

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

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In the Matter of:

OIG-509

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WITNESS: #12

PAGES: 1 - 24

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

DATE: March 26, 2009

The above-entitled matter came
on for hearing at 1:32 p.m.

COPY

1 A P P E A R A N C E S:

2
3 On behalf of the Securities and Exchange
4 Commission

5
6 H. DAVID KOTZ, ESQ.

7 HEIDI L. STEIBER, ESQ.

8 CHRISTOPHER H. WILSON, ESQ.

9 Securities and Exchange Commission

10 3 World Financial Center

11 New York, New York 10281

1 MR. KOTZ: We are on the record
2 at 1:32 on March 26, 2009 at the United
3 States Securities and Exchange Commission.
4 Along side of me is Heidi Steiber, Chris
5 Wilson as well.

6 Can you please swear the witness
7 in.

8 T H O M A S T H A N A S U L E S,
9 having first been duly sworn by a
10 Notary Public of the State of New
11 York, was examined and testified as
12 follows:

13 EXAMINATION BY

14 MR. KOTZ:

15 Q. Could you state and spell your
16 full name for the record?

17 A. Thomas Thanasules,
18 T-H-A-N-A-S-U-L-E-S.

19 Q. My name is David Kotz. I'm the
20 Inspector General of the United States
21 Securities and Exchange Commission. This
22 is an investigation by the Office of
23 Inspector General, Case Number OIG-509.

24 I'm going to ask you certain
25 questions, you'll provide answers under

1 E-mails that I came across with some
2 questionable activities.

3 Q. I'm going to show you a document
4 we're going to mark as Exhibit 1. It's a
5 memo from Dorothy Eschwie to Robert Salaso
6 and Richard Lee dated April 22, 2004.

7 (Whereupon, the aforementioned
8 memo was marked as Exhibit 1 for
9 identification.)

10 Q. If you could look at the
11 document attached to this cover memo in
12 Exhibit 1 and tell me if these are the
13 E-mails that you were referring to?

14 A. I haven't seen these for a
15 while, but yes.

16 Q. Did you review the E-mails at
17 that time for substance?

18 A. What do you mean by that.

19 Q. In other words did you look at
20 the E-mails or did you simply pass them
21 along? Did you study them and analyze
22 them or look at them?

23 A. Oh, yes. I remember that these
24 E-mails raised questions on our end and
25 that's why I told my manager about them.

1 Q. How would you characterize
2 Investment Adviser #1 employees, would you say
3 they're generally sophisticated and
4 knowledgeable in areas of investment
5 management?

6 A. Basically what I recall, yes.

7 Q. Would you say that information
8 from Investment Adviser #1 employees, as in these
9 E-mails, would you say that, therefore,
10 they come from a credible source?

11 A. Credible in what respect? Like
12 when I was reviewing the E-mails I was,
13 you know, reading over what they were
14 saying in the E-mails.

15 Q. Well, different people can say
16 all kinds of things. You can have
17 somebody on the street say something and
18 you can have somebody who has a lot of
19 experience in investment management say
20 something, and that would determine
21 whether the thing is credible or not.
22 Based on your examination of Investment Adviser #1
23 and knowledge, therefore, of the
24 Investment Adviser #1 employees, would you view the
25 information in this credible, as coming

1 from a credible source?

2 A. I haven't seen these E-mails for
3 a very long time, but based on their
4 business practices and their business, I
5 viewed it as they have an idea. They were
6 questioning something, so there was a
7 reason for them to question something.

8 Q. And based on their business
9 practices and the individuals, would you
10 find them to be somewhat credible in what
11 they were saying and more so than just
12 somebody who's brought forward an
13 allegation?

14 A. Yes.

15 Q. Let's talk about a little bit of
16 the language in here. If you turn to the
17 third page of this document, the one right
18 in front of you. If you see three
19 paragraphs down it says, "another point to
20 make here is that not only are we unsure
21 as to how Personal
Privacy makes money even for us,
22 we're even more unsure as to how Personal
Privacy makes
23 money from us, i.e., why does he let us
24 make so much money, why doesn't he capture
25 that for himself." And then it says

1 that the E-mails talk about the fact that
2 there were numbers of 5 billion and 15
3 billion, but in fact when they analyzed it
4 and when they talked to the market makers,
5 they couldn't see any volume?

6 A. Like I said, I mean it raises a
7 lot of questions.

8 Q. Was that one of the questions as
9 to whether Madoff was trading or not, was
10 that one of the questions that was raised
11 by this E-mail?

12 A. To me?

13 Q. Yes.

14 A. I guess it was a possibility,
15 but.

16 Q. You see on the next page where
17 it says, "but the risk must be covered
18 somewhere if he is doing these trades at
19 all."

20 Do you see that?

21 A. Yes.

22 Q. Does that particular language
23 raise suspicion that maybe Madoff is not
24 doing trades at all?

25 A. Like I previously said, all the

1 E-mails raised red flags at that time.

2 Q. But I'm asking about this
3 particular type of red flag?

4 A. Absolutely.

5 Q. So, that language that says, "if
6 he's doing these trades at all," that
7 raises a red flag as to whether Madoff is
8 doing these trades at all; is that
9 correct?

10 A. Correct.

11 Q. You brought this to the
12 attention of your supervisor, and then
13 what happened?

14 A. Than what happened what I was
15 informed or what had happened --

16 Q. Whatever you know.

17 A. As far as I know I think she
18 relayed the information to her --

19 Q. Did anybody ever come back to
20 you and say, you were there, I got some
21 questions about Madoff?

22 A. No.

23 Q. Did anybody ever come back to
24 you and say, do you have anymore documents
25 that we could look at?

1 A. Not that I recall.

2 Q. I'm going to show you another
3 exhibit, Exhibit 2.

4 (Whereupon, the aforementioned
5 documents were marked as Exhibit 2 for
6 identification.)

7 Q. This is a series of documents.

8 It says at the top, Subject [REDACTED] the
9 bottom says [REDACTED] [REDACTED] [REDACTED]

10 [REDACTED] Investment Adviser #1. If you take a look at
11 these documents. We found these documents
12 in the [REDACTED] Investment Adviser #1 work papers, although
13 not in the Madoff work papers for cause
14 exam. Can you tell me do you know if
15 these documents in Exhibit 2 were ever
16 provided to the folks who did the cause
17 exam?

18 A. I have no idea. I don't know.

19 Q. So you're aware about the memo
20 in Exhibit 1 and the documents attached,
21 but you're not aware of any other
22 documents being provided from the
23 [REDACTED] Investment Adviser #1 work papers to the folks who
24 were doing the cause exam; is that right?

25 A. I don't know, specifically know