

RE: Madoff--Possible Trustee Conflict of Interest

12/17/2008 1:43:36 PM

From: Calamari, Andrew M.**To:** Curtis, George; [Personal Privacy]**Cc:** Thomsen, Linda; [Personal Privacy]; [Personal Privacy]; McKown, Joan; [Personal Privacy]

Yes. I think that makes sense.

From: Curtis, George**Sent:** Wednesday, December 17, 2008 11:43 AM**To:** Calamari, Andrew M.**Cc:** Thomsen, Linda; [Personal Privacy]; McKown, Joan**Subject:** FW: Madoff--Possible Trustee Conflict of Interest

Andy – this is what I referenced in this morning's conversation. Judging from what you noted and what Scott has advised, it sounds like this may be a moot issue.

As you can see, we are now receiving a fair number of email regarding Madoff through the [Office of Internet Enforcement Official] group and ECC. My thought is to be sure that you, Tom Biolsi and Bob Sollazzo are copied on them. We will have copies here and will review them here as well, pointing out anything to you that seems particularly noteworthy. Let me know if this makes sense to you. – George.

From: Curtis, George**Sent:** Wednesday, December 17, 2008 8:49 AM**To:** Thomsen, Linda; McKown, Joan; [Personal Privacy]**Subject:** FW: Madoff--Possible Trustee Conflict of Interest

I am concerned over the possible conflict of interest regarding Richards. If he will be a percipient witness in our own and/or the IG's investigation of prior staff work regarding Madoff, does that adversely affect his ability to function as trustee as to the Madoff business and estate? I think we should discuss this among ourselves and with Andy. – George.

From: Calande, Pauline E.**Sent:** Wednesday, December 17, 2008 12:00 AM**To:** Thomsen, Linda; Curtis, George; McKown, Joan; [Personal Privacy]**Subject:** Madoff--Possible Trustee Conflict of Interest

FYI—We've had 4 investigations of Madoff's money business: One in 2006 and three in 1992—King Arthur (aka Avellino & Bienes), along with 2 related MUIs that were closed shortly after civil injunction was entered in King Arthur. Madoff, his firm, and family members have also appeared as witnesses or executing broker-dealer in 5 other Enforcement investigations.

King Arthur was a case that looked a lot like the present Madoff investigation, but the investors' money turned out to be all there. Two FL accountants were running a \$440 million unregistered hedge fund. Over 10 years, they sold unregistered notes to investors promising 13-20% annual returns, to be obtained by turning money over to an unnamed broker. The broker turned out to be Madoff acting as secret investment advisor. NYRO filed a complaint quickly, fearing that the whole thing was a huge scam with no substance. But the court-appointed trustee, Lee Richards, went in and discovered that the investors' money was all there. So, Avellino & Bienes were enjoined only on registration charges, not fraud.

From email traffic today, it looked like Lee Richards was also going to act as trustee in the present Madoff investigation too. My question, though, is whether the investor funds were really "all there" in King Arthur in 1992. Based on what we know now, it could be that Avellino & Bienes and/or (more likely) Madoff himself

created a paper trail that made it appear as though the investors' money was all there. But it isn't clear what Richards actually checked in King Arthur. Did he go to the street name custodian of the fund's portfolio and inspect the securities? Did he go to the banks or firms allegedly holding cash or sweep funds? Maybe he did, but until we have more information, it might be a mistake to have Richards get deeply involved in the present Madoff investigation, as it's possible he might have conflicts of interest over his own role re Madoff in King Arthur. Just wanted to bring this to your attention.

Linda/George—left you hard copies of the draft Chronology and the Memo for Chairman—both obviously work-in-progress and lacking important detail re course of 2006 investigation, but outlines nonetheless.

Pauline