus loan system, we drafted two letters to Mr. Joseph Licht and had several conversations.

45. Staff from our office working on the audit of the financial statements also undertook other daily chores at the request of the Trustee, such as opening and closing the New York office of A&B and discussing the ongoing running expenses of A&B with the Trustee.

46. Price Waterhouse employees spent 273 hours on the procedures described relating to attendance at meetings and other work in December, for fees totalling \$50,102.

Out-of-pocket expenses

47. Our out-of-pocket expenses (including transportation, overtime meals, telephone, photocopying and postage) totaled \$4,121. In total, 25 Price Waterhouse employees spent 1,154 hours, for a total of \$141,029 in fees and \$4,121 in expenses for the month of December 1992. Thus, the grand total for December work came to \$145,150.

48. All of the activities reflected in our November and December 1992 statements (Exhibits A and B) were required to comply with the Order. On behalf of Price Waterhouse, I respectfully request that the Court enter an order directing the Trustee to issue a check drawn on the account in the amount of \$270,904.

II. Facts Supporting Extension  
of Deadline to Report

49. Price Waterhouse needs additional time to complete its work and file its report pursuant to the Order. As previously noted, A&B did not maintain records that would be typically found in a company that invests hundreds of million of dollars. Accordingly, the backup and detailed support for the largest asset on the balance

sheet does not exist. The absence of those records compounds the difficulties we have already encountered in this audit. Construction of such securities records from statements provided by Bernard L. Madoff would be beyond what we believe the Order contemplated. Compounding all these difficulties further, Mr. Avellino reports that whatever accounting records existed at A&B, they do not exist for years prior to 1989. In addition, even as to documents he did maintain, the process of obtaining all information we need has been slow. With respect to the years 1984 through 1988, we have been advised that only income tax returns, monthly broker's statements (for 1988 only) and monthly bank statements from Chemical Bank (for 1987 and 1988 only) are available. There are other documents which can be put to audit scrutiny; however, because there are no books or records available for the investment securities (which is the major asset and income source), we anticipate that, even if we had financial statements for 1984 through 1988, we would be unable to express any opinion concerning those statements. These matters have been reported to representatives of the SEC and to the Trustee to consider an acceptable alternative report. It has been decided that our audit testing for this period will be based upon very

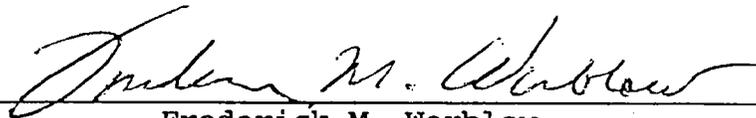
limited procedures and analytical review of the tax returns (which are among the few records available for that period).

50. As for the period from 1989 through November 16, 1992, we are attempting to audit the financial statements that will be prepared on an income tax basis, and we will, with the Court's permission, render our report accordingly. As noted above, we had been awaiting Mr. Avellino's completion of the final books and records for the period January 1, 1992 through November 16, 1992. However, we have now learned that he has declined to perform this task. Thus, it will be left to us. Until it is completed, we will be unable to provide the kind of report the representatives of the SEC have indicated they will be willing to accept.

### III. Facts Supporting Allocation of Additional Funds To Pay Price Waterhouse

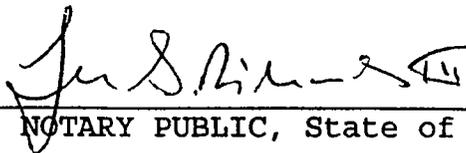
51. Pursuant to the Order (¶ IV B.8), the Trustee retained control of \$250,000 to pay the costs, fees, and expenses of the Trustee and Price Waterhouse. As of December 31, 1992, the Trustee's and Price Waterhouse's total bills were \$330,469.29.

52. In order to complete our work, I anticipate that (a) we will perform work relating to cash receipts and payments as described above for the years ended December 31, 1989 and December 31, 1990; (b) we will conduct the agreed-upon procedures described in paragraph 17 for years 1984 to 1988; and (c) we will perform additional testing of balance sheet and income statement amounts requested for 1992 and reflected in the tax returns for 1989 through 1991, assuming Mr. Avellino provides all the records and schedules that we have requested. Because the existing \$250,000 reserve is insufficient to cover the charges that have already been incurred, we respectfully request that the Court direct A&B to remit some additional sum to the Trustee, such funds to be treated by the Trustee in accordance with paragraph IV B.8 of the Order.



Frederick M. Werblow

Sworn to before me this 15th day of January, 1993.

  
NOTARY PUBLIC, State of New York

LEE S. RICHARDS III  
NOTARY PUBLIC, State of New York  
No. 4800092  
Qualified in Kings County  
Commission Expires ~~March 30, 1993~~  
New

Exhibit A

*Price Waterhouse*



12-3300

December 11, 1992

LEE RICHARDS  
RICHARDS, SPEARS, KIBBE & ORBE  
140 BROADWAY  
NEW YORK, NY 10005

SEC V AVELLINO & BIENES

First billing in respect of time incurred up to and including  
November 30, 1992 being:

1. Planning, preparation and control over mailing of checks to loan noteholders	\$23,470	
2. Procedures carried out on loan noteholder accounts	58,317	
3. Attendance at meetings and other work	<u>38,407</u>	\$120,194
Out-of-pocket expenses		<u>5,560</u>
		<u>\$125,754</u>

Tax identification number 13-5326270



Description of Work	Hours	Amount
1. Planning, preparation and control over mailing of checks to loan noteholders.		
<p>Organization of mailing of approximately 2,500 checks, including liaison with Federal Express and Price Waterhouse mailroom, and telephone calls required to secure available premises and personnel; meeting with Joseph Licht at Optus to plan check production procedures; preparation of labels for Federal Express envelopes; liaison with Optus in order to discuss mailing procedures; discussion of mailing procedures with Frank Avellino; attendance at and control of check printing procedures; collection of checks and envelopes from Optus; preparation of letter of explanation accompanying checks; coordination with Optus on and preparation of confirmation letter; briefing of staff involved in mailing process by manager; photocopying of accompanying letter and control and second request copies of all checks/confirmation notices; filling of each envelope including check/confirmation letter, accompanying letter and prepaid reply envelopes; agreeing of customer names, addresses and check amounts per Optus to mailing information; review and inquiry into "care of" addresses; review and inquiry into P.O. Box addresses; review and inquiry into address changes from that listed on loan noteholder list; discussions with Chemical Bank officials and Joseph Avellino re preparation and sending of wire transfers.</p>	<u>159</u>	<u>\$ 23,470</u>



<b>Description of Work</b>	<b>Hours</b>	<b>Amount</b>
2. Procedures carried out on loan noteholder accounts		
Planning of work to be undertaken; agreement of sample selection of noteholder balances taken from Optus to noteholder files; agreement of sample selection of transactions selected from noteholder files to bank statements, cancelled checks/deposit tickets; agreement of sample selection of noteholder file balances to Optus; agreement of sample selection of deposits and withdrawals selected from the bank statements to deposit tickets or cancelled check and to noteholder file; review of sample selection of interest payment disbursements to noteholders; review of sample selection of inactive accounts; review of transfers to and from broker; review of various other documents held in New York office of Avellino & Bienes; meeting with Joseph Licht of Optus; obtaining download of information on Optus; recalculation of interest accruals on all loan balances including further discussions with Joe Licht; meeting and various telephone calls with Bernard Madoff.	<u>438</u>	<u>\$ 58,317</u>



Description of Work	Hours	Amount
3. Attendance at meetings and other work performed		
<p>Telephone calls and initial meeting with the staff of the SEC; initial meeting with Frank Avellino; supervision of changeover of locks at 70 East 55th Street and subsequent control over premises; preparation of questions and exhibits and attendance at deposition on November 20; preparation of questions for deposition on November 24; records search of Avellino and Bienes and related entities by Price Waterhouse information center; telephone conversations with SEC re freezing of various accounts; telephone conversations and discussions with Dori Hanswirth re freezing of various accounts; daily meetings, luncheon meetings, and/or telephone conversations with Lee Richards and Linda Imes; supervision of check signing by Frank Avellino, Michael Bienes and Joseph Avellino; telephone conversations with partners and manager in the Price Waterhouse Miami office re obtaining certain books and records from Frank Avellino's house in Fort Lauderdale; visit to home of Frank Avellino with Michael Bienes to obtain control over books and records; supervision of books and records for transfer; discussions with Chemical Bank officials regarding check authorization procedures; initial review of 1991 tax returns of Avellino and Bienes Joint Venture (Florida), Avellino and Bienes (New York), Frank Avellino and Michael and Dianne Bienes; preparation of letter to trustee describing work undertaken; telephone conversation with trustee and SEC regarding disclosure of information to media; telephone conversations with the press.</p>	<u>142</u>	<u>\$ 38,407</u>



**Description**

**Amount**

Out-of-pocket expenses

Amounts incurred in respect of transportation, overtime meals, courier services, stationery and supplies, installment of new locks at 70 East 55th Street in accordance with instructions from the trustee, photocopies and postage.

\$ 5,560

*Price Waterhouse*



12-3300

December 11, 1992

**LEE RICHARDS  
RICHARDS, SPEARS, KIBBE & ORBE  
140 BROADWAY  
NEW YORK, NY 10005**

**SEC V AVELLINO & BIENES**

First billing in respect of time incurred up to and including  
November 30, 1992 being:

1. Planning, preparation and control over mailing of checks to loan noteholders	\$23,470	
2. Procedures carried out on loan noteholder accounts	58,317	
3. Attendance at meetings and other work	<u>38,407</u>	\$120,194
Out-of-pocket expenses		<u>5,560</u>
		<u>\$125,754</u>

**REMITTANCE COPY -  
PAYMENT AND SEND TO:**

**PENNSYLVANIA 19170-8001**

**PLEASE ENCLOSE WITH**

**PRICE WATERHOUSE  
P.O. BOX 7247-8001  
PHILADELPHIA,**

*Price Waterhouse*



November 1, 1992

**NOTICE OF NEW REMITTANCE ADDRESS**

Please be advised that, effective immediately, all remittances should be forwarded to the following address:

Price Waterhouse  
Post Office Box 7247-8001  
Philadelphia, PA 19170-8001

We would appreciate it if you would change your records accordingly and enclose the remittance copy of the invoice with payment.

Thank you.

Price Waterhouse

Avellino & Blencoes  
Time Analysis  
Nov 30, 1982

Name	Level	Dept	Hours	Rate \$	Total \$	Nov 16	Nov 17	Nov 18	Nov 19	Nov 20	Nov 21	Nov 22	Nov 23	Nov 24	Nov 25	Nov 26	Nov 27	Nov 28	Nov 29	Nov 30	Total Hours	
Joel Whitman	Partner	ABS	65	350	22750		4	9	13	8	6	6	9	6	6					4	65	
Fred Wierblow	Partner	ABS	15	350	5250			5	2	4			2	2								15
Robert Butler	Partner	MCS	4	361	1444		2															4
Larry Stoler	Partner	ABS	2	350	700					2												2
Arlene Sakatos	Partner	TAX	2	350	700					2												2
Frank Calabro	Manager	TAX	6	320	1920					6												6
Ajay Kothari	Manager	MCS	49	295	13965					12	11	3	10	10	3							49
Peter Ambrosini	Manager	MCS	3	241	723			3														3
Sean Galvin	Manager	TAX	1	212	212					1												1
Clare Pierce	Manager	LIT	16	205	3280			4	4	4	4											16
Geoff Cook	Manager	ABS	133	189	25137		6	13	16	14	14	18	17	15	13	2	2	3	2	2		133
Kurt Haedke	Senior	CIS	36	180	6480					10	10	10	6									36
Judy Selbert	Senior	MCS	4	180	720								2	2								4
Amy Brochers	Senior	MCS	2	180	360								2									2
Gary Schall	Senior	TAX	2	166	332								2									2
Zina Rhaidi	Staff	MCS	22	100	2200					2	6		7	7								22
John Neville	Staff	ABS	69	94	6506				12	13	14	16	14	11	11					8		69
Sara Rosen	Staff	ABS	6	87	522								6									6
Appolo Khine	Staff	ABS	6	87	522								6									6
Grace Yang	Staff	ABS	9	87	783								9									9
Christine Gunia	Staff	ABS	69	87	6013				12	13	14	16	14	11	11					8		69
Cathy Zheng	Staff	ABS	69	87	6013				12	13	14	16	14	11	11					8		69
Kathleen McKenna	Staff	ABS	8	87	696								8									8
Garren Reynolds	Staff	ABS	9	87	783								9									9
Peter Cook	Staff	ABS	11	71	781								11									11
Tanya Layne	Staff	MCS	16	74	1184								8	8								16
Marfotta Callingo	Staff	MCS	11	170	1870						5	3	3	83	55	0	3	2	2	26		11
			739		120194		0	12	27	76	104	92	163	83	55	0	3	2	2	26		739

Avellino & Blerres  
Time Analysis of Mailing  
Nov 30, 1982

Name	Level	Dept	Hours	Rate \$	Total \$	Nov 16	Nov 17	Nov 18	Nov 18	Nov 20	Nov 21	Nov 22	Nov 23	Nov 24	Nov 25	Nov 26	Nov 27	Nov 28	Nov 29	Nov 30	Total Hours	
Joel Whitman	Partner	ABS	0	350	0																	0
Fred Werblow	Partner	ABS	0	350	0																	0
Robert Butler	Partner	MCS	0	361	0																	0
Larry Stoler	Partner	ABS	0	350	0																	0
Arlene Sakatoo	Partner	TAX	0	350	0																	0
Frank Calabro	Manager	TAX	0	320	0																	0
Alej Kothari	Manager	MCS	32	285	9120			4	11	3	6	6	6	6								32
Peter Ambrocinli	Manager	MCS	0	241	0																	0
Ben Galvin	Manager	TAX	0	212	0																	0
Clare Pierce	Manager	LIT	0	205	0																	0
Geoff Cook	Manager	ABS	21	180	3699			1	1	2	4	4	7	7	2							21
Kurt Haedke	Senior	CIS	0	180	0																	0
Judy Seibert	Senior	MCS	0	180	0																	0
Amy Borchers	Senior	MCS	2	180	360							2										2
Gary Schall	Senior	TAX	2	166	332							2										2
Zina Rinaldi	Staff	MCS	22	100	2200					2	6	7	7	7								22
John Neville	Staff	ABS	0	94	0																	0
Sara Rosen	Staff	ABS	8	87	696								8									8
Appolo Kline	Staff	ABS	8	87	696								8									8
Grace Yang	Staff	ABS	9	87	783								9									9
Christine Gunia	Staff	ABS	0	87	0																	0
Cathy Zheng	Staff	ABS	0	87	0																	0
Kathleen McKenna	Staff	ABS	8	87	696								8									8
Garren Reynolds	Staff	ABS	9	87	783								9									9
Peter Cook	Staff	ABS	11	71	781								11									11
Tanya Layne	Staff	MCS	18	74	1184								8	8								18
Marfetta Callingo	Staff	MCS	11	170	1670					5	3	3	3	3								11
			159		23470			0	0	0	0	1	7	24	10	67	28	2	0	0	0	159

Avelino & Blenes  
 Time Analysis of CIS, Tax Review, Broker Dealer, & Audit  
 Nov 30, 1982

Name	Level	Dept	Hours	Rate \$	Total \$	Nov 16	Nov 17	Nov 18	Nov 19	Nov 20	Nov 21	Nov 22	Nov 23	Nov 24	Nov 25	Nov 26	Nov 27	Nov 28	Nov 29	Nov 30	Total Hours
Joel Whitman	Partner	ABS	20	350	7000	4	4	6	4	4	1	3	3	2	2						20
Fred Werblow	Partner	ABS	2	350	700				2												2
Robert Butler	Partner	MCS	0	361	0																0
Larry Stoler	Partner	ABS	2	350	700				2												2
Arlene Salatos	Partner	TAX	0	350	0																0
Frank Calabro	Manager	TAX	0	320	0																0
Ajay Kothari	Manager	MCS	17	285	4845			6				2	4	4	3						17
Peter Ambrosini	Manager	MCS	0	241	0																0
Sean Galvin	Manager	TAX	0	212	0																0
Clare Pierce	Manager	LIT	0	205	0																0
Geoff Cook	Manager	ABS	60	189	11340	4	6	6	7	7	9	6	6	6	6	2	2	2			60
Kurt Haedke	Senior	CIS	36	180	6480				10	10	10	6	6								36
Judy Seibert	Senior	MCS	4	180	720							2	2								4
Amy Borchers	Senior	MCS	0	180	0																0
Gary Schall	Senior	TAX	0	166	0																0
Zina Rinaldi	Staff	MCS	0	100	0																0
John Neville	Staff	ABS	66	94	6306			12	13	14	14	14	14	11	11					6	66
Sara Rosen	Staff	ABS	0	67	0																0
Appolo Kline	Staff	ABS	0	67	0																0
Grace Yang	Staff	ABS	0	67	0																0
Christine Guntia	Staff	ABS	66	67	6813			12	13	14	14	16	14	11	11					6	66
Cathy Zheng	Staff	ABS	66	67	6813			12	13	14	14	16	14	11	11					6	66
Kathleen McKenna	Staff	ABS	0	67	0																0
Garnet Reynolds	Staff	ABS	0	67	0																0
Peter Cook	Staff	ABS	0	71	0																0
Tanya Layne	Staff	MCS	0	74	0																0
Marleta Callingo	Staff	MCS	0	170	0																0
					56317	0	0	6	51	72	59	68	63	45	44	0	2	2	0	24	438

Aveliro & Blanes  
 Time Analysis of Miscellaneous Work  
 Nov 30, 1992

Name	Level	Dept	Hours	Rate \$	Total \$	Nov 18	Nov 17	Nov 16	Nov 15	Nov 14	Nov 13	Nov 12	Nov 11	Nov 10	Nov 9	Nov 8	Nov 7	Nov 6	Nov 5	Nov 4	Nov 3	Nov 2	Nov 1	Total Hours	
Joel Whitman	Partner	ABS	45	350	15750		4	5	7	4	4	5	6	6	6	4								45	
Fred Wierblow	Partner	ABS	13	350	4550			5	2	2			2	2											13
Robert Butler	Partner	MCS	4	361	1444		2																		4
Larry Stoker	Partner	ABS	0	350	0																				0
Arlene Saketoe	Partner	TAX	2	350	700				2																2
Frank Calabro	Manager	TAX	6	320	1920				6																6
Ajay Kothari	Manager	MCS	0	285	0																				0
Peter Ambrosini	Manager	MCS	3	241	723				3																3
Sean Gahin	Manager	TAX	1	212	212					1															1
Clare Pierce	Manager	LIT	18	205	3690				4	4	4	4	4	4											18
Geoff Cook	Manager	ABS	52	169	8628		6	9	6	6	5	5	5	2	5	3									52
Kurt Haedke	Senior	CIS	0	180	0																				0
Judy Seibert	Senior	MCS	0	180	0																				0
Amy Borchers	Senior	MCS	0	180	0																				0
Gary Schall	Senior	TAX	0	166	0																				0
Zina Rinaldi	Staff	MCS	0	100	0																				0
John Neville	Staff	ABS	0	94	0																				0
Sara Rosen	Staff	ABS	0	87	0																				0
Appolo Kline	Staff	ABS	0	87	0																				0
Grace Yang	Staff	ABS	0	87	0																				0
Christine Gunia	Staff	ABS	0	87	0																				0
Cathy Zheng	Staff	ABS	0	87	0																				0
Kathleen McKenna	Staff	ABS	0	87	0																				0
Garnet Reynolds	Staff	ABS	0	87	0																				0
Peter Cook	Staff	ABS	0	71	0																				0
Tanya Layne	Staff	MCS	0	74	0																				0
Marketta Callingo	Staff	MCS	0	170	0																				0
			142		39407		0	12	19	24	25	9	14	13	10	9	0	0	0	0	3	0	0	4	142

Exhibit B

*Price Waterhouse*



January 14, 1993

Mr. Lee Richards  
Richards, Spears, Kibbe & Orbe  
140 Broadway  
New York, NY 10005

**SEC v AVELLINO & BIENES**

Second billing, in respect of time incurred during  
the month of December, 1992 being;

1. Commencement of audit procedures	\$51,605	
2. Follow-up procedures undertaken in relation to the returning of monies to loan noteholders and the verification of individual noteholders	39,322	
3. Attendance at meetings and other work	<u>50,102</u>	
		\$ 141,029
Out-of-pocket expenses		<u>4,121</u>
		<u>\$ 145,150</u>



**Description of Work**

**Hours**

**Amount**

- 1. Commencement of procedures relating to audits of the income tax returns of Avellino & Bienes - Joint Venture for the year ended December 31, 1991 and period January 1, 1992 to November 16, 1992.**

Planning of work to be undertaken, including determination of any internal controls which may have existed, consideration of appropriate scope, determining availability of records and subsequent request of information necessary for testing as set out in our letters to Frank Avellino dated December 8, December 16, and December 28, 1992 and our letter to Joseph Licht of Optus Information Systems Inc. dated December 29, 1992; detail testing based on tailored audit work programs; coordination with PW-Computer Information Systems department; obtaining a download of data transaction and other files since inception of system on January 1, 1989 from Joseph Licht of Optus Information Systems Inc.; production of transaction reports for selected accounts, work done on agreeing balance information to general ledger of A&B for 1991 and 1992, preliminary research of audit opinions and investigation of different types of related report; various discussions with representatives of A&B regarding accounting and other procedures; arithmetic checking of monthly totals of cash receipts and payments analyzed by general ledger code recorded in the cash receipts and payments journal; arithmetic checking of totals recorded in the general ledger.

470

\$ 51,605



Hours      Amount

**2. Follow-up procedures undertaken in relation to the returning of monies to loan noteholders and the verification of individual noteholders.**

Follow up of confirmations; update of the confirmation control log, and total remaining outstanding; follow up and resolution of potential disputes including regular communication with Michael Schneider of the Trustee's office; filing of confirmations in chronological order; planning, preparation and mailing of approximately 550 "second request" confirmations to loan noteholders on December 18, 1992 including liaison with Price Waterhouse mailroom, briefing and supervising of staff involved in mailing process by manager, preparation of letter accompanying second request including discussions with the Trustee's office as to acceptability of wording, filling of each envelope including confirmation notice, accompanying letter and prepaid reply envelopes; planning, preparation and mailing of notice entitled "Notice to noteholders of Avellino & Bienes and to all other parties in interest" published in the Wall Street Journal on December 24, 1992 to approximately 3600 loan noteholders specifically; utilization of list of loan noteholders on the Optus System at November 16, 1992 and for the period from the commencement of using the Optus system (January 1, 1989) to November 16, 1992, ensuring account holders with Retirement Accounts Inc. had notices sent directly to them by use of alternative addresses on Optus, liaison with Price Waterhouse mailroom, briefing of staff involved in mailing process by manager, filling of each envelope with the notice; investigation of in excess of 30 loan noteholder queries including review of query from each noteholder, investigation of difference by reperformance of interest calculation where required, review of loan file and noteholder details as required and



**Hours**

**Amount**

drafting of suggested response for Trustee to send to noteholder; procedures undertaken relating to the cancellation of various original checks and issuance of replacement checks including request for stop payment to be placed on the original check, review of stop payment advice on receipt from Chemical Bank, and request to Trustee to obtain a manual replacement check, verification that mailing address is correct; resending of check by mail or federal express as requested, with confirmation request and reply paid envelope.

411

\$ 39,322



Hours

Amount

**3. Attendance at meetings and other work performed;**

Meeting attended by Fred Werblow, Joel Whitman and Geoffrey Cook with the Trustee and his staff on December 7, 1992 which included discussion of the audit approach, status of the books and records of A&B, status of confirmation replies; meeting attended by Joel Whitman and Geoffrey Cook with the Trustee and his staff and representatives of the SEC on December 17, 1992 which included discussion of the status of the audit and the confirmation exercise; meeting attended by Fred Werblow, Joel Whitman and Geoffrey Cook with the Trustee and his staff on December 31, 1992 including discussion of the status of the audit; preparation of letters to Frank Avellino dated December 8, December 16, and December 28, 1992 and to Joseph Licht of Optus Information Systems dated December 29, 1992 including liaison with the Trustee and his staff for comment; reviewing letters of Frank Avellino enclosing information; making of control copies of all documents received from Frank Avellino, Bernard L. Madoff and Chemical Bank; comments given to Trustee on review of draft of notice placed in the Wall Street Journal; review and follow up of matters raised in log of telephone call inquiries kept by Trustee; discussions with representatives of the Trustee regarding releasing of frozen funds of Robert Exton to Dominion Bank; discussion with Trustee on status of funds sent to Regent Advisory Services; obtaining various types of financial data from Price Waterhouse information center; regular telephone conversations with Trustee and his staff; preparation of inventory of books and records held at the New York offices of A&B; procedures relating to determination of amount to be wire transferred to Frank Avellino and Michael Bienes on December 30, 1992 arising from letter of



Hours

Amount

consent from the SEC including preparation of "Statement of Net Surplus" held in the bank accounts of the A&B Joint Venture and the New York Partnership; drafting of initial statement of net surplus based on funds held in Chemical Bank statements; recalculation of disputed amount payable to Telfran and discussions with the Trustee's office to ensure this amount not paid out; communication with Joseph Avellino to ensure wire transfer documentation properly prepared and with Ann Kearns of Chemical Bank to discuss the execution of the wires; preparation for and attendance at meeting with Frank Avellino on December 22 at the offices of A&B attended by Geoffrey Cook and Andrew Stalmanis; documentation of accounting procedures from discussions with Frank Avellino; letter to Joseph Licht at Optus Information Systems Inc. regarding changes of account numbers and names and feasibility of 'linking' accounts; telephone conversations with Frank Avellino; discussions with Bernard L. Madoff regarding availability of statements and time necessary to retrieve; rerequest of certain broker statements from Bernard L. Madoff due to omissions and poor quality photocopies originally received; various discussions with Chemical Bank in relation to obtaining financial statements of A&B submitted by Frank Avellino; discussions with Ann Kearns of Chemical Bank regarding related accounts group of A&B at Chemical; procedures undertaken in relation to disputed interest payable in relation to Telfran account arising from the claim of additional amounts due to Telfran of \$317,654 by the Telfran Trustee, including review of Telfran customer file held at the offices of A&B; review of selected loan files for other potential interest rate inconsistencies; review of written claim made by Telfran Trustee and affidavit and deposition of Edward Glantz performed by Telfran Trustee; supervision of the operations of A&B, including holding of keys, opening up



**Hours**

**Amount**

and locking up after office hours; overseeing of the opening of Avellino & Bienes mail on a frequent basis and undertaking of procedures for any returned checks; controlling receipt of various invoices and check packages from Trustee related to the ongoing expenses of A&B, and maintaining records of such payments and receipts; liaison with Trustee and A&B employees in relation to unpaid bills, weekly payroll, loan noteholder queries, and other related matters;

273

\$ 50,102



**Amount**

**Out of pocket expenses**

Transportation, overtime meals, stationery,  
photocopying, telephone, postage

\$ 4,121



TOTAL

Name	Dept	Hours	Rate \$	Total \$	Dec 1	Dec 2	Dec 3	Dec 4	Dec 5	Dec 6	Dec 7	Dec 8	Dec 9	Dec 10	Dec 11	Dec 12	Dec 13	Dec 14	Dec 15	Total Hours	
					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Joel Whitman	Partner	11	350	3850	1	1	1				3	1	1	1	1			1	1	1	11
Fred Werblow	Partner	7	350	2450			1				4	2									7
Ajay Kohari	Manager	3	285	855	1			1					1								3
Geoff Cook	Manager	68	189	16254	7	6	6	4			11	6	8	10	6	2	10	9	8	8	86
Kurt Haedke	Senior	9	180	1620																	9
Andy Stalmanis	Senior	75	133	9975				5			12	7	12	12	10	1	8	8	8	8	75
John Neville	Staff	12	94	1128	6	4															12
Christine Gurnia	Staff	52	87	4524	8	8					8	10	1			10	10	7	7	7	52
Lisa Edwards	Staff	56	78	4368							9	9	10	10		9	9	9	9	9	56
Cathy Zheng	Staff	31	87	2697	6	6	8	7													31
Tara Smith	Staff	61	87	5307	8		8	8						8	9			10	10	10	61
Toomy Chiu	Staff	88	87	7482	8	8	5	8			6		7	14	8			10	10	10	86
					60510	49	35	29	33	0	0	55	35	39	55	35	1	2	61	60	489

Avelino & Blanes  
Time Analysis—audit  
Dec 31, 1992

Name	Dept	Hours	Rate \$	Total \$	Dec 16	Dec 17	Dec 18	Dec 19	Dec 20	Dec 21	Dec 22	Dec 23	Dec 24	Dec 25	Dec 26	Dec 27	Dec 28	Dec 29	Dec 30	Dec 31	Total	
Joel Whitman	Partner	0	350	0																	0	
Fred Werblow	Partner	0	350	0																		0
Geoff Cook	Manager	29	189	5481	6	3	3	1	1	2	3	1	1	1	6	3	2	2	2	2	29	
Kurt Haedke	Senior	17	180	3060	4	2	3			4								4			17	
Andrew Stalmanis	Senior	32	133	4256	3	4					10	7	6		2						32	
Christine Gunia	Staff	20	87	1740			6			4	4	6									20	
Lisa Edwards	Staff	49	78	3822	8	10	11			8	6			1	5						49	
Tara Smith	Staff	30	87	2610	4	4	12			6	4										30	
Arielle Cohen	Staff	18	71	1278							6	8	4								18	
Gil Tatarsky	Staff	0	71	0																		0
Craig Wadler	Staff	0	71	0																		0
Jim Garret	Staff	2	87	174												2					2	
Carola Hanke	Staff	14	80	1120												8			6		14	
Debra Lubetsky	Staff	0	71	0																		0
Joe Lozack	Staff	0	71	0																		0
Toomy Chilu	Staff	58	87	4872	4	10	10			7	8	9	8								56	
Zina Rinaldi	Staff	0	100	0																		0
Johnathan Wade	Staff	0	71	0																		0
Maria Pineda	Staff	0	71	0																		0
Michael Lee	Staff	6	71	426						3	3										6	
				28839	29	33	42	0	0	34	44	31	19	0	0	2	18	4	17	2	273	
December 1st to December 15th				22788	2	2	2	7	0	0	28	17	10	28	19	1	37	42				197
Total December 1st to December 31st				51627	31	35	44	7	0	34	73	48	29	28	19	3	16	41	59	2	470	

AUDIT

Name	Partner	Dept	Hours	Rate \$	Total \$	Dec 1	Dec 2	Dec 3	Dec 4	Dec 5	Dec 6	Dec 7	Dec 8	Dec 9	Dec 10	Dec 11	Dec 12	Dec 13	Dec 14	Dec 15	Total Hours		
						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Joel Whitman	Partner	ABS	0	350	0																		
Fred Werblow	Partner	ABS	0	350	0																		
Ajay Kothari	Manager	MCS	0	285	0																		
Geoff Cook	Manager	ABS	33	159	6237	2	2	2	2	2	2	5	2	2	2	4	4	6	4	4	33		
Kurt Hiedtke	Senior	CIS	9	180	1620																		
Andy Stalmanis	Senior	ABS	38	133	5054			5				11	7	3	1	3	1	4	3	38			
John Neville	Staff	ABS	0	84	0																		
Christine Gurnia	Staff	ABS	17	87	1479							3	4					6	4	17			
Lisa Edwards	Staff	ABS	36	76	2808							6	4	2	10			5	9	36			
Cathy Zheng	Staff	ABS	0	67	0																		
Tara Smith	Staff	ABS	29	67	2523										8	7		6	8	29			
Toomy Chiu	Staff	ABS	35	67	3045							4	3	3	8	5		7	8	35			
						2	2	2	2	7	0	0	29	17	10	20	19	1	0	37	42	197	

Avellino & Blenes  
Time Analysis - Checks  
Dec 31, 1992

Name	Dept	Hours	Rate \$	Total \$	Dec 16	Dec 17	Dec 18	Dec 19	Dec 20	Dec 21	Dec 22	Dec 23	Dec 24	Dec 25	Dec 26	Dec 27	Dec 28	Dec 29	Dec 30	Dec 31	Total	
Joel Whitman	Partner	0	350	0																	0	
Fred Werblow	Partner	0	350	0																		0
Geoff Cook	Manager	13	189	2457			3			2	2	2	1				1	1	1		13	
Kurt Headke	Senior	0	180	0																	0	
Andrew Stalmanis	Senior	32	133	4256						4	6	2					10	11	11		32	
Christine Gunia	Staff	18	87	1566			6														18	
Lisa Edwards	Staff	24	76	1872	1	3					3						12	5			24	
Tara Smith	Staff	22	87	1914	8	8				2	4										22	
Arielle Cohen	Staff	4	71	284													2	2			4	
Gil Tatarsky	Staff	4	71	284														4			4	
Craig Wadler	Staff	8	71	568								8									8	
Jim Garret	Staff	0	87	0																	0	
Carola Hanke	Staff	13	80	1040														9	4		13	
Debra Lubetsky	Staff	8	71	568								8									8	
Joe Losak	Staff	8	71	568								8									8	
Toomy Chiu	Staff	15	87	1305	8	3	1			1	2										15	
Zina Rinaldi	Staff	2	100	200							2										2	
Johnathan Wade	Staff	8	71	568			8														8	
Marla Reda	Staff	6	71	426			6														6	
Michael Lee	Staff	13	71	923			5					8									13	
				18789	17	14	29	0	0	9	18	36	1	0	0	0	13	39	21	0	188	
December 1st to December 15th				20523	43	30	23	25	0	0	12	11	21	14	10	0	0	0	17	7		213
Total December 1st to December 31st				39322	60	44	52	25	0	9	31	47	22	14	10	0	13	56	28	0		411

CHECKS

Name	Dept	Hours	Rate \$	Total \$	Dec 1	Dec 2	Dec 3	Dec 4	Dec 5	Dec 6	Dec 7	Dec 8	Dec 9	Dec 10	Dec 11	Dec 12	Dec 13	Dec 14	Dec 15	Total Hours		
					Dec 1-15	Dec 1-15	Dec 1-15															
Joel Whitman	Partner	0	350	0																		0
Fred Werblow	Partner	0	350	0																		0
Alyx Kofner	Manager	0	285	0																		0
Geoff Cook	Manager	11	189	2079	3	2	2	2					2									11
Kurt Headline	Senior	0	180	0																		0
Andy Stelmans	Senior	21	133	2793									6	6	5							21
John Neville	Staff	12	94	1128		4																12
Christine Gurnia	Staff	35	87	3045		8					5	6	1					4	3			35
Lisa Edwards	Staff	20	78	1560							3	5	6					4				20
Cathy Zheng	Staff	31	87	2697		8	8	7														31
Tara Smith	Staff	32	87	2784		8	8	8						2				4	2			32
Toomy Chiu	Staff	51	87	4437		8	8	5	8		4		4	0	3			3	2			51
20823					43	30	23	25	0	0	0	12	11	21	14	10	0	0	17	7		213

Avellino & Blanes  
Time Analysis - other  
Dec 31, 1992

Name	Dept	Hours	Rate \$	Total \$	Dec 16	Dec 17	Dec 18	Dec 19	Dec 20	Dec 21	Dec 22	Dec 23	Dec 24	Dec 25	Dec 26	Dec 27	Dec 28	Dec 29	Dec 30	Dec 31	Total #	
Joel Whitman	Partner	15	350	5250	2	2				2	1	1						2	2	3	15	
Fred Werblow	Partner	8	350	2800											4	1				3	8	
Martin Doran	Partner	4	413	1652	1											1			2		4	
Frank Calabro	Manager	1	356	356	1																1	
Geoff Cook	Manager	51	169	8639	6	4	1	1	6	6	4	3			2	7	5	4	2		51	
Kurt Haeckle	Senior	0	180	0																	0	
Andrew Stallmanis	Senior	33	133	4389	8	5	1			4					4	3	2		6		33	
Christine Gunia	Staff	0	87	0																	0	
Lisa Edwards	Staff	0	78	0																	0	
Tara Smith	Staff	0	87	0																	0	
Arielle Cohen	Staff	30	71	2130											6	8	10		6		30	
Gill Tatarsky	Staff	0	71	0																	0	
Craig Wadler	Staff	0	71	0																	0	
Jim Garret	Staff	39	87	3393											11	16	12				39	
Carola Hanke	Staff	10	80	800											4	3	3				10	
Debra Lubetsky	Staff	0	71	0																	0	
Joe Lowak	Staff	0	71	0																	0	
Toomy Chitu	Staff	0	87	0																	0	
Zina Rinaldi	Staff	0	100	0																	0	
Johnathan Wade	Staff	0	71	0																	0	
Marjatta Callingo	Staff	3	170	510							2	1									3	
Marla Pecta	Staff	0	71	0																	0	
Michael Lee	Staff	0	71	0																	0	
				30619	16	13	2	0	1	12	8	6	3	0	0	6	35	36	33	20	194	
December 1st to December 15th				17221	4	3	4	1	0	0	14	7	8	12	6	0	2	7	11			79
Total December 1st to December 31st				48140	20	16	6	1	1	12	23	13	11	12	6	6	37	45	44	20		273
Total Administrative Expenses				1982																		
TOTAL				50102																		



Avellino and Bienes  
Expenses  
December 1st -31st

Name	Dept	Total 1st -15th \$	Total 16th -31st \$	Total 1st -31st \$	Cabs \$	Meals \$	Other \$
Joel Whitman	Partner	24.25		24.25	24.25		
Fred Werblow	Partner	14.00		14.00		14.00	
Ajay Kothari	Manager	18.75	14.31	33.06		18.75	14.31
Geoff Cook	Manager	429.90	139.02	568.92	210.00	358.92	
Andy Stalmanis	Senior	256.05	188.89	444.94	65.00	379.94	
Christine Gunia	Staff	16.30	84.80	101.10	95.30	5.80	
Lisa Edwards	Staff	119.95	203.10	323.05	323.05		
Tara Smith	Staff	14.00	59.00	73.00	45.00	28.00	
Toomy Chiu	Staff	42.04	59.36	101.40	44.00	57.40	
Carola Hanke	Staff	0.00	112.50	112.50	101.50	11.00	
James Garrett	Staff	0.00	95.00	95.00	72.00	23.00	
Arielle Cohen	Staff	0.00	2.50	2.50	2.50		
Zina Rinaldi	Staff		274.96	274.96			274.96
Staff Supplies			21.60	21.60			21.60
Reproduct-PW			1620.40	1620.40			1620.40
Telephone			80.76	80.76			80.76
Postage			174.37	174.37			174.37
Disbursements			55.42	55.42			55.42
		935.24	3185.99	4121.23	996.60	882.81	2241.82

Exhibit C



*Price Waterhouse*



December 8, 1992

Mr. Frank J. Avellino  
4750 Northeast 23rd Avenue  
Fort Lauderdale, Florida 33308-4721

Dear Mr. Avellino:

Thank you for your letter dated November 30, 1992 with its enclosures. Attached as Appendix A is a list of questions that we would like to discuss with you based on our initial reading of certain of these materials.

In addition to the accounting records and tax returns that you submitted, we require the following:

**1. Tax returns**

Avellino & Bienes joint venture (Florida)	- 1983 to 1985 inclusive
Avellino & Bienes partnership (New York)	- 1983 to 1985 inclusive
Frank Avellino	- 1983 to 1988 inclusive
Michael/Diane Bienes	- 1983 to 1988 inclusive

Please let us know promptly if you do not have any of the above returns so that arrangements can be made to request to obtain copies from the IRS.

**2. Chemical Bank**

We understand that you have requested that copies of all the statements and returned checks from Chemical Bank which are not in your possession, be sent directly to us. Please forward a copy of your letter request to Chemical to us. If you have not yet formalized your request in a letter, please do so and give us a copy.

From a brief review of a few of the statements and checks held at your New York office, it appears that you should, at a minimum, have requested this information for the following accounts and periods:



- a. Account 007033419 – Statements and returned checks from December 31, 1983 to and including December 31, 1986.
- b. Account 007102658 – Statements and returned checks from December 31, 1983 to and including December 31, 1985.

### 3. Other bank accounts

We understand that other bank accounts have in the past been used, among other purposes, to pay interest to the loan noteholders.

We have noted the following accounts:

	Period of use
(i) F&M Associates DBA D&B Associates	1984 - 1987
(ii) D&B Associates DBA F&M Associates	1987 - 1992
(iii) Alpern, Avellino & Bienes	1984 - 1989

In respect of the above entities we would appreciate that you supply details of the following:

- (a) Information as to why these accounts were used and how they relate to the business of Avellino & Bienes (either the Joint Venture or New York Partnership);
- (b) Tax returns and, if available, financial statements for the above entities for the years 1984 to 1991 inclusive;
- (c) If applicable, signed copies of agreements (including partnership agreements) for the above entities to provide services to Avellino & Bienes.

If there are other accounts, or entities which we have not mentioned above but which have been involved with or provided services to Avellino & Bienes or to the loan noteholders, please provide details to us including the following:



- Type of relationship service provided, period provided and details of any bank accounts used.

**4. Bernard L. Madoff**

We understand that you have requested copies of all statements from Bernard L. Madoff which are not in your possession to be sent directly to us. Please forward a copy of this letter to us. If you have not yet formalized your request in a letter, please do so and give us a copy. We would expect that you have requested statements between December 31, 1983 and November 16, 1992 for the following accounts:

Account #	Account Name
a. 1-A0046-3-0	A&B (Pension Plan)
b. 1-B0018-3-0	Diane K. Bienes
c. 1-A0053-1-0	A&B #5 % Frank Avellino
d. 1-A0000-3-0	A&B Interim A/C
e. 1-A0053-3-0	A&B #5 % Frank Avellino
f. 1-A0051-3-0	Frank J. Avellino Trustee
g. 1-A0050-3-0	A&B # 4 % Frank Avellino
h. 1-A0049-3-0	A&B # 3 % Frank Avellino
i. 1-A0048-3-0	A&B #2 % Frank Avellino
j. 1-A0017-3-0	A&B Special % Frank Avellino
k. 1-A0015-3-0	A&B % Frank Avellino

If there are other accounts not listed above which have been used by A&B during this period, then they should also be requested.

**5. General ledger/cash receipts and disbursements**

A general ledger and details of cash receipts and disbursements will need to be prepared for each of the years from 1984 to 1988 inclusive for both Avellino & Bienes (Joint Venture and New York partnership) and the general ledger for the New York partnership covering the period January 1, 1992 to November 16, 1992.



**6. Partnership agreements**

We require a copy of the signed partnership agreements for both Avellino & Bienes Joint Venture (Florida) and Avellino & Bienes (New York) partnerships, including any subsequent amendments to those agreements.

**7. Operating expenses**

We require access to:

- a. Agreement(s) with Optus Software.
- b. Lease Agreements with various landlords for rental of office space.
- c. Payroll summary Forms W-2 for the years 1984 to 1991 inclusive.
- d. Invoices, statements or other applicable support for expenses or any other charges, disbursements or expenditures for the period January 1, 1984 to November 16, 1992.

**8. Revenue**

Please supply all documents in support of any revenue or other receipts received by the partnership for the period January 1, 1984 through and including November 16, 1992

**9. Forms 1099 for interest paid to loan noteholders**

We require access to copies of Forms 1099 for the years 1984 to 1986 inclusive. We understand that copies of Forms 1099 for 1987 to 1991 are kept in your New York office. If this is not the case, please obtain access to them for us to review.

**10. Manual ledger**

We require a copy of the manual client ledgers kept prior to the utilization of the Optus system between January 1, 1984 and June 30, 1987. We understand that manual client ledgers exist in the New York office for the period June 30, 1987 - June 30, 1990.



## 11. Financial Statements

You have previously advised that except for the preparation of Financial Statements in connection with a loan from Chemical Bank some years ago, no such statements were prepared or exist. Please request Chemical Bank to supply us with copies of the above mentioned statements. Rather than have us try to reconstruct these from whatever can be found you have agreed to do this and our role will be to audit them. Accordingly, we understand that you will prepare the draft financial statements for each of the years 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991 and for the period January 1, 1992 to November 16, 1992. In this respect we have established a timetable set out below for their production and suggest that you commence with 1992 and work backwards. We have planned our work to receive financial statements by the following dates:

Period	Due by
1991 and 1992 (to November 16, 1992)	December 11, 1992
1989 and 1990	December 15, 1992
1987 and 1988	December 18, 1992
1984 to 1986	December 21, 1992

As the SEC Order dated November 18, 1992 requires that we audit the financial statements of the partnership from January 1, 1984 through November 16, 1992 by December 30, 1992, it is therefore essential that you produce or obtain the above information as soon as possible. If any information needs to be requested from third parties, please instruct them to send all information directly to Geoffrey M. Cook at the above address.

December 8, 1992  
Mr. Frank J. Avellino  
Page 6



We would appreciate if, after you have a chance to read this letter, you would call either Joel Whitman at (212) 527-8540, Geoffrey Cook at (212) 527-8353 or Fred Werblow at (212) 527-8630 in order to answer any questions you might have or expedite the resolution of the matters described above.

Yours very truly,

A handwritten signature in cursive script that reads "Eric Waterhouse".

PRICE WATERHOUSE

cc:

Lee Richards (Richards, Spears, Kibbe & Orbe)

Kathy Ashbaugh (SEC)

Dori Hanswirth (Squadron, Ellenoff, Plesent, & Lehrer)



## Avellino & Bienes

## Appendix A

- With respect to Frank Avellino and Michael Bienes' individual income tax returns for 1991, respectively, from what activity did the \$34,657,673 and \$26,294,144 in operating loss carryovers arise?
- For all years in which Avellino & Bienes Joint Venture ("A&B") borrowed from lenders, did A&B file information returns for interest paid?
- On what technical authority has A&B relied to support its "trader" filing status?
- Has Avellino & Bienes New York ("A&B NY") filed New York State partnership and/or New York City unincorporated business tax returns?
- What has A&B's position been with respect to straddles: does it consider index options and long stock positions as offsetting for purposes of the straddle rules? Has A&B made a mixed straddle election in the past or in 1991?
- Has A&B filed Florida intangibles tax returns? Have Frank Avellino and/or Bienes as individuals filed Florida intangibles tax returns?
- Which state and local tax returns has Avellino and Bienes filed (partnership/individual)?
- Does any "dividend charge" incurred by A&B relate to a short sale which closed on or before the 45th day after the original trade?
- Does any "dividend charge" incurred by A&B relate to an "in lieu of" extraordinary dividend? If so, was the short sale closed on or before one year since the day of the short sale?
- Regarding A&B's detailed Schedule D for 1991, please explain the notation in the activity of A&B?
- Why were gains and losses from A&B reported by the partners as ordinary income as opposed to capital gains and losses? Does A&B consider itself a "dealer" in securities?
- With respect to the A&B NY accounting partnership, how did the \$854,561 payable to A&B arise?



**Avellino & Bienes**

**Appendix A**

- Please explain the nature of the service A&B receives for paying accounting fees of \$650,000. Is there an agreement between A&B and A&B NY?
- Does A&B incur brokerage commissions, and if so, where are these commissions reported? With respect to brokerage commissions for securities purchases, has A&B included these commissions in the basis of the underlying securities?
- Are any of the debt holders foreigners? If so, was withholding on interest payments considered?
- Please explain why on A&B's 1991 partnership tax return, \$16,337,175 in gains from S&P 100s were not reported as 60/40 in accordance with Section 1256 treatment.

*Price Waterhouse*



December 16, 1992

Mr. Frank J. Avellino  
4750 Northeast 23rd Avenue  
Fort Lauderdale, Florida 33308-4721

Dear Frank,

While we are progressing with our examination of the books and records of Avellino & Bienes, we are reaching the stage where your assistance is vital for us to continue to work at our current pace. In particular, we have several questions relating to the structure of the general ledger and the cash receipts and disbursements records, as well as further information requests.

I feel that it would be most practical and efficient to meet with you as soon as possible in New York. It would be helpful for you to again bring your original general ledger, cash receipts and cash disbursement records for 1992 and 1991 as these may assist in resolving several of our questions.

I would appreciate if you could contact me on 212-527-8353 as soon as possible to arrange a suitable time.

Sincerely yours,

Geoffrey M. Cook

# Price Waterhouse



December 28, 1992

Mr. Frank J. Avellino  
4750 Northeast 23rd Avenue  
Fort Lauderdale, Florida 33308-4721

Dear Mr. Avellino:

Following your meeting with Andrew Stalmanis and myself on December 22 I am, as discussed with you, providing you with an updated list of documents and information that we still require in order to assist us in completing the undertaking of our audit as required by the order dated November 18, 1992.

1. Extended trial balances for fiscal years

Avellino & Bienes joint venture (Florida) ("the Joint Venture") - 1991  
Avellino & Bienes partnership (New York) ("the Partnership") - 1989, 1990 and 1991

2. General Ledger

Avellino & Bienes joint venture (Florida) - November 1992  
including an analysis of the 1992 journal entries transferring loan balances in the AFG and BFG directory from general ledger account number 40 to general ledger account numbers 50 and 51 "Capital drawings" and a breakdown of disbursements to loan noteholders between principal repaid and interest repaid.

3. Bank reconciliations at November 30, 1992

Avellino & Bienes joint venture (Florida) - a/c no. 611120216  
Avellino & Bienes partnership (New York) - a/c no. 007102658

4. Form "1099's" for Avellino & Bienes joint venture from Bernard L. Madoff and from Chemical Bank for 1984 through 1991.

5. Check register relating to the interest payments to loan note holders for the three months ended December 31, 1991.



6. Schedule of Partners Capital accounts showing the movement from the balance recorded in the December 31, 1991's tax return to the balance recorded in the general ledger at November 16, 1992 (or November 30 1992 if this a more convenient date), identifying capital additions, capital withdrawals, profits / losses for the 11 month period and any other significant items.
7. Documentation for income and expenses relating to "The Favorite Fund" for the period January 1, 1984 through November 16, 1992.
8. Third party documentation for randomly selected receipts and payments:

Page Number	Date	Check Number	Amount
CD661	02/06/92	1325	\$ 32,517
CD674	04/05/92	1395	115,493
CD690	07/24/92	1537	216
CD694	08/28/92	1567	371
CD694	08/31/92	2197	3,188
CD703	10/01/92	1606	3,711
CD706	10/31/92	1642	3,711
CD615	06/05/91	4897	2,859
CD645	10/04/91	5129	10,570
CR483	01/10/91		1601

9. Details of the Florida partnership's equity share of Optus software, including monies which are classified as "other assets" in the balance sheet of the partnership tax return.
10. Please obtain deposit slips relating to Chemical Bank account number 007-033427 (F&M Associates) from the opening of the account to 8/31/89 and account number 007-033419 from the opening of the account to 12/31/89.
11. In order for us to be able to perform further audit work for 1992 it will be necessary for you to prepare a balance sheet as at November 16 1992 and income statement for the period January 1 1992 to November 16 1992 on a tax basis consistent with prior years . As you have done for previous tax years it will be necessary for you to also prepare the following information in a format comparable to that accompanying the 1991 Joint Venture tax return:



- (i) the schedule of specific investments sold during 1992 showing sale proceeds and date of sale, original purchase cost and date, gain or loss on sale
  - (ii) the schedule of dividend income and dividend charges
  - (iii) the schedule of margin interest paid
  - (iv) schedule of short sales
  - (v) schedules giving details of other balance sheet items eg. loans
  - (vi) schedule of other income
  - (vii) schedule of securities at cost (prior to liquidation)
12. Please supply detailed breakdowns of the following items as set out in the tax returns for the years 1984 to 1991 inclusive:
- (i) dividend income and dividend charges
  - (ii) interest income
  - (iii) other income
  - (iv) margin interest paid
  - (v) loans and exchanges (part of other assets)
  - (vi) securities at cost
  - (vii) short sales
13. As originally requested at our meeting of November 18, 1992 please provide a list of the documents relating to both the Florida and the New York partnerships that you hold both in your home and office in Florida.
14. Rental agreement(s) for space occupied prior to 70 East 55 street, New York.
15. Please supply New York State tax returns and Florida intangibles tax returns for the years 1984 to 1991 inclusive.
- Could you also please confirm to us in writing our understanding of the following matters which we discussed on December 22, 1992 :
- (i) Cash receipts and disbursements , general ledgers, extended trial balances ("the Records") and all of your supporting records for Avellino and Bienes joint venture and the New York partnership do not exist for any years up to and including December 31, 1988.



- (ii) It is both possible and practicable for you to reconstruct the cash receipts and disbursements, the general ledger and the extended trial balance for the year ended December 31, 1988.
- (iii) There are no written partnership agreements for Avellino & Bienes joint venture (Florida) or Avellino & Bienes partnership (New York).
- (iv) Loan noteholder statements as at December 31 1989, 1990 and 1991 have not been retained.
- (v) No reconciliations to general ledgers accounts exist (for example between the general ledger and Bernard.L. Madoff statements or Optus Software statement of noteholder balances) for any month end except bank reconciliations for the Joint Venture and the New York Partnership.

With reference to matters raised in our letter of December 8, 1992 please would you clarify the following points :

- (i) Have you requested Chemical Bank to supply copies to us of any financial statements of the joint venture that they may have.
- (ii) F&M/D&B Associates and Alpern, Avellino & Bienes ("AA&B")

Please can you explain why F&M/D&B Associates and AA&B were used instead of the Joint Venture to pay interest to those that made loans to the Joint Venture during certain periods.

- (iii) Please supply the tax returns for F&M Associates. Please could you let me know whether any financial statements or partnership agreements exist for these entities; if so, please supply a copy.
- (iv) Do you have copies of any manual noteholder ledgers (used prior to the introduction of the Optus system) prior to June 30 1987. If so, please supply a copy.

I would also emphasize that we have not as yet completed our work on the information that you sent us on December 8, 1992 and thus there may be additional matters arising from this review.

December 28, 1992  
Mr. Frank J. Avellino  
Page 5



As discussed with you, due to the slow response times that we have been experiencing from Joseph Licht at Optus Software, if we have further questions arising from the audits for him we will forward those to you to minimize the time taken to achieve a response.

I would appreciate it if you could provide the information requested as soon as possible. It would be helpful if in your response you could address each matter separately. If you have any questions, please do not hesitate to contact either Joel Whitman or myself so as to expedite the resolution of the matters described above.

Yours very truly,

Geoffrey M. Cook

cc:

Lee Richards (Richards, Spears, Kibbe & Orbe)

Kathy Ashbaugh (SEC)

Dori Ann Hanswirth (Squadron, Ellenoff, Plesent & Lehrer)

# Price Waterhouse



December 29, 1992

Mr. Joseph Licht  
Optus Information Systems, Inc.  
100 Davidson Avenue  
Somerset, New Jersey 08873

Dear Mr. Licht:

Could you please provide a database file of changes to tax identification numbers ("TIN") for the period January 1, 1989 to November, 16, 1992. Please include the following fields:

- Original TIN
- Revised TIN
- Date of Change to TIN

In addition could you please provide explanations for the following:

1. We noted a balance at December 31, 1990, yet no transaction activity subsequent to that date, for following accounts:

Directory	TIN Number	TIN Number	Balance at 12/30/90
FM	Robert Getz DBA Peerstate	0992641981	6,477,737
FM	Elise Jann Flagg	1045008850	90,459
FM	Merlin & Associates	9429538880	10,483,409
FM	Wholesale Dis. Ret. Tr.	1160152930	710,940
	" "	1334748120	3,044,364
FM	DW Petito	1457855560	119,780
FM	Optus Info. SIS	2225317960	64,071
FM	Frank A. Petito	2406460550	328,876
FM	H&E Simon	4741811200	895,000
FM	St. Thomas Aquinas Trust	5907910070	743,435
FM	Seagate Final Services	6500968270	92,958
FM	Merlin & Associates	9429538883	6,459,462

December 29, 1992  
Mr. Joseph Licht  
Page 2

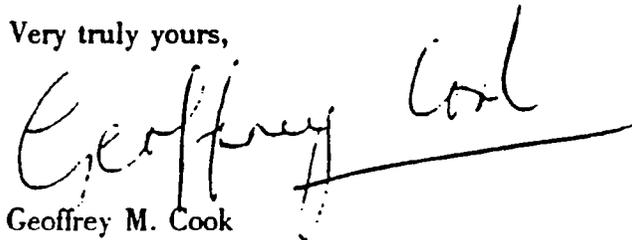


2. We noted the following accounts that we were unable to locate on the loan database which you supplied to us.

Directory	Name	TIN Number
FM	Associate Rigging	113094082
FM	Pedro Laos	5153478390
FM	Emma Vitiello	Not Known

If you have any questions, please call Curt Haedke at 212-527-8759, Andrew Stalmanis at 212-527-8583 or myself at 212-527-8353.

Very truly yours,

  
Geoffrey M. Cook

cc:  
Frank Avellino

*Price Waterhouse*



January 11, 1993

Mr. Joseph Licht  
Optus Information Systems, Inc.  
100 Davidson Avenue  
Somerset, New Jersey 08873

Dear Mr. Licht:

**Avellino & Bienes**

I would appreciate if you could assist in providing details of the rate fields "Comm-1" and "Comm-2" and the use of these fields in quarterly interest calculations. In particular, could you please explain whether quarterly amounts are paid out based on these fields and on which data file supplied to us these rates are maintained.

1. We have noted during our testing the following differences between rates on the Optus "Participant Maintenance" reports held in New York and that paid to loan noteholders. Could you please provide explanations for the these items:

Tin Number	Account Name	Rates			Amount Paid To To Loan Notcholder	Difference
		Per Optus Systems Reports Held at A&B				
		Interest Rate	"Comm" Rate	"Combined Rate"		
1367124620	Becker, Martin I, Prot-Shar	16.0%	2.0%	18.0%	16.0%	2.0%
0881689990	Bernstein, Rose or Morton	16.0%	2.0%	18.0%	16.0%	2.0%

2. We also observed that, for the following accounts, interest for the period 10/1/92 to 11/16/92 was paid based on the interest rate and not the Combined Rate as calculated above. However, we observed that related deposit confirmations stated that annual interest would be calculated on the Combined Rate:

January 11, 1993  
 Mr. Joseph Licht  
 Page 2



Tin Number	Account Name	Rates		
		Interest Rate	"Comm" Rate	Combined Rate Per Deposit Confirmation
1416492530	Marv Marv Ltd.	15%	5%	20%
6501370091	Telfran Assoc. Ltd.	15%	4%	19%
0992641980	Robert N. Getz	15%	5%	20%
0992641981	Robert N. Getz	15%	5%	20%

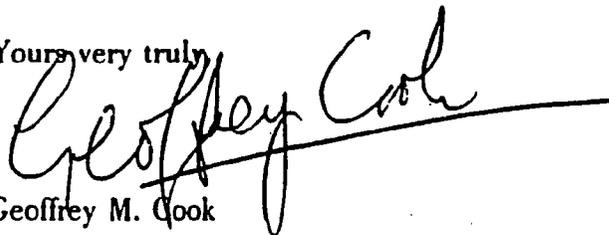
3. Could you also please explain the unusual interest rates used to calculate interest included in the PFABMAIN (master) database provided to us for the following accounts on the "FM" directory:

Tin Number	Account Name	Interest Rates per PFABMAIN Database	
		Rate 1	Rate 2
0523824570	Gaba, Aisenberg, Suzanne.	1.75%	0.00%
5862304600	Gaba, Doral., Trust.	1.85%	17.00%
0523824560	Gaba, Michael M.	1.75%	0.00%
1142455410	Gaba, R. & B.	1.75%	0.00%
0671297860	Longstreet, Mildred	1.75%	0.00%
9429538883	Merlin & Associates Ltd. Acct. #2	1.95%	0.00%
1131244290	Namm, Chanette, Living Trust Ltd.	1.75%	1.75%
116687150	Petruzzo, Susan & Michael	1.65%	0.00%

In relation to the above accounts could you provide the actual interest rate (if different) used to calculate interest payable for the period 10/1/92 to 11/16/92 for these accounts.

If you have any questions, please do not hesitate to call me at 212-527-8353 or Andrew Stalmanis at 212-527-8583.

Yours very truly,

  
 Geoffrey M. Cook

cc:  
 Frank Avellino

Exhibit D

MADOFF\_EXHIBITS-03188

FRANK J. AVELLINO  
4750 NORTHEAST 23RD AVENUE  
FORT LAUDERDALE, FLORIDA 33308-4721

November 30, 1992

Mr. Geoffrey M. Cook  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Mr. Cook,

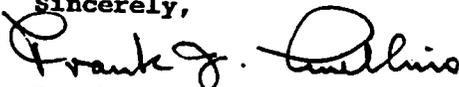
As per your request please find the following books and records herewith enclosed:

General Ledgers for Avellino & Bienes - 1989 & 1990  
General Ledgers for Avellino & Bienes Joint Venture  
for 1989 & 1990  
Cash receipts and disbursements for Avellino & Bienes  
for 1989 & 1990  
Cash receipts and disbursements for Avellino Joint Venture  
for 1989 & 1990  
U.S partnership tax returns for Avellino & Bienes Joint  
Venture for 1986 through 1990  
U.S. partnership tax returns for Avellino & Bienes  
for 1986 through 1990  
Individual income tax returns for Frank Avellino  
for 1989 & 1990  
Individual income tax returns for Michael Bienes  
for 1989 & 1990  
Open position statements for the securities held  
as of 12/31/91 showing costs and date of purchases

You already have books and records for the year 1991 and partial 1992.

Please return the original books and records at your earliest convenience.

Sincerely,

  
Frank J. Avellino

FRANK AVELLINO

November 30, 1992.

Dear Geoffrey,

Enclosed please find copies of the cash receipts and disbursements since November 16, 1992.

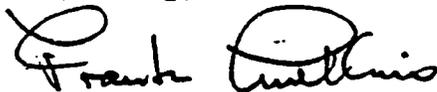
The numbers speak for themselves. According to my calculations the balance in the account after all items are taken into consideration is \$1,952,739.88.

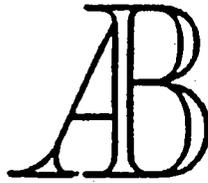
Please let me know what the loan amounts and interest amounts are starting with the RAI line of \$2,749,647 so that I may enter them in my books for income tax purposes.

Please verify my balance of \$1,952,739.88 so that I can draw on it. As you recall the balance should be free and clear of all encumbrances.

Thank you for your kind cooperation. Should you need any further information please call me.

Sincerely,

Handwritten signature of Frank Avellino in cursive script.



**Avellino & Bienes**

**Heron Tower  
70 East 55th Street  
New York, N.Y. 10022**

**Telephone (212) 688-6677  
Telecopier (212) 826-8113**

December 9, 1992

**Ms. Ann Kerns  
Chemical Bank  
640 Fifth Avenue  
New York, New York 10019**

**Re: Avellino & Bienes Acct. No. 007-03349  
Avellino & Bienes - Special Acct. No. 007-102658**

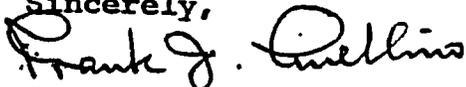
Dear Ms. Kerns,

In order to complete the audit Price Waterhouse has requested that you provide them with copies of the bank statements for the Avellino & Bienes account number 007-03349 for the periods from 12/31/83 to 12/31/86 and with copies of the bank statements for the Avellino & Bienes account number 007-102658 for the periods from 12/31/83 to 12/31/85.

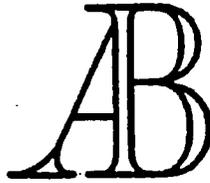
Please send the copies to the above office as soon as possible. Should you have any difficulty with this request please feel free to discuss it with Mr. Geoffrey Cook of Price Waterhouse at (212) 527-8353.

Thank you for your kind cooperation in this matter.

Sincerely,

  
Frank J. Avellino

**FAX LETTER  
original mailed to Ann Kerns**



**Avellino & Bienes**

*Heron Tower  
70 East 55th Street  
New York, N.Y. 10022*

*Telephone (212) 688-6677  
Telecopier (212) 826-8113*

December 9, 1992

**Bernard L. Madoff  
885 Third Avenue  
New York, New York 10022**

Dear Bernie,

Price Waterhouse has requested that you send them copies of the monthly brokerage statements for all of the Avellino & Bienes brokerage accounts from December 31, 1983 to-date. They need the copies for my personal, Frank J. Avellino, Trustee account and Dianne K. Bienes account for the same period.

It is important that you send the statements as soon as possible so that they can complete their audit.

Please send all statement copies to Price Waterhouse, Attention of Geoffrey Cook, at 153 East 53rd Street, New York, New York 10022.

Thank you for your kind cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Frank Avellino".  
Frank Avellino



**Avellino & Bienes**

*Heron Tower  
70 East 55th Street  
New York, N.Y. 10022*

*Telephone (212) 688-6677  
Telecopier (212) 826-8113*

December 14, 1992

Ms. Ann Kerns  
Chemical Bank  
640 Fifth Avenue  
New York, New York 10019

Dear Ms. Kerns,

I do hereby authorize you and Chemical Bank to send any and all bank statements for any bank accounts appearing in the name of F&M Associates and Alpern, Avellino & Bienes for the years 1984 to 1987 and 1984 to 1989 respectively to Mr. Geoffrey Cook at Price Waterhouse, 153 East 53rd Street, New York, New York 10022.

Please send the statements as soon as possible so that they may complete their audit of our books and records.

Kindly send a copy of whatever is being sent to Price Waterhouse to me at my home address of Frank Avellino, 4750 Northeast 23rd Avenue, Fort Lauderdale, Florida 33308.

Thank you for your kind cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Frank J. Avellino".

Frank J. Avellino



**Avellino & Bienes**

*Heron Tower  
70 East 55th Street  
New York, N.Y. 10022*

*Telephone (212) 688-6677  
Telecopier (212) 826-8113*

December 14, 1992

Mr. Joseph Licht  
Optus Information Systems, Inc.  
100 Davidson Avenue  
Somerset, New Jersey 08873

Dear Mr. Licht,

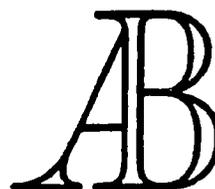
Please send to Mr. Geoffrey Cook at Price Waterhouse, 153 East 53rd Street, New York, NY 10022, the magnetic tapes of the 1099-INT forms that were reported to the Internal Revenue Service for the years of 1987 to 1991 inclusively. Please send them as soon as possible so that they can complete the audit they are currently conducting of Avellino & Bienes.

Thank you for your kind cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Frank J. Avellino".

Frank J. Avellino



**Avellino & Bienes**

Heron Tower  
70 East 55th Street  
New York, N.Y. 10022

Telephone (212) 688-6677  
Telecopier (212) 826-8113

December 14, 1992

Mr. Geoffrey Cook  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

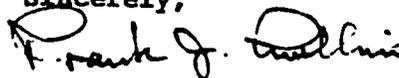
Dear Mr. Cook,

I am herewith sending you, via Federal Express, the following documents:

- 1) Copies of Partnership Tax Returns for Avellino & Bienes Joint Venture - 1983, 1984 and 1985.
- 2) Copies of Partnership Tax Returns for Avellino & Bienes - 1983, 1984 and 1985.
- 3) Copies of Partnership Tax Returns for D&B Associates - 1983, 1984, 1985, 1986, 1987 and 1988.
- 4) Copies of Partnership Tax Returns for Alpern, Avellino & Bienes - 1984, 1985, 1986, 1987 and 1988.
- 5) Copies of Forms W-2 and W-3 from 1984 to 1991.
- 6) Income Tax Returns for Michael and Dianne Bienes for the years 1983 to 1988.
- 7) Copies of rental leases for the office premises at 70 East 55th Street, New York City, NY and 6550 North Federal Highway, Fort Lauderdale, Florida.
- 8) Copy of letter to Chemical Bank dated 12/9/92.
- 9) Copy of letter to Bernard L. Madoff dated 12/9/92.
- 10) Copy of letter to Optus Information Systems, Inc., dated 12/14/92.
- 11) Copy of letter to Chemical Bank dated 12/14/92.

Please acknowledge receipt of these items by calling my office in New York.

Sincerely,

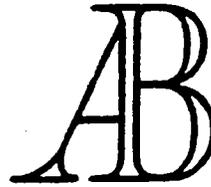
  
Frank J. Avellino

cc: Dori Hanswirth (Squadron, Ellenhoff, Plesent & Lehrer)  
Lee S. Richards, Trustee (Richards, Spears, Kibbe & Orbe)

**Avellino & Bienes**

Heron Tower  
70 East 55th Street  
New York, N.Y. 10022

Telephone (212) 688-6677  
Telecopier (212) 826-8113



Received December 30, 1992  
G

December 28, 1992

Mr. Geoffrey Cook  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Geoffrey,

Enclosed please find a reconciliation that I prepared which shows the amount that is to be wired to the Frank J. Avellino, Trustee and Dianne K. Bienes and Michael Bienes bank accounts respectively.

Please check the amounts and inform Mr. Lee S. Richards of same so that he can authorize the transfers. I am enclosing a copy of a letter sent to Ms. Dori Hanswirth on December 23, 1992 explaining this matter. Please note the date of December 30, 1992.

Thank you for your kind cooperation in this matter. Should you have any questions please call me.

Sincerely,

Frank

Received December 30, 1992



**Avellino & Bienes**

Heron Tower  
70 East 55th Street  
New York, N.Y. 10022

Telephone (212) 688-6677  
Telecopier (212) 826-8113

December 28, 1992

Mr. J. Andrew Stalmanis  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Mr. Stalmanis,

Enclosed please find the following:

- 1) Trial balance for Avellino & Bienes (partnership) 12/31/91
- 2) Trial balance for Avellino & Bienes Joint Venture 12/31/91
- 3) Check register for 12/31/91
- 4) Cash receipts and disbursements for Avellino & Bienes account number 007-102658 (Dec. 1992)
- 5) Cash receipts and disbursements for Avellino & Bienes account number 611-120211 (Nov. & Dec. 1992)
- 6) General Ledger for Avellino & Bienes, Joint Venture as of Nov. 30, 1992.

I am continuing to obtain other items you had requested when we last met in New York and I will send them to you as I obtain them.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank Avellino".

P.S. Enclosed please find an envelope for Geoffrey Cook regarding the cash balances that pertain to the funds to be wired on 12/30/92.



**Avellino & Bienes**

Heron Tower  
70 East 55th Street  
New York, N.Y. 10022

Telephone (212) 688-6677  
Telecopier (212) 826-8113

December 30, 1992

Mr. J. Andrew Stalmanis  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Mr. Stalmanis,

Enclosed please find copies of the invoices you requested.

Copies of the Schedule D and Form 6781, with the accompanying schedule of the "Gains and Losses" of the transactions of the "puts" and "calls" as they were presented on the Avellino & Bienes Joint Venture partnership tax return for 1991, are also enclosed.

I believe this completes my giving you all the items that you had requested when we last met on December 22, 1992.

Sincerely,

A handwritten signature in cursive script that reads "Frank Avellino".



**Avellino & Bienes**

Heron Tower  
70 East 55th Street  
New York, N.Y. 10022

Telephone (212) 688-6677  
Telecopier (212) 826-8113

January 5, 1993

Mr. Geoffrey M. Cook  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Mr. Cook,

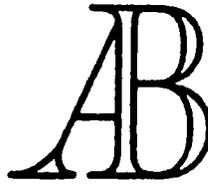
As per your letter dated December 28, 1992, enclosed please find certain information you had requested.

- 1) Bank reconciliation for Avellino & Bienes ( Special Account ) account number 007-102658 for November 30, 1992.
- 2) Bank reconciliation for Avellino & Bienes account number 611-120216. I prepared this reconciliation from the statement given me by your staff on December 22, 1992. I did not have the benefit of the cancelled checks which is in their possession.
- 3) Extended trial balances for Avellino & Bienes (NY) for the years ending 12/31/89 and 12/31/90.
- 4) Copies of the Forms "1099" for Avellino & Bienes for 1991 that were received from Bernard L. Madoff. These should appear on the partnership tax returns.
- 5) Copies of the New York State and New York City partnership tax returns for 1991, as filed.

I have prepared a response letter to you answering your letter of December 28, 1992. I sent the original to Dori Hanswirth for her review and comments. It will be sent to you after her review.

Sincerely,

Frank J. Avellino



**Avellino & Bienes**

Heron Tower  
70 East 55th Street  
New York, N.Y. 10022

Telephone (212) 688-6677  
Telecopier (212) 826-8113

January 5, 1993

Geoffrey M. Cook  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Mr. Cook,

In response to your letter dated December 28, 1992, I noticed that many of the documents and information and answers you request have already been supplied. There appears to be repetition from previous meetings I have had with you and Mr. Andrew Stalmanis. Though I can appreciate the difficulty there may be in communication, I am confused at the repetition. I have already, stated for the record that some data you request is not available and some items may be beyond my control. However, in the spirit of cooperation I do my best to obtain information you need. In response I will try to answer herewith in the order of your letter.

Item 1) The trial balances for Avellino & Bienes Joint Venture for 1991 and for Avellino & Bienes ( the partnership, as you call it ) were previously sent via Federal Express to your office on 12/28/92. 1989 and 1990 to follow.

Item 2) The entry in the general ledger adjusting the loan account (page 40) to the capital account is a long time practice. It has been the practice of Avellino & Bienes to adjust the two accounts by journalizing the balances that are proven from the weekly and monthly loan balances inter-office postings. This was explained previously. As you have discovered, in the examination of the cash receipts and disbursements books, the checks that are drawn on behalf of the partners are extended to the loans column. To spend any time at this critical point of time, with deadlines facing everyone, would be wasteful and redundant.

Item 3) The bank reconciliations for both checking accounts as of November 30, 1992 is being sent.

Item 4) The 1099's from Bernard L Madoff for 1991 are being sent. There are no 1099's from Chemical Bank that I am aware of.

Item 5) The check register for December 31, 1991 was previously sent, via Federal Express on 12/28/92, to your office.

Item 6) Explained in item 2 above.

Item 7) Already explained to Mr. Stalmanis on December 22, 1992 and are in his notes.

Item 8) Documentation sent to your office, via Federal Express, on 12/28/92.

Item 9) As explained prviously, Optus Software is a company that is partially owned by Mr. Bienes and myself. It has nothing to do with Avellino & Bienes in any way whatsoever. The only reason it appears in the general ledger is to keep track of the disbursements made since the inception of the corporation. The total amount will eventually be charged to the respective capital accounts.

Optus Software, Inc. is not to be confused with Optus Information Systems, Inc. , of which neither Mr. Bienes nor I have an interest. The latter is the company that is engaged in doing the computer work for A&B.

Item 10) I believe this has already been done. I will check to see when the request was made. If it wasn't I will do so.

Item 11) I spent a long time explaining to Mr. Stalmanis that this task is a long and tedious one from a point of accuracy. In the past I spent a long time of labor to accomplish this preparation of income and expenses for income tax purposes. With not all of the information available, for the checks and balances to prepare a true and accurate statement, I am prone to not attempt this task at this time. My experience has taught me to not commit any figures to scrutiny when, as in this case, it can be construed as "bible" and subject to criticism. In this present instance quite severely. I explained how the profit and loss can be computed from the records you now hold in your possession that Bernard L. Madoff and I supplied.

Item 12) The breakdowns of the items (i) to (vii) are found in the brokerage statements that were supplied you by Bernard L. Madoff.

Item 13) Already explained and should be in your notes from previous discussions.

Item 14) Sent to your office, via Federal Express, on 12/28/92.

Item 15) The New York State partnership tax returns will be sent.  
As for items (i) through (v), I will confer with my counsel. I believe these items have been answered and are part of the record.

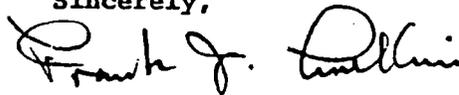
In reference to the letters to Chemical Bank requesting certain information, I believe it has already been done.

As for F&M and D&B and AAB, I believe this was already answered and should be in your files.

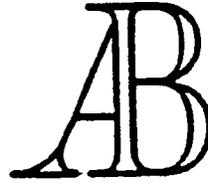
As for noteholders ledgers prior to Optus Information Systems, Inc., I had previously informed you that any ledgers currently available should be in the New York office and have been made available to your staff by asking my secretaries.

Please be advised that I am sending this letter to my attorney so that they can be made aware of my responses. After their examination they will forward same to you, if they so wish.

Sincerely,

A handwritten signature in cursive script that reads "Frank J. Avellino". The signature is written in dark ink and is positioned above the printed name.

Frank J. Avellino



**Avellino & Bienes**

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70 East 55th Street  
New York, N.Y. 10022

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Telecopier (212) 826-8113

January 12, 1993

Mr. Geoffrey M. Cook  
Price Waterhouse  
153 East 53rd Street  
New York, New York 10022

Dear Mr. Cook,

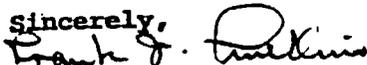
In response to your letter, dated December 29, 1992, to Mr. Joseph Licht of Optus Information Systems, Inc., I have inquired of Mr. Licht regarding your request of the first paragraph namely, providing your office with the database file changes to tax identification numbers (TIN) for the period January 1, 1989 to November 16, 1992. He informed me that he has supplied you with everything he has in his possession that belongs to Avellino & Bienes. To clear matters up, you should find in your files, records that explain the procedure that was used in making certain changes to the computer records. If you cannot locate them I will herewith give you a brief explanation of what took place in making the changes to the computer files.

Changes were directed to Optus by the staff at the New York office of Avellino & Bienes. Weekly, if not more frequently, Optus would receive notice of certain changes to the computer files. Some changes pertained to the "TIN", some to addresses and some to correct errors found in the normal course of doing business. Upon notification of the changes Optus merely "modified" the record. That was it. The only way for your staff to check the change may be to examine the individual file folder located for each loan account, in the New York office. The file should contain some form of instruction requesting the change. At times the change may have been directed by a telephone call to the New York office.

As for Item No. 1. of your letter, I checked the list of lenders for November 16, 1992 and have found each and every name listed in your inquiry for the names that appeared on the December 31, 1990 list. I am confused as to what you are referring to.

Item No. 2. of your letter lists three names. The first two appear on the November 16, 1992 list also. Again, I am confused about your inquiry. Regarding the name "Emma Vitiello", Andrew Stalmanis questioned me about her on December 22, 1992, when we last met. He should find in his notes that Emma is my sister and that I sent her periodic checks which were charged to my personal capital account, consistently.

If I can be of any further assistance in this matter please feel free to call. Please do not direct any further questions to Mr. Licht.

Sincerely,  
  
Frank J. Avellino