

IN THE CIRCUIT COURT FOR THE
SEVENTEENTH JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NUMBER: 12-34121 (07)
COMPLEX LITIGATION UNIT

MARGARET SMITH, et al.,

Plaintiffs,

v.

JANET A HOOKER CHARITABLE
TRUST, et al.,

Defendants.

DEFENDANT CATHARINE SMITH'S MOTION FOR SUMMARY JUDGMENT

Defendant, Catharine Smith ("Defendant"), pursuant to Fla. R. Civ. P. 1.510, move for summary judgment as to Plaintiffs' Third Amended Complaint, and state as follows:¹

INTRODUCTION

This case arises from Defendant allegedly receiving and retaining improper distributions from S&P while a partner at S&P. Despite never investing in or receiving a distribution from P&S, both partnerships alleged the following claims against Defendant to recover "excess" distributions:

- Counts I and II for breaching the statutory duty to contribute any excess credits in the partner's capital account, pursuant to Fla. Stat. § 620.8807;
- Count III for Breach of the Partnership Agreement;
- Counts IV and V for Unjust Enrichment and for Money Had and Received;
- Count VI for avoidance of fraudulent transfers, pursuant to Fla. Stat. § 726.105;
- Count VII for breaching the statutory duty of loyalty imposed on partners, pursuant

¹Plaintiffs are P&S Associates, General Partnership ("P&S"), S&P Associates, General Partnership ("S&P"), the "Partnerships", and Philip von Kahle, as conservator for the Partnerships.

to Fla. Stat. § 620.8404.

The undisputed facts show that these claims fail as a matter of law for three reasons. First, there is no genuine issue of material fact that Defendant withdrew and dissociated from S&P on March 5, 2004, and received her last distribution from S&P on January 25, 2005 – nearly eight years prior to Plaintiffs filing their Complaint in December 2012. As such, Plaintiffs' claims are time-barred by the statute of limitations.

Second, there is no genuine issue of material fact that Defendant did not have a contractual or statutory obligation to contribute any funds to S&P in 2012 and 2013, the time period during which Plaintiffs complain, because her partnership interest terminated in 2004 and 2005. As such, Plaintiffs' claims are fatally flawed.

Third, Plaintiffs' claims are barred by the exculpatory provision in the S&P Partnership Agreement, which limits Defendant's liability to her own intentional wrongdoing, fraud and/or a breach of fiduciary duty committed while a partner in S&P. There is no genuine issue of material fact that Defendant did not engage in such conduct while a partner in S&P.

Accordingly, Defendant requests the Court enter summary judgment in its favor on all claims in Plaintiffs' Third Amended Complaint.

STATEMENT OF UNDISPUTED FACTS

From September 6, 1995, to February 25, 1999, Defendant and her late husband, Berry Smith, contributed a total of \$185,000 to S&P. *See* Affidavit of C. Smith ¶ 3, attached hereto as Exhibit A. In return, from November 6, 2000, to January 25, 2005, Defendant and her late husband received \$340,572.02 in distributions from S&P. *Id.* Plaintiffs admit that Defendant never executed a partnership agreement with, invested in, or received a distribution from P&S. *See* Plaintiffs'

Response to Request for Admissions Nos. 1-3, attached hereto as Exhibit B; *see also* C. Smith Aff at ¶ 2.

Section 9.03 of the S&P Partnership Agreement provides that any partner may “withdraw from the Partnership at any given time” upon giving thirty days notice. *See* Exhibit B to the Third Amended Complaint. Pursuant to said withdrawal provision, on March 5, 2004, Berry Smith, on behalf of himself and Defendant, provided written notice of withdrawal as partners to S&P. *See* C. Smith Aff. ¶ 4. In return, Defendant received her final distribution from S&P on January 25, 2005. *Id.* at ¶ 5; *see* Plaintiffs’ Response to Request for Admissions Nos. 4 and 7.

S&P confirmed Defendant’s withdrawal from the partnership when it issued its Schedule K-1 to Defendant for 2005. Notably, the 2005 Schedule K-1 shows the following:

- a check mark indicating it is the “Final K-1”;
- an ending ownership percentage of 0.0%; and
- an ending capital account of \$0.

see C. Smith Aff. ¶ 6. Plaintiffs admit that there has been no activity in Defendant’s capital account since 2005 (when the capital account was zeroed out per the Schedule K-1). *See* Plaintiffs’ Response to Request for Admissions No. 7.

On November 13, 2012, nearly nine years after Defendant withdrew from S&P and eight years after she received her last distribution from S&P, Defendant received a demand letter from S&P informing her that as of December 31, 2008, she allegedly received improper distributions in an amount totaling \$155,572.72. *See* Exhibit E to the Third Amended Complaint. On October 13 and 18, 2013, Defendant, through counsel, received similar letters from S&P that attached statements detailing the funds contributed and disbursed from Defendant’s capital account from December 1992

through December 2008. *See* C. Smith Aff. ¶ 7. Although these statements do not specify exact dates, they definitively show that the last distribution Smith received from S&P was in 2005. *Id.*

As set forth below, these undisputed facts, when applied to the law, supports summary judgment in Defendant's favor.

ARGUMENT

A. Plaintiffs' Claims are Barred by the Statute of Limitations

"When expiration of the statute of limitations is the basis of a summary judgment motion, the movant has the burden of showing conclusively that there was no genuine issue of fact that the statute of limitations had expired before the filing of the complaint." *Baxter v. Northrup*, 128 So.3d 908, 909 (Fla. 5th DCA 2013). The Fourth District Court of Appeal is clear that summary judgment should be granted where it is "undisputed that [plaintiff] failed to commence this action prior to the expiration of the statute of limitations." *See Lussy v. Damsel*, 890 So.2d 1184 (Fla. 4th DCA 2004)(affirming order granting summary judgment in favor of defendant on statute of limitations grounds); *Visconti v. City of Titusville*, 306 So.2d 563, 564 (Fla. 4th DCA 1975)(affirming summary judgment order in favor of defendant because cause of action barred by the statute of limitations).

Here, it is undisputed that Defendant received her last distribution from S&P on January 25, 2005 – nearly eight years prior to the filing of the Complaint. As such, there are no genuine issues of material fact that Plaintiffs' claims are barred by the respective statutes of limitations for each count. The Court, therefore, should grant summary judgment in Defendant's favor. *See Lussy*, 890 So.2d at 1184; *Visconti*, 306 So.2d at 564.

1. Plaintiffs' Breach of Statutory Duty Claims Under Fla. Stat. § 620.8807 (Counts 1 and 2) are Time-Barred

Counts 1 and 2 allege that Defendant breached the statutory duty imposed by Fla. Stat. § 620.8807 by refusing to return the excess distributions received upon the winding up of the Partnerships. Third Am. Complaint ¶¶ 75-80, 84-87. Plaintiffs, therefore, necessarily argue that the claim did not accrue until 2013, when the Plaintiffs allege that the Conservator began to wind up the partnerships. *Id.* at ¶ 63.

If the Court accepts Plaintiffs' argument, however, no claim against a former partner would *ever* be time-barred so long as the partnership remained a going-concern. In other words, Plaintiffs' claim under Fla. Stat. § 620.8807 is nothing more than a thinly-veiled attempt to recover from former partners for an *indefinite time* and beyond any applicable statute of limitations. Such an attempt must fail because the former partners, like Defendant, could be called upon for unlimited years after they disassociate from a partnership to contribute funds allegedly owed. *See Vrchota Corp. v. Kelly*, 42 So. 3d 319, 322 (Fla. 4th DCA 2010) ("The legislature is not presumed to enact statutes that provide for absurd results.").

Moreover, Florida's Revised Uniform Partnership Act does not specify a statute of limitations for bringing a claim under Fla. Stat § 620.8807. Therefore, the "default" four-year limitations period applies for "action[s] founded on a statutory liability." *See* Fla. Stat. § 95.11(3)(f). Accordingly, Plaintiffs had to bring Counts 1 and 2 for violating Fla. Stat. § 620.8807 within four years of an "excess" distribution.

Here, the undisputed facts establish that Counts 1 and 2 are time-barred. Defendant took her last contribution (and ceased to be a partner) in January 2005. *See* C. Smith Aff. ¶¶ 3, 5. Plaintiffs'

filed their initial Complaint on December 10, 2012 – nearly eight years after the last distribution about which they complain. Counts 1 and 2, therefore, are time-barred as a matter of law.²

2. Plaintiffs' Breach of Contract Claim (Count 3) is Barred by a Five-Year Statute of Limitations

a. Count 3 is Time-Barred Because the Last Purported Breach Occurred in January 2005

Plaintiffs allege that Defendant breached sections 4.01, 5.01, and 5.02 of the Partnership agreements by receiving and retaining distributions based upon the capital contributions of other partners rather than the Partnerships' profits. Third Am. Complaint ¶ 93. Thus, Plaintiffs necessarily argue that the acts of receiving the distributions resulted in Defendant breaching sections 4.01, 5.01, and 5.02 the Partnership agreements. The first breach, therefore, allegedly occurred over thirteen years ago, when Defendant received her first distribution from S&P in 2000, and the last breach occurred more than eight years ago, when Defendant received her last distribution from S&P in January 2005. *See* C. Smith Aff. ¶¶ 3, 5.

The statute of limitations for breach of contract claims is five years. *See* Fla. Stat. § 95.11(2)(b)(providing a five-year limitation period for a legal or equitable action on a contract, obligation, or liability founded on a written instrument). Generally, the limitations period begins to run at the time of the breach. *See Medical Jet, S.A. v. Signature Flight Support-Palm Beach, Inc.*, 941 So.2d 576, 578 (Fla. 4th DCA 2006) (“For a breach of contract action, it is well established that a statute of limitations ‘runs from the time of the breach, although no damage occurs until later.’”).

²Counts 1 and 2 for receiving improper distributions under Ch. 620 are also barred by the two-year statute of limitations set forth in Fla. Stat. § 620.1509. Indeed, to the extent Plaintiffs claim Defendant “received a distribution knowing that the distribution to that partner or transferee was made in violation of s. 620.1508,” such claim is barred by the applicable statute of limitations.

Here, the undisputed facts show that Defendant received the last, allegedly improper distribution in January 2005. Plaintiffs' filed their initial Complaint on December 10, 2012 – nearly eight years later and three years past the statute of limitations deadline. Accordingly, Plaintiffs' breach of contract claim (Count 3) under sections 4.01, 5.01, and 5.02 of the S&P Partnership Agreement are time-barred as a matter of law.

b. Count 3 is Time-Barred Because Plaintiffs Sent Their Demand Letter After the Statute of Limitations Expired

Plaintiffs try to get around the expired statute of limitations by alleging that Defendant breached sections 10.01(a)-(b) and (g) of the Partnership agreements by failing to return the alleged excess distributions after receiving Plaintiffs' November 2012 and October 2013 demand letters – which purportedly require a 10-day demand for cure prior to filing suit. *See* Third Am. Complaint ¶¶ 91-92. Plaintiffs claim that this breach of contract claim did not accrue until November 23, 2012 – ten days after Defendant received the first demand letter to return the alleged improper distributions from Plaintiffs. *Id.*

“As a general rule of contract, where the contract requires a demand as a condition to the right to sue, the statute of limitations does not commence until such demand is made.” *Greene v. Bursey*, 733 So.2d 1111, 1115 (Fla. 4th DCA 1999). The *Greene* court, however, conditioned the above general contract principal by ruling that a plaintiff:

“may not suspend indefinitely the running of the statute of limitations by delaying performance of this [demand.] In other words, the plaintiff may not, by failing or refusing to perform the condition, toll the running of the statute and reserve the right to sue within the statutory period from such time as he decides to make a demand.”

Id. (emphasis added).

Here, Plaintiffs cannot circumvent the expired statute of limitations by waiting nearly eight years to send a demand letter regarding the improper distributions, last received by Defendant in January 2005. To rule otherwise would essentially allow Plaintiffs to “suspend indefinitely the running of the statute of limitations” – a maneuver specifically proscribed by the *Greene* court. *See Greene v. Bursey*, 733 So.2d at 1115; *see also C.A. Stoudenmire v. Florida Loan Company*, 117 So.2d 500, 503 (Fla. 1st DCA 1960)(affirming summary judgment order in favor of defendant on breach of contract claim where undisputed facts showed that plaintiff made contractually-required demand to defendant three years after statute of limitations expired).

In sum, the undisputed facts show conclusively that Defendant received the last allegedly improper distribution in January 2005. *See C. Smith Aff.* ¶¶ 3, 5. Plaintiffs cannot revive their time-barred claim simply by sending demand letters in November 2012 and October 2013. If that were the case, no claim against a former partner would ever be time-barred since a mere demand letter could always revive it. Accordingly, Plaintiffs’ breach of contract claim (Count 3) under sections 10.01(a)-(b) and (g) of the Partnership agreements are time-barred as a matter of law. *See C.A. Stoudenmire*, 117 So.2d at 503.

3. Plaintiffs' Claims for Unjust Enrichment (Count 4) and Money Had and Received (Count 5) are Barred by a Four-Year Statute of Limitations

Counts 4 and 5 are claims for Unjust Enrichment and Money Had and Received, asserting that Defendant voluntarily accepted benefits from Plaintiffs, *i.e.*, the improper distributions, that would be inequitable and unjust to retain. Even though Defendant received the last purported “benefit” in January 2005, Plaintiffs contend that these “benefits” only became inequitable to retain in November 2012 when the first demand letter informed Defendant of the alleged, improper nature

of the distributions. See Third Am. Complaint ¶¶ 100, 106-107.

The statute of limitations on claims for unjust enrichment and money had and received is four years. See *Swafford v. Schweitzer*, 906 So. 2d 1194, 1195 (Fla. 4th DCA 2005); see also Fla. Stat. § 95.11(3)(k). “Statutes of limitations on unjust enrichment or quantum meruit claims generally **begin to run upon the occurrence of the event that created the uncompensated benefit in the defendant**, i.e., the plaintiff performed the labor that benefitted the defendant **or the defendant obtained the subject property or goods**.” *Beltran v. Vincent P. Miraglia, M.D., P.A.*, 125 So.3d 855, 859 (Fla. 4th DCA 2013)(emphasis added).

Here, the undisputed facts establish that the latest Plaintiffs conferred a purported benefit on Defendant was January 25, 2005, when she received the last of her allegedly improper distributions. See *C. Smith Aff.* ¶¶ 3, 5. The statutes of limitations, therefore, began to run on January 25, 2005, requiring Plaintiffs' claims for unjust enrichment and money had and received to be filed no later than January 25, 2009. See *Beltran*, 125 So.3d at 859. Because Plaintiffs failed to file timely, Counts IV and V are time-barred as a matter of law.

4. Plaintiffs' Claim to Avoid Fraudulent Transfers Pursuant to Fla. Stat. 726 et seq (Count 6) is Time-Barred

Count 6 is a claim for Avoidance of Fraudulent Transfers Pursuant to Section 726.105(1)(a) of the Florida Statutes. Plaintiffs allege that the distributions Defendant received are “transfers that could have been applicable to the payment of the distributions and obligations due to the other Partners under the Partnership Agreements.” Third Am. Complaint ¶ 112. Plaintiffs further allege that the Partnerships did not receive reasonably equivalent value in exchange for these “transfers” to Defendant, and that they were made to Defendant with the actual intent to hinder, delay or defraud

certain of the Partners, who were creditors of the Partnership. *Id.* at ¶ 111-113.

A cause of action with respect to a fraudulent transfer or obligation under Fla. Stat. § 726.105(1)(a) is extinguished unless the action is brought within 4 years after the transfer was made or, if later, within 1 year after the transfer was or could reasonably have been discovered by the claimant. *See* Fla. Stat. § 726.110(1). Here, the undisputed facts show that the last of the allegedly fraudulent transfers to Defendant occurred on January 25, 2005. Accordingly, any action with respect to this transfer under the four-year statute of limitations must have been brought by January 25, 2009. Plaintiffs failed to do so.

Moreover, the one year savings clause does not save Plaintiffs, as it provides that if suit is brought after the 4 year limitation period, it must still be brought within 1 year after the transfer was or could reasonably have been discovered. *See* Fla. Stat. § 726.110(1). Here, it is undisputed that purpose of the Partnerships was to pool and then invest the partners money, predominately with Bernard L. Madoff Investment Securities, LLC. *See* Third Am. Complaint ¶ 38. It is also undisputed that the Partnerships ultimately lost money due to the fraud committed by Bernard Madoff, which was known to the Partnerships as early as of January 2009. *See* Affidavit of Chad Pugatch and transcript, attached hereto as Composite Exhibit C (noting that the Partnerships conducted a meeting in January 2009 to discuss the Madoff fraud, “net” winners and losers, and a potential clawback case).

In sum, even under the 1 year savings clause, the claim to avoid a fraudulent transfer under Fla. Stat. § 726.105(1)(a), Count 6 is barred by the applicable statute of limitations.

5. Plaintiffs' Claim for Breach of Fiduciary Duty (Count 7) is Time-Barred

Count VII is a claim for breach of fiduciary duty, which has a four year statute of limitations. *See* Fla. Stat. § 95.11(3)(p). Because the Complaint was filed on December 10, 2012, and the purported improper distributions giving rise to the claim were made more than four years before that date, Count 7 is barred by the applicable statute of limitations.

B. Plaintiffs' Claims Fail Because Defendant's Obligations as a Partner Terminated When Defendant Dissociated From S&P

Section 9.03 of the S&P Partnership Agreement allows a partner “to withdraw from the Partnership at any given time,” provided that the withdrawing partner give 30 days notice. Likewise, Section 620.8602(1), Florida Statutes, provides that “[a] partner has the power to dissociate at any time” per the terms of Section 620.8601(1). Section 620.8601(1) provides that a partner is dissociated upon giving the partnership “notice of the partner’s express will to immediately withdraw as a partner.”

Here, it is undisputed that Defendant dissociated from S&P pursuant to Ch. 620 and the S&P Partnership Agreement when Defendant’s late husband, Berry Smith, on behalf of himself and Defendant, provided their written notice of withdrawal as partners in S&P on March 5, 2004 (or at the latest when Defendant received her final distribution from S&P on January 25, 2005). *See* C. Smith Aff. ¶¶ 3-5. As such, Defendant’s obligations as a partner in S&P, including those arising under Ch. 620 and the S&P Partnership Agreement, ceased upon her withdrawal and dissociation from S&P. Because Plaintiffs’ claims are predicated on Defendant remaining a partner in S&P as of 2012 and 2013, the claims must fail as a matter of law.

1. Section 620.8807 Does Not Apply to Defendant, a Former Partner

Count 1 (negligence) and Count 2 (statutory liability) allege that Defendant breached Fla. Stat. § 620.8807 by refusing to contribute the excess distributions she allegedly received once the Conservator began winding down the partnerships in 2013. Third Am. Complaint ¶¶ 63, 74-77, 83-87. Section 620.8807(2) states that upon winding up a partnership's business, "a partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account." (emphasis added). By the plain language of the statute, a pre-requisite for Plaintiffs' claims arising under section 620.8807 is that Defendant be an existing partner in S&P.

The undisputed facts, however, establish that Defendant's partnership interest in S&P terminated when she withdrew and dissociated in March 2004, resulting in S&P zeroing out her capital account in January 2005. *See* C. Smith Aff. ¶¶ 3-6. As such, Defendant cannot, and does not, have a duty, as a former partner, to contribute funds to S&P pursuant to section 620.8807. Because there are no genuine issues of material fact that Defendant was not a partner in S&P when it began to wind down in 2013, Counts 1 and 2 fail as a matter of law.

Moreover, even *assuming arguendo* that Defendant was an existing partner, Section 620.8807 still does not provide the basis for a claim against Defendant. In particular, Section 620.8603, Florida Statutes, provides in relevant part, "If a partner's dissociation results in a dissolution and winding up of the partnership business, ss. 620.8801-620.8807 apply; otherwise, ss. 620.8701-620.8705 apply."

Here, it is undisputed that Defendant's dissociation from the Partnerships in March 2004 and/or January 2005 did not result in the dissolution and winding up of the Partnerships. *See* Third Am. Complaint ¶ 63 (noting the Conservator did not begin to wind up the Partnerships until 2013).

Applying the plain language of Section 620.8603 of the Florida Statutes, Defendant is not, and cannot, be subject to the provisions in Section 620.8807. Counts 1 and 2, therefore, fail as a matter of law.³

2. The S&P Partnership Agreement Does Not Apply to Defendant, a Former Partner

Count 3 alleges that Defendant breached the S&P Partnership Agreement by failing to return the alleged excess distributions after receiving Plaintiffs' November 2012 and October 2013 demand letters. Third Am. Complaint ¶¶ 91-93. The contractual obligations imposed by the partnership agreement, however, only apply to "Partners" in S&P. *See* the Partnership Agreement attached as Ex. B to Third Am. Complaint.

Again, it is undisputed that Defendant withdrew and dissociated from the Partnerships in March 2004 and January 2005, such that Defendant was not a "partner" subject to the S&P partnership agreement when it sent the demand letters in November 2012 and October 2013. *See* C. Smith Aff. ¶¶ 3-5. Because a former partner cannot face contractual liability under the plain terms of the S&P Partnership Agreement, Count 3 for breach of contract fails as a matter of law.

3. Defendant May Retain Distributions Made Eight Years Ago

Counts 4 and 5 are claims for Unjust Enrichment and Count 5 for Money Had and Received, both alleging that it is inequitable for Defendant to retain distributions received over eight years ago after receiving S&P's 2012 and 2013 demand letters. It is undisputed, however, that Defendant was not a partner in S&P as of 2012 and 2013. *See* C. Smith Aff. ¶¶ 3-6. Defendant, therefore, had no

³Count 2 also fails as a matter of law because the plain language of section 620.8807 does not create an independent statutory cause of action for an alleged violation. As such, the Court should not infer an independent statutory cause of action where none has been provided by the Florida Legislature.

duty (quasi-contractual, contractual, or statutory) or obligation to return the distributions to S&P in November 2012 or later.

As such, there is no genuine issue of material fact regarding whether it is inequitable to retain distributions in November 2012 or later. Accordingly, Counts 4 and 5 fail as a matter of law. *See Jaffe v. Bank of America, N.A.*, 2012 WL 555515, *7 (S.D. Fla. 2012) (granting summary judgment in Defendant's favor on unjust enrichment claim, holding that "no evidence that [defendant] retained the collateral at issue under circumstances that make it inequitable for [defendant] to retain"); *Pearson v. Wachovia Bank, N.A.*, 2011 WL 9505, *7 (S.D. Fla. 2011) (granting summary judgment in defendant's favor on unjust enrichment claim, holding that "there is no evidence that [d]efendant retained the money at issue under circumstances that make it inequitable for [d]efendant to retain it").

4. Defendant's Statutory Duty of Loyalty Terminated When She Dissociated in 2004 and 2005

Count 7 alleges Defendant breached the statutory duty of loyalty under section 620.8404 by refusing to return the alleged excess distributions in connection with S&P winding up, beginning in 2012. Third Am. Complaint ¶¶ 116-120. This claim fails as a matter of law, however, because the statutory duty of loyalty terminated when Defendant dissociated from S&P. *See* Section 620.8603(2), Florida Statutes.

Section 620.8603(2) provides as follows:

Upon a partner's dissociation:

- (b) The partner's duty of loyalty under s. 620.8404(2)(c) terminates; and
- (c) The partner's duty of loyalty under s. 620.8404(2)(a) and (b)

and duty of care under s. 620.8404(3) continue only with regard to matters arising and events occurring before the partner's dissociation.

Here, Defendant dissociated from S&P either in March 2004, when she provided written notice of withdrawal from S&P, or at the latest in January 2005, when she received her last distribution from S&P. *See* C. Smith Aff. ¶¶ 3-5.⁴ Such actions terminated Defendant's statutory duty of loyalty under section 620.8404(2)(c). *See* Section 620.8603(2)(b), Florida Statutes. Moreover, the statute makes clear that Defendant's duties of loyalty under sections 620.8404(2)(a) and (b) do not extend to Defendant's post-dissociation conduct, *i.e.*, the alleged failure to return the excess distributions in connection with the winding up and demand letters **in 2012**. *See* Section 620.8603(2)(c), Florida Statutes. Because it is undisputed that Defendant had no outstanding statutory duty as of 2012 and 2013, Count 7 fails as a matter of law.

C. Plaintiffs' Claims are Barred by the Terms of the Partnership Agreements

Plaintiffs' claims are barred by the exculpatory clause in the Partnership agreements, which provide, in pertinent part, that:

LIMITATIONS ON LIABILITY

14.03 THE PARTNERS SHALL HAVE NO LIABILITY TO THE PARTNERSHIP OR TO ANY OTHER PARTNER FOR ANY MISTAKES OR ERRORS IN JUDGMENT, NOR FOR ANY ACT OR OMISSIONS BELIEVED IN GOOD FAITH TO BE WITHIN THE SCOPE OF AUTHORITY CONFERRED BY THIS AGREEMENT. THE PARTNERS SHALL BE LIABLE ONLY FOR ACTS AND/OR OMISSIONS INVOLVING INTENTIONAL WRONGDOING, FRAUD, AND BREACHES OF FIDUCIARY DUTIES OF CARE AND LOYALTY.

See Exhibit B to Third Am. Complaint, Partnership Agreement, § 14.03 (capitalization in original).

⁴*See also* section 620.8601(1), Florida Statutes (A partner is dissociated upon giving the partnership "notice of the partner's express will to immediately withdraw as a partner.").

This type of liability limitation is valid and enforceable under Florida law. *See Loewe v. Seagate Homes, Inc.*, 987 So. 2d 758, 760 (Fla. 5th DCA 2008)(recognizing that “unambiguous exculpatory provisions are enforceable”); *Voicestream Wireless Crop. v. U.S. Commc 'ns., Inc.*, 912 So. 2d 34, 38 (Fla. 4th DCA 2005) (noting, generally, that “[p]arties can contract to limit their liability.”).

“Where the determination of the issues of a lawsuit depends upon the construction of a written instrument and the legal effect to be drawn therefrom, the question at issue is essentially one of law only and determinable by entry of summary judgment.” *Cox v. CSX Intermodal, Inc.*, 732 So.2d 1092, 1096 (Fla. 1st DCA 1999). In construing the above provision, the Court should give effect to the plain and ordinary meaning of the terms used and should arrive at an interpretation consistent with logic and reason. *See Golf Scoring Systems Unlimited, Inc. v. Remedio*, 877 So.2d 827, 829 (Fla. 4th DCA 2004); *Royal Oak Landing Homeowners Ass'n, Inc. v. Pelletier*, 620 So.2d 786, 788 (Fla. 4th DCA 1993).

Under such framework and the terms of the partnership agreement, Plaintiffs can only defeat summary judgment by establishing Defendant engaged in “intentional wrongdoing, fraud and/or a breach of fiduciary duty” while a partner in S&P. In other words, the conduct must have occurred prior to Defendant’s dissociation from S&P in March 2004 and/or January 2005. It is undisputed that Defendant did not engage in said conduct during said time frame (or any time frame). *See C. Smith Aff.* ¶ 8.

Echoing Defendant’s affidavit, the Third Am. Complaint makes clear that it was the former Managing General Partners’ alleged breaches of fiduciary duty that gave rise to the causes of action against Defendant, not her own. *See Third Am. Complaint* ¶ 48 (alleging that “the former Managing General Partners breached their fiduciary duties of loyalty and care to the Partners and the

Partnerships by making distributions to certain Defendants”); *see id.* at ¶¶ 97, 104, 111 (“Defendants were able to receive those distributions...through undue advantage exercised by the former Managing General Partners, who made the distributions and breached their fiduciary duties of care and loyalty to the Partnerships and the Partners.”).

Plaintiffs, however, seek to manufacture compliance with section 14.03 by claiming that a former partner’s failure to make a contribution to the Partnerships in response to their November 2012 and October 2013 demand letters constitutes *intentional wrongdoing, fraud and/or a breach of fiduciary duty*. This is a strained interpretation that defies logic and reason and must be rejected. *See King v. Bray*, 867 So. 2d 1224, 1227 (Fla. 5th DCA 2004) (“The courts generally agree that where one interpretation of a contract would be absurd and another would be consistent with reason and probability, the contract should be interpreted in the rational manner.”).

In sum, the only reasonable reading of section 14.03 of the Partnership agreements is that Defendant is only liable for her own conduct involving “intentional wrongdoing, fraud, and breaches of fiduciary duties of care and loyalty” while a partner at S&P. There is no genuine issue of material fact that Defendant engaged in such conduct. Plaintiffs’ claims, therefore, are barred by the exculpatory clause in the Partnership agreements.

D. Defendant Never Invested in P&S

Defendant is also entitled to summary judgment on all claims alleged by P&S as it is undisputed that Defendant never invested in or received distributions from P&S. *See C. Smith Aff.* ¶ 5; *see* Plaintiffs’ Response to Request for Admissions Nos. 4 and 7.

IV. CONCLUSION

Based on the foregoing reasons, Defendant Catharine Smith requests the Court enter summary judgment as to all claims in Plaintiffs' Third Amended Complaint.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been e-filed and served through the court's e-filing portal to Gary J. Rotella (rotellagar@aol.com), Rotella Law, PA, 150 N. Federal Highway, Ste. 250, Fort Lauderdale, FL 33304; Joseph P. Klapholz, Esq., Joseph P. Klapholz, P.A., 2500 Hollywood Blvd., Suite 212, Hollywood, FL 33020, (jklap@klapholzpa.com; dml@klapholzpa.com), Peter G. Herman, Esq., Tripp Scott, 110 SE Sixth Street, Suite 1500, Fort Lauderdale, FL 33301, (PGH@trippscott.com); Michael R. Casey, Esq., 1831 NE 38th St., # 707, Oakland Park, FL 33308, (mcasey666@gmail.com); Michael C. Foster, Esq., Annette M. Urena, Esq., Daniels Kashtan, 4000 Ponce de Leon Blvd., Suite 800, Coral Gables, FL 33146, (Mfoster@dkdr.com; aurena@dkdr.com); Marc S. Dobin, Esq., Dobin Law Group, PA, 500 University Boulevard, Suite 205, Jupiter, FL 33458, (service@DobinLaw.com); Julian H. Kreeger, Esq., 2665 South Bayshore Drive, Suite 2220-14, Miami, FL 33133 (Juliankreeger@gmail.com); Thomas M. Messana, Esq., Brett Lieberman, Esq., Messana, P.A., 401 East Las Olas Boulevard, Suite 1400, Fort Lauderdale, FL 33301, (tmessana@messana-law.com; blieberman@messana-law.com); Daniel W. Matlow, Esq., Daniel W. Matlow, P.A., Emerald Lake Corporate Park, 3109 Stirling Road, Suite 101, Fort Lauderdale, FL 33312, (dmatlow@danmatlow.com; assistant@danmatlow.com); Richard T. Woulfe, Esq., Bunnell & Woulfe P.A., One Financial Plaza, Suite 1000, 100 SE Third Avenue, Fort Lauderdale, FL 33394, (Pleadings.RTW@bunnellwoulfe.com); Joanne Wilcomes, Esq., McCarter & English, LLP, 100 Mulberry Street, Four Gateway Center, Newark, NJ 07102, (jwilcomes@mccarter.com); Thomas L. Abrams, Esq., 1776 N. Pine Island Road, Suite 309, Plantation, FL 33322, (tabrams@tabramslaw.com); Zach Hyman (zhyman@bergersingerman.com) Berger Singerman, 350 E. Las Olas Blvd., Ste. 1000, Ft. Lauderdale, Florida, 33301-4215, this 16th day of March, 2014.

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EXHIBIT A

IN THE CIRCUIT COURT FOR THE
SEVENTEENTH JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NUMBER: 12-34121 (07)
COMPLEX LITIGATION UNIT

MARGARET SMITH, et al.,

Plaintiffs,

v.

JANET A HOOKER CHARITABLE
TRUST, et al.,

Defendants.

AFFIDAVIT OF CATHARINE SMITH IN SUPPORT OF HER MOTION FOR SUMMARY JUDGMENT

Catharine Smith submits this affidavit and states as follows:

1. I submit this affidavit based upon my personal knowledge and in support of my Motion for Summary Judgment as to Plaintiffs' Third Amended Complaint.
2. On September 5, 1995, I executed the partnership agreement for S&P Associates, General Partnership. A true and correct copy of my signature page to the S&P Partnership Agreement received from S&P in discovery in this case is attached hereto as Exhibit A. I never executed a partnership agreement with, invested in, or received a distribution from P&S Associates, General Partnership.
3. According to the "Detail of Account" received from S&P in discovery in this case, a true and correct copy of which is attached hereto as Exhibit B, from September 6, 1995, to February 25, 1999, my late husband, Berry Smith, and I contributed a total of \$185,000 to S&P. My husband was solely responsible for writing the contribution checks and communicating with S&P. The "Detail of Account" shows that from November 6, 2000, to January 25, 2005, my late husband

and I received \$340,572.02 in distributions from S&P. *See* Exhibit B.

4. On March 5, 2004, Berry Smith, on behalf of himself and me, provided our written notice of withdrawal as partners to S&P:

Catharine and I wish to withdraw all our funds from the Partnership at your earliest convenience.

We have been completely pleased to have been your partners over the past several years and congratulate you for your excellent performance as General Partners.

Thank you, and best wishes for continued success.

A true and correct copy of the withdrawal letter to S&P received from S&P in discovery this case is attached hereto as Exhibit C (emphasis added).

5. The “Detail of Account” shows that I received my final distribution from S&P on January 25, 2005. *See* Exhibit B.

6. Thereafter, S&P issued its Year 2005 Schedule K-1 to me, which shows the partners’ share of income, deductions, and credits. Notably, the 2005 Schedule K-1 shows the following:

- a check mark indicating it is the “**Final K-1**”;
- an ending ownership percentage of **0.0%**; and
- an ending capital account of **\$0**.

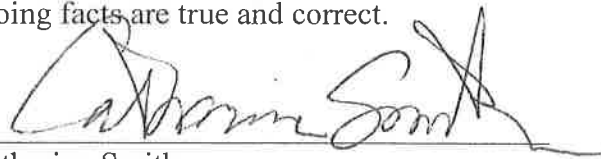
A true and correct copy of the 2005 Schedule K-1 S&P issued to me is attached hereto as Exhibit D (emphasis added).

7. On October 18 and 30, 2013, I, through my counsel, received from S&P two demand letters informing me that I allegedly received improper distributions in an amount totaling \$155,572.72. True and correct copies of these letters are attached hereto as Composite Exhibit E.

The letters attached statements detailing the funds contributed and disbursed from my capital account from 1995 through 2005. Although these statements do not specify exact dates, they definitively show that the last distribution I received from S&P was in 2005.

8. I never had any involvement whatsoever with S&P, its management and affairs, or its other partners beyond my husband, except for the contributions to S&P made in my name by my husband and the distributions referenced herein.

9. I swear and affirm that the foregoing facts are true and correct.



Catharine Smith

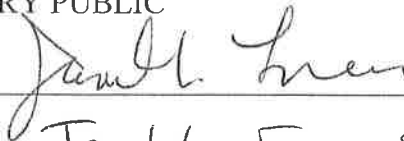
The foregoing instrument was sworn to, subscribed and acknowledged before me this 10th day of March, 2014, by Catharine Smith, who is personally known to me or produced identification

_____.

(SEAL)

NOTARY PUBLIC

Sign



Print

Janet L. Furness

State of FL at Large

My commission expires:



Complete #1, #2, and Exhibit A and mail this page only with
check made payable to "S&P Associates, G/P" to:

S & P ASSOCIATES, General Partnership
c/o SULLIVAN & POWELL
225 N. FEDERAL HWY., SUITE 600
POMPANO BEACH, FL 33062

- 1) The parties hereto have executed this Agreement by the signature and date set forth below. (Sign and date)



Date: 9-5-95

Date: _____

Date: _____

Date: _____

- 2) Please check one of the following:

☐ I elect to receive my distributions on a quarterly basis.

☒ I elect to have my quarterly distribution re-invested in the Partnership.

EXHIBIT A (Title of Your Account)

Name, Address &
Telephone # and Fax #

Soc. Sec. # or
Federal ID#

Capital Contribution

CATHARINE B. SMITH

287 26 3254 \$ 30,000

3733 SE STARBOARD LANE

STUART, FL, 34997

DETAIL OF ACCOUNT

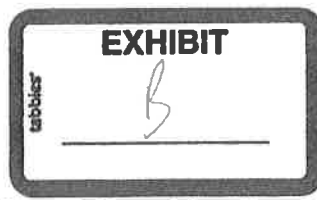
S&P Associates General Partnership

Account: Catherine B. & Berry C. Smith

Year	Date	Payee	Investments	Distributions	Check Number
1995	9/6/1995	S&P Associates	\$ 30,000.00		1360
1996	9/10/1996	S&P Associates, General Partnership	\$ 30,000.00		
1997	10/31/1997	S&P Associates	\$ 25,000.00		1590
			\$ 25,000.00		
			\$ 30,000.00		1824
1998	12/25/1997	S&P Associates, General Partnership	\$ 30,000.00		
			\$ 50,000.00		1849
1999	2/25/1999	S&P Associates, General Partnership	\$ 50,000.00		2053
			\$ 50,000.00		
2000	11/6/2000	Catherine B. & Berry C. Smith		\$ (15,000.00)	3776
2001				\$ (15,000.00)	
2002	2/4/2002	Catherine B. & Berry C. Smith		\$ (150,000.00)	4247
				\$ (150,000.00)	
2003	12/26/2003	Catherine B. & Berry C. Smith		\$ (15,000.00)	4789
				\$ (15,000.00)	
2004	3/9/2004	Catherine B. & Berry C. Smith		\$ (158,262.96)	4850
				\$ (158,262.96)	
2005	1/25/2005	Catherine B. & Berry C. Smith		\$ (2,309.06)	5180
				\$ (2,309.06)	
Totals			\$ 185,000.00	\$ (340,572.02)	

** Check not credited to the account until 1998

Ending Balance= \$ (155,572.02)



Berry C. Smith

5 March 2004

S & P Associates, General Partnerships
6550 North Federal Highway Ste 210,
Ft. Lauderdale, FL 33308

Catharine and I wish to withdraw
all our funds from the Partnerships at
your earliest convenience.

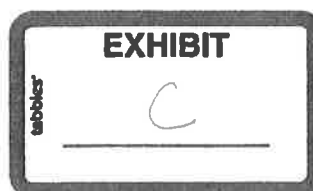
We have been completely pleased to
have been partners over the past several
years and congratulate you for your
excellent performance as General Partners.

Thank you, and best wishes for
continued success.

Yours truly,

Berry C. Smith

Catharine B. Smith



Schedule K-1
(Form 1065)

2005

For calendar year 2005, or tax

Department of the Treasury
Internal Revenue Serviceyear beginning _____
ending _____**Partner's Share of Income, Deductions,
Credits, etc.**

▶ See separate instructions.

☒ Final K-1☐ Amended K-1

OMB No. 1545-0099

**Part III Partner's Share of Current Year Income,
Deductions, Credits, and Other Items**

1 Ordinary business income (loss) 0.	15 Credits & credit recapture
2 Net rental real estate income (loss)	16 Foreign transactions
3 Other net rental income (loss)	
4 Guaranteed payments	
5 Interest income	
6a Ordinary dividends	17 Alternative min tax (AMT) items
6b Qualified dividends	
7 Royalties	18 Tax-exempt income and nondeductible expenses
8 Net short-term capital gain (loss)	
9a Net long-term capital gain (loss)	19 Distributions A 2307.
9b Collectibles (28%) gain (loss)	20 Other information
9c Unrecaptured sec 1250 gain	
10 Net section 1231 gain (loss)	
11 Other income (loss)	
12 Section 179 deduction	
13 Other deductions	
14 Self-employment earnings (loss) A 0.	

*See attached statement for additional information.

For IRS Use Only

Part I Information About the Partnership

A Partnership's employer identification number
65-0371254

B Partnership's name, address, city, state, and ZIP code
S & P ASSOCIATES, GENERAL PARTNERSHIP
MICHAEL SULLIVAN, GENERAL PARTNER
6550 N. FEDERAL HWY., SUITE 210
FORT LAUDERDALE, FL 33308-1404

C IRS Center where partnership filed return
OGDEN, UT

D ☐ Check if this is a publicly traded partnership (PTP)

E ☐ Tax shelter registration number, if any _____

F ☐ Check if Form 8271 is attached

Part II Information About the Partner

G Partner's identifying number
287-26-3254

H Partner's name, address, city, state, and ZIP code
CATHARINE B. & BERRY C. SMITH
3563 S.E. FAIRWAY EAST
STUART, FL 34997

I ☒ General partner or LLC member-manager ☐ Limited partner or other LLC member

J ☒ Domestic partner ☐ Foreign partner

K What type of entity is this partner? INDIVIDUAL

L Partner's share of profit, loss, and capital:

	Beginning	Ending
Profit	0.0000000%	0.0000000%
Loss	0.0000000%	0.0000000%
Capital	0.0000000%	0.0000000%

M Partner's share of liabilities at year end:

Nonrecourse \$ _____

Qualified nonrecourse financing \$ _____

Recourse \$ 0.

N Partner's capital account analysis:

Beginning capital account \$ 2307.

Capital contributed during the year \$ _____

Current year increase (decrease) \$ 0.

Withdrawals & distributions \$(2307)

Ending capital account \$ 0.

☒ Tax basis ☐ GAAP ☐ Section 704(b) book

☐ Other (explain) _____

EXHIBIT

BERGER SINGERMAN

Leonard K. Samuels
(954) 712-5142
LSamuels@bergersingerman.com

October 18, 2013

Catherine Smith & Berry Smith
Attention: Ryon M. McCabe, Esq.
McCabe Rabin, P.A.
1601 Forum Place, Suite 505
West Palm Beach, FL 33401

Re: P&S Associates, General Partnership
Case No.: 12-34121

Dear Mr. McCabe:

I am counsel for the court-appointed Conservator of P&S Associates, General Partnership ("P&S") and S&P Associates, General Partnership ("S&P," together, the "Partnerships").

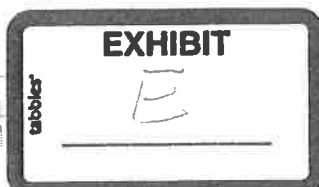
On October 7, 2013, Judge Streitfeld entered an order approving a method of distributing the Partnerships' assets to their respective partners in furtherance of winding up the Partnerships' business. As part of winding up the Partnership's business, each partner is entitled to a settlement of all partnership accounts.

In order to effectuate a settlement of partnership accounts, Florida law mandates that a partner contribute an amount equal to any excess of the charges over credits in the partner's account. *See* Fla. Stat. § 620.8807.

As of the date of this letter, the books and records of P&S state that your account has an excess of charges over credits because you have received \$155,572.02 from P&S in excess of your contributions to P&S, and there are partners in P&S who have received distributions from P&S that are less than their contributions. Enclosed as **Exhibit A** is a document setting forth the funds contributed to and disbursed from your P&S capital account from December 1992 through December 2008.

Therefore, pursuant to your obligation to contribute to P&S at the winding up of its business, **please pay the sum of \$155,572.02 no later than October 28, 2013, to:**

Berger Singerman, LLP Trust Account
Attn: Leonard Samuels, Esq.
350 E. Las Olas Blvd.
Suite 1000
Ft. Lauderdale, FL 33301



Catherine Smith & Berry Smith
Ryon M. McCabe, Esq.
October 18, 2013
Page 2

In the absence of a timely, conforming payment, appropriate action will be taken to recover this sum from you.

Should you have any questions, please do not hesitate to contact my colleague, Zachary Hyman, via e-mail at zhyman@bergersingerman.com or by phone at 954-712-5180. However, we must receive payment of the above amount no later than October 28, 2013.

Sincerely,

A handwritten signature in dark ink, appearing to read "Leonard Samuels", written over a light blue horizontal line.

Leonard Samuels as, as Court-Appointed Counsel
for the Conservator of the Partnerships

Enclosure

Exhibit "A"
In re S&P Associates, General Partnership
 Catherine B. & Berry C. Smith

Year	Cash Balance Forward	New Investment	Distributions	Ending Balance
1995		\$ 30,000.00		\$ 30,000.00
1996	\$ 30,000.00	\$ 25,000.00		\$ 55,000.00
1997	\$ 55,000.00	\$ 30,000.00		\$ 85,000.00
1998	\$ 85,000.00	\$ 50,000.00		\$ 135,000.00
1999	\$ 135,000.00	\$ 50,000.00		\$ 185,000.00
2000	\$ 185,000.00		\$ (15,000.00)	\$ 170,000.00
2001	\$ 170,000.00			\$ 170,000.00
2002	\$ 170,000.00		\$ (150,000.00)	\$ 20,000.00
2003	\$ 20,000.00		\$ (15,000.00)	\$ 5,000.00
2004	\$ 5,000.00		\$ (158,262.96)	\$ (153,262.96)
2005	\$ (153,262.96)		\$ (2,309.06)	\$ (155,572.02)
2006	\$ (155,572.02)			\$ (155,572.02)
2007	\$ (155,572.02)			\$ (155,572.02)
2008	\$ (155,572.02)			\$ (155,572.02)

Ending Balance= \$ (155,572.02)

October 30, 2013

Catherine & Berry Smith
Ryon M. McCabe, Esq.
McCabe Rabin, P.A.
1601 Forum Place, Suite 505
West Palm Beach, FL 33401

Re: S&P Associates, General Partnership
Case No.: 12-34121

Dear Mr. & Mrs. Smith:

I am counsel for the court-appointed Conservator ("Conservator") of P&S Associates, General Partnership ("P&S") and S&P Associates, General Partnership ("S&P", together, the "Partnerships").

By letter dated October 18, 2013, I requested that you immediately return the amount of \$155,572.02. A copy of that letter is attached hereto. While that letter contained a typographical error that referenced "P&S" instead of "S&P", the amount owed by you to S&P was correctly noted in the letter and the exhibit that was attached to the letter. That amount was due on October 28, 2013.

Should you have any questions, please do not hesitate to contact my colleague, Zachary Hyman via e-mail at zhyman@bergersingerman.com or by phone at 954-712-5180.

Sincerely,



Leonard Samuels

Leonard K. Samuels
(954) 712-5142
LSamuels@bergersingerman.com

October 18, 2013

Catherine Smith & Berry Smith
Attention: Ryon M. McCabe, Esq.
McCabe Rabin, P.A.
1601 Forum Place, Suite 505
West Palm Beach, FL 33401

Re: P&S Associates, General Partnership
Case No.: 12-34121

Dear Mr. McCabe:

I am counsel for the court-appointed Conservator of P&S Associates, General Partnership ("P&S") and S&P Associates, General Partnership ("S&P," together, the "Partnerships").

On October 7, 2013, Judge Streitfeld entered an order approving a method of distributing the Partnerships' assets to their respective partners in furtherance of winding up the Partnerships' business. As part of winding up the Partnership's business, each partner is entitled to a settlement of all partnership accounts.

In order to effectuate a settlement of partnership accounts, Florida law mandates that a partner contribute an amount equal to any excess of the charges over credits in the partner's account. *See* Fla. Stat. § 620.8807.

As of the date of this letter, the books and records of P&S state that your account has an excess of charges over credits because you have received \$155,572.02 from P&S in excess of your contributions to P&S, and there are partners in P&S who have received distributions from P&S that are less than their contributions. Enclosed as **Exhibit A** is a document setting forth the funds contributed to and disbursed from your P&S capital account from December 1992 through December 2008.

Therefore, pursuant to your obligation to contribute to P&S at the winding up of its business, please pay the sum of \$155,572.02 no later than October 28, 2013, to:

Berger Singerman, LLP Trust Account
Attn: Leonard Samuels, Esq.
350 E. Las Olas Blvd.
Suite 1000
Ft. Lauderdale, FL 33301

Catherine Smith & Berry Smith
Ryon M. McCabe, Esq.
October 18, 2013
Page 2

In the absence of a timely, conforming payment, appropriate action will be taken to recover this sum from you.

Should you have any questions, please do not hesitate to contact my colleague, Zachary Hyman, via e-mail at zhyman@bergersingerman.com or by phone at 954-712-5180. However, we must receive payment of the above amount no later than October 28, 2013.

Sincerely,

A handwritten signature in dark ink, appearing to read "Leonard Samuels", written in a cursive style.

Leonard Samuels as, as Court-Appointed Counsel
for the Conservator of the Partnerships

Enclosure

Exhibit "A"
In re S&P Associates, General Partnership
 Catherine B. & Berry C. Smith

Year	Cash Balance Forward	New Investment	Distributions	Ending Balance
1995		\$ 30,000.00		\$ 30,000.00
1996	\$ 30,000.00	\$ 25,000.00		\$ 55,000.00
1997	\$ 55,000.00	\$ 30,000.00		\$ 85,000.00
1998	\$ 85,000.00	\$ 50,000.00		\$ 135,000.00
1999	\$ 135,000.00	\$ 50,000.00		\$ 185,000.00
2000	\$ 185,000.00		\$ (15,000.00)	\$ 170,000.00
2001	\$ 170,000.00			\$ 170,000.00
2002	\$ 170,000.00		\$ (150,000.00)	\$ 20,000.00
2003	\$ 20,000.00		\$ (15,000.00)	\$ 5,000.00
2004	\$ 5,000.00		\$ (158,262.96)	\$ (153,262.96)
2005	\$ (153,262.96)		\$ (2,309.06)	\$ (155,572.02)
2006	\$ (155,572.02)			\$ (155,572.02)
2007	\$ (155,572.02)			\$ (155,572.02)
2008	\$ (155,572.02)			\$ (155,572.02)

Ending Balance= \$ (155,572.02)

EXHIBIT B

IN THE CIRCUIT COURT OF THE
17th JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

Case No: 12-034121(07)
Complex Litigation Unit

P&S ASSOCIATES, GENERAL PARTNERSHIP,
et al.,

Plaintiffs,

vs.

JANET A. HOOKER CHARITABLE TRUST,
et al.,

Defendants.

**PLAINTIFFS' RESPONSE AND OBJECTIONS TO DEFENDANT
CATHARINE SMITH'S FIRST REQUEST FOR ADMISSIONS TO PLAINTIFFS**

Pursuant to Rule 1.360 of the Florida Rules of Civil Procedure, Plaintiffs, by and through the undersigned counsel hereby respond and object to Defendant, Catharine Smith's ("Smith"), First Request for Admissions to Plaintiffs.

GENERAL OBJECTION

General Objection 1: Plaintiffs object to all discovery propounded upon them by Catharine Smith, at this juncture because they were not properly served. Plaintiffs filed a Notice of E-mail designation, and none of the persons or entities listed on that Notice were served or are mentioned on the proof of service. Notwithstanding the foregoing objection, to expedite discovery, Plaintiffs will respond and provide specific objections to this request for admissions, provided, however that in the event that Defendant seeks to compel the production of documents, Plaintiffs may object to service of the attached documents and respond in accordance with the



Florida Rules of Civil Procedure, within 30 days after receipt of service of such discovery requests.

SPECIFIC OBJECTIONS AND RESPONSES TO REQUESTS FOR ADMISSIONS

1. Admit that Smith was never a partner in P&S Associates.

Response: Admit.

2. Admit that Smith never invested any money in P&S Associates.

Response: Admit.

3. Admit that Smith never received any distributions from P&S Associates.

Response: Admit.

4. Admit that Smith has not received a distribution from S&P Associates since the year 2005.

Response: Admit.

5. Admit that Smith has not contributed any money to S&P Associates since the year 1999.

Response: Admit.

6. Admit that as of December 31, 2005, the balance in Smith's capital account in S&P Associates was zero dollars.

Response: Deny.

7. Admit that there has been no activity in Smith's capital account for S&P Associates since at least December 31, 2005.

Response: Admit.

8. Admit that S&P Associates has not provided Smith with annual partnership records for any period after year-end 2005.

Response: Plaintiffs object to Request for Admission Number 8 because the undefined term “annual partnership records” is vague and unclear.

9. Admit that S&P Associates never provided Smith with Partnership Form 1065 Schedule K-1 for any period after year-end 2005.

Response: Plaintiffs cannot admit or deny that that S&P Associates never provided Smith with Partnership Form 1065 Schedule K-1 for any period after year-end 2005 because they currently do not have possession or control of any of the Partnership Form 1065 Schedule K-1's that were issued to Smith for any period after year-end 2005. To the extent that such documents exist, they are currently being held by third parties and/or Smith and have not been produced to Plaintiffs.

10. Admit that S&P Associates has not provided Smith with Partnership Form 1065 Schedule K-1 since 2005.

Response: Plaintiffs object to Request for Admission Number 10 as duplicative of Request for Admission Number 9. Notwithstanding the foregoing objection, Plaintiffs cannot admit or deny that that S&P Associates never provided Smith with Partnership Form 1065 Schedule K-1 for any period after year-end 2005 because they currently do not have possession or control of any of the Partnership Form 1065 Schedule K-1's that were issued to Smith for any period since 2005. To the extent that such documents exist, they are currently being held by third parties, and/or Smith and have not been produced to Plaintiffs.

11. Admit that Smith is dissociated from S&P Associates.

Response: Plaintiffs object to Request for Admission Number 11 because it calls for a legal conclusion.

12. Admit that Smith was dissociated from S&P Associates as of December 31, 2005.

Response: Plaintiffs object to Request for Admission Number 12 as duplicative of Request for Admission Number 11 and because it calls for a legal conclusion.

13. Admit that Smith has remained dissociated from S&P Associates since 2005.

Response: Plaintiffs object to Request for Admission Number 13 as duplicative of Request for Admission Numbers 11 and 12 and because it calls for a legal conclusion.

14. Admit that Smith had no role in the affairs of S&P Associates after December 31, 2005.

Response: Plaintiffs object to Request for Admission Number 14 because the undefined term “role in the affairs” of S&P Associates is vague and unclear.

15. Admit that there has been no communication between Smith and S&P Associates from the time of issuance of the last Partnership Form 1065 Schedule K-1 until the November 13, 2012 letter sent by Plaintiffs.

Response: Plaintiffs cannot admit or deny whether there has been no communication between Smith and S&P Associates from the time of issuance of the last Partnership Form 1065 Schedule K-1 until the November 13, 2012 letter sent by Plaintiffs because it does not have documents concerning which evidence any communications between Smith and S&P Associates, and to the extent that such documents exist, those documents are being held by Third Parties, and/or Smith and have not been produced to Plaintiffs.

16. Admit that the attached Schedule K-1 Form 1065 for 2005 for Smith accurately reflects the information contained therein.

Response: Denied.

17. Admit that the attached Schedule K-1 Form 1065 for 2005 for Smith was the last and final K-1 issued to Smith by S&P Associates.

Response: Plaintiffs object to Request for Admission Number 17 as duplicative of Request for Admission Numbers 9 and 10. Notwithstanding the foregoing objection, Plaintiffs cannot admit or deny that that S&P Associates never provided Smith with Partnership Form 1065 Schedule K-1 for any period after year-end 2005 because they currently do not have possession or control of any of the Partnership Form 1065 Schedule K-1's that were issued to Smith since 2005. To the extent that such documents exist, they are currently held by third parties and/or Smith and have not been produced to Plaintiffs.

Dated: January 21, 2014

By: s/ Leonard K. Samuels

Leonard K. Samuels
Florida Bar No. 501610
Steven D. Weber
Florida Bar No. 47543
Attorneys for Plaintiffs
BERGER SINGERMANN LLP
350 East Las Olas Boulevard, Suite 1000
Fort Lauderdale, Florida 33301
Telephone: (954) 525-9900
Fax: (954) 523-2872
lsamuels@bergersingerman.com
sweber@bergersingerman.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail upon counsel identified below registered to receive electronic notifications and regular U.S. mail upon *Pro Se* parties this 21st day of January, 2014, upon the following:

Counsel	E-mail Address:
Ana Hesny, Esq.	ah@assoulineberlowe.com ; ena@assoulineberlowe.com
Eric N. Assouline, Esq.	ena@assoulineberlowe.com ; ah@assoulineberlowe.com
Annette M. Urena, Esq.	aurena@dkdr.com ; cmackey@dkdr.com ; service-amu@dkdr.com
Daniel W Matlow, Esq.	dmalow@danmatlow.com ; assistant@danmatlow.com
Debra D. Klingsberg, Esq.	dklingsberg@huntgross.com
Joanne Wilcomes, Esq.	jwilcomes@mccarter.com
Etan Mark, Esq.	emark@bergersingerman.com ; drt@bergersingerman.com ; lyun@bergersingerman.com
Evan H Frederick, Esq.	efrederick@mccaberabin.com ; janet@mccaberabin.com ; beth@mccaberabin.com
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William G. Salim, Jr., Esq.	wsalim@mmsslaw.com
Domenica Frasca, Esq.	dfrasca@mayersohnlaw.com ; service@mayersohnlaw.com
Joseph P. Klapholz, Esq.	jklap@klapholzpa.com ; dml@klapholzpa.com ;
Julian H Kreeger, Esq.	juliankreeger@gmail.com
L Andrew S Riccio, Esq.	ena@assoulineberlowe.com ; ah@assoulineberlowe.com
Leonard K. Samuels, Esq.	lsamuels@bergersingerman.com ; vleon@bergersingerman.com ; drt@bergersingerman.com
Marc S Dobin, Esq.	service@dobinlaw.com ; mdobin@dobinlaw.com ;
Michael C Foster, Esq.	mfoster@dkdr.com ; cmackey@dkdr.com ; kdominguez@dkdr.com
Richard T. Woulfe, Esq.	pleadings.RTW@bunnellwoulfe.com
Michael R. Casey, Esq.	mcasey666@gmail.com
Peter Herman, Esq.	PGH@trippscott.com
Robert J Hunt, Esq.	bobhunt@huntgross.com ; sharon@huntgross.com ; eservice@huntgross.com

Counsel	E-mail Address:
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Steven D. Weber, Esq.	sweber@bergersingerman.com ; lwebster@bergersingerman.com ; drt@bergersingerman.com
Thomas J. Goodwin, Esq.	tgoodwin@mccarter.com ; nwendt@mccarter.com ; jwilcomes@mccarter.com
Thomas L Abrams, Esq.	tabrams@tabramslaw.com ; fcolumbo@tabramslaw.com
Thomas M. Messana, Esq.	tmessana@messana-law.com ; tmessana@bellsouth.net ; mwslawfirm@gmail.com
Zachary P Hyman, Esq.	zhyman@bergersingerman.com ; DRT@bergersingerman.com ; clamb@bergersingerman.com

By: s/Leonard K. Samuels

5419211-3

COMPOSITE EXHIBIT C

AFFIDAVIT OF CHAD PUGATCH

STATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

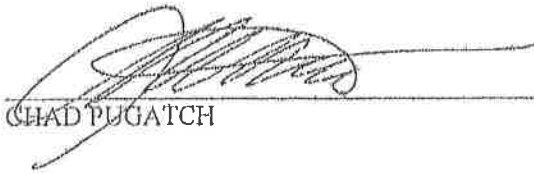
I, CHAD PUGATCH, being first duly sworn, deposes and states as follows:

1. I have personal knowledge of the matters set forth in this affidavit.
2. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts stated herein.
3. Prior to January 2009, my firm, Rice Pugatch Robinson & Schiller, P.A, was retained by the S&P Associates, General Partnership and the P&S Associates, General Partnership (the "Partnerships").
4. On January 16, 2009, a Memorandum titled "Notice of Meeting" with an agenda for a meeting to take place on Friday, January 30, 2009, along with additional documents regarding the Bernard Madoff Ponzi scheme, was provided to the partners in the Partnerships. Attached as Exhibit "A" is a true and correct copy of the documents (totaling 23 pages) which have been kept by me in the regular and ordinary course of my business.
5. On January 30, 2009, I, as counsel for the Partnerships, attended the partners meeting (the "Meeting").
6. An audio tape recording (the "Recording") was made in conjunction with the Meeting by a firm we hired to provide a call in link for out of town partners to participate in the Meeting.
7. The Recording was made at the time of the Meeting.
8. I have a copy of this Recording and this Recording is an accurate representation of the matters that were discussed at the Meeting.

9. I have kept this Recording, in the ordinary and regular course of my business on behalf of the Partnerships, who were my clients at the time of the Recording.

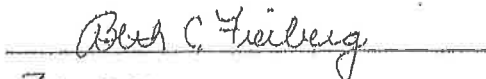
10. The Recording has been kept in mp3 format as part of the file my law firm has maintained for the matters I handled for the Partnerships and was burned to a CD under my supervision by my staff.

FURTHER AFFIANT SAYETH NAUGHT.


CHAD PUGATCH

STATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

SWORN TO (OR AFFIRMED) AND SUBSCRIBED before me on this 12th day of February, 2014 by CHAD PUGATCH, who ☒ is personally known to me or [] who has produced _____ as identification.


Print name: Beth C. Fierberg

(Seal) Notary Public, State of Florida

My Commission Expires: _____



RICE PUGATCH ROBINSON & SCHILLER, P.A.

101 N.E. THIRD AVENUE, SUITE 1800
FT. LAUDERDALE, FLORIDA 33301
TELEPHONE: (954) 462-8000
TELEPHONE: (305) 379-3121
FACSIMILE: (954) 462-4300
FACSIMILE: (305) 379-4119

www.rprslaw.com

MEMORANDUM

TO: All Partners of P&S Associates, General Partnership
FROM: Chad Pugatch, Esq.
DATE: January 16, 2009
RE: P&S Associates, General Partnership -- Notice of Meeting

Please be advised that my firm has been retained by P&S Associates, General Partnership (P&S) with regard to the unfortunate circumstances created by the arrest of Bernard Madoff and ultimate receivership and bankruptcy filing for Bernard L. Madoff Investment Securities, LLC.

As a result of the above filings and resulting freeze of assets it is imperative that P&S take appropriate actions to protect its interests and therefore all partners' interests. Some of you are aware of our firm's involvement by virtue of initial communication from Michael Sullivan. In fact we have already been receiving requests for information and have done our best to communicate as these requests have arisen. Nevertheless, it is in the best interest of the Partnership and all partners that the Partnership conduct a meeting of all partners where all of these issues and the course of conduct of the Partnership can be determined giving full attention to the input of all partners.

Pursuant to paragraph 8.04 of the Partnership Agreement, a meeting has therefore been scheduled and will take place on Friday, January 30, 2009 commencing at 2:00 p.m. eastern time at Westin Cypress Creek Hotel, 400 Corporate Drive, Fort Lauderdale, Florida 33334.

At this meeting the managing partners and professionals retained by the Partnership will be prepared to answer questions and deal with all the significant pending issues resulting from the Madoff catastrophe and will attempt to establish based upon the wishes of the partners and appropriate vote the course of conduct of the Partnership in protecting its interests and the interests of the partners.

It is anticipated that certain actions to be undertaken may require a vote. Any partner may attend in person or may attend by participating in a dial in conference call. Appropriate information will be established as to the method for dialing into this call once technical arrangements have been finalized with appropriate audio and conferencing facilities through the hotel. A subsequent notice will provide this information to you. Partners participating in person or by telephone will be entitled to speak and vote.

To the extent any partner is unable to participate either in person or by telephone the provisions of the Partnership Agreement provide in paragraph 8.04 that any partner may execute a signed, written consent to representation by another partner or representative. For your convenience we are



MEMORANDUM

January 16, 2009

Page 2

attaching an appropriate form to be utilized if you decide to be represented by another partner or professional. This form should be **executed, notarized and returned to me prior to the date of the meeting.** The Partnership cannot allow for participation or voting other than by partners or authorized representatives.

Should you have any questions concerning the above please feel free to call upon me and I will attempt as best I can to clarify any of these matters. Please also be patient as to requests for information which have been made in advance of this meeting as the best method of disseminating answers to all questions is to have them answered for the benefit of all partners at the meeting.

Yours very truly,



Chad P. Pugarch, Esq.

CPP:be

AGENDA FOR PARTNERS' MEETING - S&P ASSOCIATES, P&S ASSOCIATES, SPJ INVESTMENTS, LTD. INCLUDING MEMBERS OF GUARDIAN ANGEL TRUST, LLC

ATTORNEY/CLIENT PRIVILEGE/WORK PRODUCT

I. INTRODUCTION

This meeting is open to Partners of S&P Associates, P&S Associates, SPJ Investments, LTD as well as members of Guardian Angel Trust, LLC and/or their authorized representatives. It is not open to the public or the press. This meeting is confidential and may include discussion of attorney/client privileged matters. It is not the intention of the Partnerships to waive any such confidentiality or privilege by the unknown presence of unauthorized individuals. PLEASE respect the privacy of this meeting and your Partners.

We have established the following agenda of items to be discussed at the Partners' meeting called pursuant to the notice of January 16, 2009. The purpose of this meeting is first and foremost to provide information to the Partners as to what has transpired since the arrest of Bernard Madoff (Madoff) and subsequent receivership and insolvency proceeding for Bernard L. Madoff Investment Securities, LLC (Madoff Securities). It is also the purpose of the meeting to commence the process of determination by the Partners as to how the Partnerships will react to this crisis and to determine the future course of action of the Partnerships.

You must first come to the realization that to some extent you are all in this together. These are general partnerships and each and every one of you have or will suffer losses due to the unfortunate circumstances which have transpired. You all have potential joint and several liability with regard to the Partnerships as well. The Managing Partners and their families stand alongside you in this regard. They have invested and suffered losses just as you have. They have been working full time since this crisis developed in order to protect the interests of the Partnerships and consequently to protect the interest of each individual Partner. With that in mind please respect the process. We will do our best to get everyone's questions answered and give everyone a thorough opportunity to speak and discuss the matters relevant to the Partnerships.

While we know everyone needs information and we will attempt to answer all relevant and appropriate questions it must be understood that we are, including the professionals retained to represent the Partnerships, still new to the situation and there is an ongoing learning curve as to the facts and legal principles applicable to the facts.

PLEASE BE PATIENT. To the extent we cannot provide you with answers (or satisfactory answers) we will endeavor to do so in future meetings or by future communications. It is unlikely we will conduct any actual voting at this meeting. We have determined that it would be more appropriate, fair and accurate to conduct such voting by subsequent written

ballot in order to allow each Partner to properly consider the issues and to assure proper tabulation of ballots in accordance with each Partner's percentage interest.

Again, after discussion of the Agenda items we will allow adequate time for questions and discussion.

II. INTRODUCTION OF PROFESSIONALS AND ROLE OF PROFESSIONALS

III. BACKGROUND - HOW HAVE WE GOTTEN HERE

A) The Madoff Scandal Evolves

B) The Madoff Securities Insolvency Proceedings

IV. AGENDA ITEMS (Please note we may deviate in order if appropriate)

A) Current Status of Partnerships

B) Filing of Claims

1) Partnerships

2) Individual Rights

C) Deadlines



D) Tax Issues Including Potential for Amending Returns

Want the actions of
the P/S affect what
partner can do?

E) The Insolvency Proceedings

1) Monitoring

2) Deadlines and Hearings

3) Defensive Measures which May Become Necessary

a) Claim Objections

b) Avoidance Actions ("Clawback")

4) Affirmative Claims Against Third Parties

5) Prospective Recovery

F) The \$800,000.00 Repayment to P&S Associates

1) Risk of Avoidance

2) Who has Rights in Funds

G) Future Operations of the Partnerships

1) Management

2) Costs and Professional Fees

3) Wind Down

H) Future Meetings and Communications

I) General Questions and Discussion

Attorney Contact Information

Insolvency Counsel

Rice Pugatch Robinson & Schiller P.A.

Chad P. Pugatch, Esq. (cpugatch@rprslaw.com)

Kenneth B. Robinson, Esq. (krobinson@rprslaw.com)

Travis L. Vaughan, Esq. (tvaughan@rprslaw.com)

101 NE 3rd Ave, Ste 1800

Fort Lauderdale, FL 33301

Telephone: (954) 462-8000

Facsimile: (954) 462-4300

For more information please visit our website at www.rprslaw.com.

Securities Counsel

Sallah & Cox, LLC

James D. Sallah, Esq. (jds@sallahcox.com)

Jeffrey Cox, Esq. (jcox@sallahcox.com)

2101 NW Corporate Blvd Ste 218

Boca Raton, Florida 33431

Telephone: (561) 989-9080

Facsimile: (561) 989-9020

For more information please visit our website at www.sallahcox.com

Timeline and Dates:

Summary of Events

- I. On December 11, 2008 the SEC filed a complaint against Bernard L. Madoff Investment Securities, LLC in US District Court for the Southern district of NY, the same day the case was referred to the Bankruptcy Court for the Southern District of NY. [DE # 1]
 - a. Lee S. Richards is Appointed as Receiver: (presently to recover international possessions of Madoff Entities)
- II. On December 15, 2008 the Distinct Judge found SIPC protections necessary for Madoff Entities.
 - a. The Securities and Investor Protection Corporation is a private corporation which most brokerages must belong to, much like the FDIC, to insure securities investments, and is governed by the Securities Investor Protection Act. The goal of SIPC is to return the actual customer securities and cash to investors when possible, and to advance money to customers when there are insufficient securities or funds held by the debtor to cover responsibilities to customers. However, there are limits to coverage.
 - b. Irving Picard is appointed SPIC Trustee and supersedes Receiver
- III. On December 23, 2008, the Bankruptcy Court Approved the Trustee's Notice of procedures and claims forms. [See Exhibits A-E]
- IV. On January 2, 2009, Claims Forms/Info Mailed Out.
- V. On January 12, 2009, Bankruptcy Court approved Trustee's request for authority to subpoena documents and examine witnesses.
- VI. On January 21, 2009, Trustee filed his motion to extend time to assume or reject leases. (hearing set for February 4, 2009).
- VII. On January 29, 2008 Bankruptcy Court approved stipulation of Trustee with JP Morgan and Bank of New York Mellon for the Transfer of ~\$534,900,000.00 from accounts held in the Debtor's Name

Important Deadlines/Dates:

January 12, 2009	Deadline for open Broker Claims
February 20, 2009 at 10:00 am	341 Meeting of Creditors will be held
March 4, 2009 (January 2 + 60days)	Deadline for customer claims to be received and retain greatest SIPC protections
July 2, 2009 (January 2, + 6 months)	Claims Bar Date: customer claims and creditor Claims must be received by this date for allowance

**** Deadlines are when the Trustee must receive claims.**

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adversary Proceeding

No. 08-01789-BRL

**NOTICE TO CUSTOMERS AND CREDITORS OF BERNARD L. MADOFF
INVESTMENT SECURITIES LLC AND TO ALL OTHER PARTIES IN INTEREST**

COMMENCEMENT OF LIQUIDATION PROCEEDING

NOTICE IS HEREBY GIVEN that on December 15, 2008, the Honorable Louis A. Stanton of the United States District Court for the Southern District of New York, entered an Order granting the application of the Securities Investor Protection Corporation ("SIPC") for issuance of a Protective Decree adjudicating that the customers of Bernard L. Madoff Investment Securities LLC (the "Debtor"), are in need of the protection afforded by the Securities Investor Protection Act of 1970, 15 U.S.C. §§ 78aaa *et seq.* ("SIPA"). Irving H. Picard, Esq. ("Trustee") was appointed Trustee for the liquidation of the business of the Debtor, and Baker & Hostetler LLP was appointed as counsel to the Trustee. Customers of the Debtor who wish to avail themselves of the protection afforded to them under SIPA are required to file their claims with the Trustee within sixty (60) days after the date of this Notice. Customers may file their claims up to six months after the date of this Notice; however, the filing of claims after the sixty (60) day period but within the six month period may result in less protection for the customer. Such claims should be filed with the Trustee at Irving



H. Picard, Esq., Trustee for Bernard L. Madoff Investment Securities LLC, Claims Processing Center, 2100 McKinney Ave., Suite 800, Dallas, TX 75201. **Customer claims will be deemed filed only when received by the Trustee.**

Forms for the filing of customers' claims are being mailed to customers of the Debtor as their name and addresses appear on the Debtor's books and records. Customers who do not receive such forms within seven (7) days from the date of this Notice may obtain them by writing to the Trustee at the address shown above.

Claims by broker-dealers for the completion of open contractual commitments must be filed with the Trustee at the above address within thirty (30) calendar days after December 11, 2008, that is January 12, 2009, as provided by 17 C.F.R. 300.303. **Broker-dealer claims will be deemed to be filed only when received by the Trustee.** Claim forms may be obtained by writing to the Trustee at the address shown above.

All other creditors of the Debtor must file formal proofs of claim with the Trustee at the address shown above within six (6) months after the date of this Notice. **All such claims will be deemed filed only when received by the Trustee.**

No claim of any kind will be allowed unless received by the trustee within six (6) months after the date of this Notice.

AUTOMATIC STAY OF ACTIONS AGAINST THE DEBTOR

NOTICE IS HEREBY GIVEN that as a result of the issuance of the Protective Decree, certain acts and proceedings against the Debtor and its property are stayed as provided in 11 U.S.C. § 362 and by order of the United States District Court for the Southern District of New York entered on December 15, 2008 by the Honorable Louis A. Stanton.

MEETING OF CREDITORS

NOTICE IS HEREBY GIVEN that the first meeting of customers and creditors will be held on February 20, 2009, at 10:00 a.m., at the Auditorium at the United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, New York 10004, at which time and place customers and creditors may attend, examine the Debtor, and transact such other business as may properly come before said meeting.

HEARING ON DISINTERESTEDNESS OF TRUSTEE AND COUNSEL TO THE TRUSTEE

NOTICE IS HEREBY GIVEN that on February 4, 2009, at 10:00 a.m., at Courtroom 601 of the United States Bankruptcy Court, Southern District of New York, One Bowling Green, New York, New York 10004, has been set as the time and place for the hearing before the Honorable Burton R. Lifland, United States Bankruptcy Judge, of objections, if any, to the retention in office of Irving H. Picard, Esq., as Trustee, and Baker & Hostetler LLP, as counsel to the Trustee, upon the ground that they are not qualified or not disinterested as provided in SIPA § 78eee(b)(6). Objections, if any, must be filed not less than five (5) days prior to such hearing, with a copy to be served on counsel for the Trustee at Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, New York 10111, attn: Douglas E. Spelfogel, Esq., so to be received no fewer than five (5) days before the hearing.

NOTICE IS HEREBY GIVEN that copies of this Notice, the letter to customers, the customer claim form, and instructions as well as the SIPC brochure may be found on SIPC's

website at www.sipc.org under Proceedings/Liquidations and on the Trustee's website, www.madofftrustee.com. From time to time in the future, other updated information and notices concerning this proceeding may also be posted at SIPC's and/or the Trustee's website.

Dated: January 2, 2009
New York, New York

Irving H. Picard, Esq.
Trustee for the Liquidation of the
Business of Bernard L. Madoff Investment
Securities LLC

BERNARD L. MADOFF INVESTMENT SECURITIES LLC

In Liquidation

DECEMBER 11, 2008

TO ALL CUSTOMERS OF BERNARD L. MADOFF INVESTMENT SECURITIES LLC:

Enclosed are the following documents concerning the liquidation of the business of Bernard L. Madoff Investment Securities LLC (the "Debtor");

1. A Notice;
2. A Customer Claim Form with Instructions; and
3. A brochure entitled "How SIPC Protects You."

You are urged to read the enclosed documents carefully. They explain the steps you must take to protect any rights and claims you may have in this liquidation proceeding.

The Customer Claim form should be filled out by you and mailed to Irving H. Picard, Esq., Trustee for the Liquidation of the Business of Bernard L. Madoff Investment Securities LLC at: Irving H. Picard, Esq., Trustee for Bernard L. Madoff Investment Securities LLC, Claims Processing Center, 2100 McKinney Ave., Suite 800, Dallas, TX 75201. A return envelope for the completed Customer Claim form is enclosed. Please make a copy of the completed Customer Claim form for your own records.

Your Customer Claim form will not be deemed to be filed until received by the Trustee. It is strongly recommended your claim be mailed certified mail, return receipt requested. Your return receipt will be the only document you will receive that shows your claim has been received by the Trustee.

If, at any time, you complained in writing about the handling of your account to any person or entity or regulatory authority, and the complaint relates to the cash and/or securities that you are now seeking, please provide with your claim copies of the complaint and all related correspondence, as well as copies of any replies that you received. It is also important that you provide all documentation (such as cancelled checks, receipts from the Debtor, proof of wire transfers, etc.) of any cash amounts and any securities given to the Debtor from as far back as you have documentation. You should also provide all documentation or information regarding any withdrawals you have ever made or payments received from the Debtor.

While your claim is being processed, you may be requested to file additional information or documents with the Trustee to support the validity of your claim.

It is your responsibility to report accurately all securities positions and money balances in connection with your account with the Debtor. A false claim or the retention of property to which



you are not entitled may make you liable for damages and criminal penalties. If you cannot precisely calculate the amount of your claim, however, you may file an estimated claim.

One of the purposes of the liquidation is to return securities and cash due to customers as promptly as practicable. In that connection, funds of the Securities Investor Protection Corporation may be utilized to pay valid customer claims relating to securities and cash up to a maximum amount of \$500,000.00 for each customer, including up to \$100,000.00 for claims for cash, as provided in the Securities Investor Protection Act of 1970, as amended ("SIPA"). The enclosed brochure provides information concerning the protection afforded by SIPA.

Customers' telephone inquiries delay the liquidation. The time of personnel who would otherwise be at work to speed the satisfaction of customers' claims is required for such calls.

Your cooperation in promptly returning the completed Customer Claims form with all supporting documentation to the Trustee is in your best interest as it will help speed the administration of the liquidation proceeding.

Dated: January 2, 2009
New York, New York

Irving H. Picard, Esq.
Trustee for the Liquidation of the
Business of Bernard L. Madoff Investment
Securities LLC

BERNARD L. MADOFF INVESTMENT SECURITIES LLC

In Liquidation

DECEMBER 11, 2008

READ CAREFULLY

INSTRUCTIONS FOR COMPLETING CUSTOMER CLAIM FORM

These instructions are to help you complete the customer claim form enclosed. If Bernard L. Madoff Investment Securities LLC ("Broker") owes you cash or securities and you wish to claim them, the trustee must receive your claim on or before the date specified on the claim form. An improperly completed claim form will not be processed but will be returned to you and, consequently, will cause a delay in the satisfaction of your claim.

Item 1 is to be completed if on the date shown, the Broker owed you cash or if you owed the Broker cash.

If the Broker owes money to you, please indicate the amount in the space provided [Item 1a]. If you owe the Broker money, please so indicate in the space provided [Item 1b]. If the Broker owes you securities and you wish to receive those securities without deduction, then you must enclose your check for the amount shown in Item 1c payable to "Irving H. Picard, Esq., Trustee for the Broker." **Payments not enclosed with this claim form will not be accepted by the trustee for purposes of determining what securities are to be distributed to you.**

Item 2 deals with securities (including any options) held for you. If the Broker is holding securities for you or has failed to deliver securities to you, please indicate by checking the appropriate box under Item 2 and set forth in detail the information required with respect to the date of the transaction, the name of the security and the number of shares or face value of bonds. With respect to options, set forth number and type of options, the exercise price and expiration date, e.g., 3 options [call] or [put] Xerox at 70 2x October 81. **PLEASE DO NOT CLAIM ANY SECURITIES YOU ALREADY HAVE IN YOUR POSSESSION.**

It would expedite satisfaction of your claim if you enclose copies of:

1. Your last account statement;



2. An explanation of any differences between cash balances and securities on your last account statement and cash balances and securities you claim;
3. Purchase and sale confirmations and canceled checks covering the items referred to on your customer claim form; and
4. Proper documentation can speed the review, allowance and satisfaction of your claim and shorten the time required to deliver your securities and cash to you. Please enclose, if possible, copies of your last account statement and purchase or sale confirmations and checks which relate to the securities or cash you claim, and any other documentation, such as correspondence, which you believe will be of assistance in processing your claim. In particular, you should provide all documentation (such as cancelled checks, receipts from the Debtor, proof of wire transfers, etc.) of your deposits of cash or securities with the Debtor from as far back as you have documentation. You should also provide all documentation or information regarding any withdrawals you have ever made or payments received from the Debtor.
5. Any other documentation which may assist the processing of your claim, such as correspondence, receipts, etc. In particular, if, at any time, you complained in writing about the handling of your account to any person or entity or regulatory authority, and the complaint relates to the cash and/or securities that you are now seeking, please provide with your claim copies of the complaint and all related correspondence, as well as copies of any replies that you received.

Items 3 through 9 must each be marked and details supplied where appropriate.

A claim form must be filed for each account.

When To File

There are two deadlines for filing customer claims. One is set by the bankruptcy court for customer claims and one is set by the law for all claims.

The bankruptcy court has set March 4, 2009 as the final day for filing customer claims. If your claim is received by the Trustee after March 4, 2009 but on or before July 2, 2009, your claim is subject to delayed processing and to being satisfied on terms less favorable to you.

The law governing this proceeding absolutely bars the allowance of any claim, including a customer claim, not actually received by the trustee on or before July 2, 2009. Neither the Trustee nor SIPC has authority to grant extensions of time for filing of claims, regardless of the reason. If your claim is received even one day late, it will be disallowed.

Please file well in advance so that there will be time to re-file if, for instance, your claim is lost in the mail.

Where To File

The completed and signed claim form, together with supporting documents should be mailed **promptly** in the enclosed envelope to:

Irving H. Picard, Esq.,
Trustee for Bernard L. Madoff Investment Securities LLC
Claims Processing Center
2100 McKinney Ave., Suite 800
Dallas, TX 75201

***** PLEASE SEND YOUR CLAIM FORM BY CERTIFIED MAIL - ***
RETURN RECEIPT REQUESTED**

Your claim is not filed until received by the Trustee. If the Trustee does not receive your claim, although timely mailed, you could lose all your rights against the Broker. Your return receipt will be the only document you will receive that shows your claim has been received by the Trustee.

**THIS INSTRUCTION SHEET IS FOR YOUR FILE - DO NOT RETURN
YOU SHOULD RETAIN A COPY OF THE COMPLETED CLAIM FORM FOR
YOUR RECORDS.**

CUSTOMER CLAIM

Claim Number _____

Date Received _____

BERNARD L. MADOFF INVESTMENT SECURITIES LLC

In Liquidation

DECEMBER 11, 2008

(Please print or type)

Name of Customer: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Account No.: _____
Taxpayer I.D. Number (Social Security No.): _____

NOTE: BEFORE COMPLETING THIS CLAIM FORM, BE SURE TO READ CAREFULLY THE ACCOMPANYING INSTRUCTION SHEET. A SEPARATE CLAIM FORM SHOULD BE FILED FOR EACH ACCOUNT AND, TO RECEIVE THE FULL PROTECTION AFFORDED UNDER SIPA, ALL CUSTOMER CLAIMS MUST BE RECEIVED BY THE TRUSTEE ON OR BEFORE March 4, 2009. CLAIMS RECEIVED AFTER THAT DATE, BUT ON OR BEFORE July 2, 2009, WILL BE SUBJECT TO DELAYED PROCESSING AND TO BEING SATISFIED ON TERMS LESS FAVORABLE TO THE CLAIMANT. PLEASE SEND YOUR CLAIM FORM BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED.

1. Claim for money balances as of December 11, 2008:

- a. The Broker owes me a Credit (Cr.) Balance of \$ _____
- b. I owe the Broker a Debit (Dr.) Balance of \$ _____
- c. If you wish to repay the Debit Balance,
please insert the amount you wish to repay and
attach a check payable to "Irving H. Picard, Esq.,
Trustee for Bernard L. Madoff Investment Securities LLC."
If you wish to make a payment, it must be enclosed
with this claim form. \$ _____
- d. If balance is zero, insert "None." _____



2. Claim for securities as of December 11, 2008:

PLEASE DO NOT CLAIM ANY SECURITIES YOU HAVE IN YOUR POSSESSION.

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| a. The Broker owes me securities | _____ | _____ |
| b. I owe the Broker securities | _____ | _____ |
| c. If yes to either, please list below: | | |

Date of Transaction (trade date)	Name of Security	Number of Shares or Face Amount of Bonds	
		The Broker Owes Me (Long)	I Owe the Broker (Short)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Proper documentation can speed the review, allowance and satisfaction of your claim and shorten the time required to deliver your securities and cash to you. Please enclose, if possible, copies of your last account statement and purchase or sale confirmations and checks which relate to the securities or cash you claim, and any other documentation, such as correspondence, which you believe will be of assistance in processing your claim. In particular, you should provide all documentation (such as cancelled checks, receipts from the Debtor, proof of wire transfers, etc.) of your deposits of cash or securities with the Debtor from as far back as you have documentation. You should also provide all documentation or information regarding any withdrawals you have ever made or payments received from the Debtor.

Please explain any differences between the securities or cash claimed and the cash balance and securities positions on your last account statement. If, at any time, you complained in writing about the handling of your account to any person or entity or regulatory authority, and the complaint relates to the cash and/or securities that you are now seeking, please be sure to provide with your claim copies of the complaint and all related correspondence, as well as copies of any replies that you received.

PLEASE CHECK THE APPROPRIATE ANSWER FOR ITEMS 3 THROUGH 9.

NOTE: IF "YES" IS MARKED ON ANY ITEM, PROVIDE A DETAILED EXPLANATION ON A SIGNED ATTACHMENT. IF SUFFICIENT DETAILS ARE NOT PROVIDED, THIS CLAIM FORM WILL BE RETURNED FOR YOUR COMPLETION.

	<u>YES</u>	<u>NO</u>
3. Has there been any change in your account since December 11, 2008? If so, please explain.	_____	_____
4. Are you or were you a director, officer, partner, shareholder, lender to or capital contributor of the broker?	_____	_____
5. Are or were you a person who, directly or indirectly and through agreement or otherwise, exercised or had the power to exercise a controlling influence over the management or policies of the broker?	_____	_____
6. Are you related to, or do you have any business venture with, any of the persons specified in "4" above, or any employee or other person associated in any way with the broker? If so, give name(s)	_____	_____
7. Is this claim being filed by or on behalf of a broker or dealer or a bank? If so, provide documentation with respect to each public customer on whose behalf you are claiming.	_____	_____
8. Have you ever given any discretionary authority to any person to execute securities transactions with or through the broker on your behalf? Give names, addresses and phone numbers.	_____	_____
9. Have you or any member of your family ever filed a claim under the Securities Investor Protection Act of 1970? If so, give name of that broker.	_____	_____

Please list the full name and address of anyone assisting you in the preparation of this claim form: _____

If you cannot compute the amount of your claim, you may file an estimated claim. In that case, please indicate your claim is an estimated claim.

IT IS A VIOLATION OF FEDERAL LAW TO FILE A FRAUDULENT CLAIM. CONVICTION CAN RESULT IN A FINE OF NOT MORE THAN \$50,000 OR IMPRISONMENT FOR NOT MORE THAN FIVE YEARS OR BOTH.

THE FOREGOING CLAIM IS TRUE AND ACCURATE TO THE BEST OF MY INFORMATION AND BELIEF.

Date _____ Signature _____

Date _____ Signature _____

(If ownership of the account is shared, all must sign above. Give each owner's name, address, phone number, and extent of ownership on a signed separate sheet. If other than a personal account, e.g., corporate, trustee, custodian, etc., also state your capacity and authority. Please supply the trust agreement or other proof of authority.)

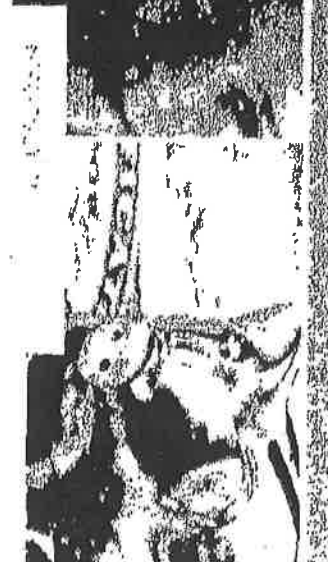
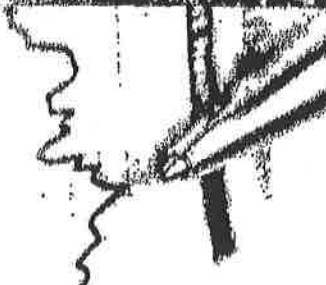
**This customer claim form must be completed and mailed promptly,
together with supporting documentation, etc. to:**

Irving H. Picard, Esq.,
Trustee for Bernard L. Madoff Investment Securities LLC
Claims Processing Center
2100 McKinney Ave., Suite 800
Dallas, TX 75201

SIPC

Securities Investor Protection Corporation
 805 15th Street, N.W., Suite 800
 Washington, D.C. 20005-2213
 Tel: 202/571-3500 Fax: 202/571-8728
 Email: csipc@sipc.org

SIPC



Brokerage firms that experience serious financial difficulties and must be shut down undergo what are called "liquidation" proceedings. The good news is that such disasters do not happen very often. Thanks to the combined efforts of securities regulators (the U.S. Securities and Exchange Commission) and state securities regulators, and the entire industry self-regulatory organizations (the NASD and stock exchanges), to safeguard investors and their assets, even in the event of a disaster, a brokerage firm encounters financial difficulty, it usually has all of its assets covered by the customer's and can efficiently transfer those assets to another broker, all without a liquidation proceeding.

However, a small handful of brokerage firms do encounter more severe financial difficulties, including customer assets that may be missing due to theft. These are the instances where the Securities Investor Protection Corporation (SIPC) steps in to cover a company's customer cash and securities, within certain limits set by law. SIPC was created in 1970 by Congress under the Securities Investor Protection Act (SIPA) to protect the interests of investors, and to help bolster confidence in the integrity of the American securities markets. Nearly all brokerage firms registered with the U.S. Securities and Exchange Commission are required by law to be members of SIPC.

You can find SIPC on the Web at <http://www.sipc.org>.





THE UNIVERSITY OF CHICAGO PRESS

the bridge, for a heady discrepancy between your records and those of the firm. If you've done real litigation done so and your bridge goes wrong, a litigation proceeding, make sure to carefully review your account statements in the step that is described here.

3. Make sure the trustee in the liquidation proceeding has your correct address. Have you moved to a different residence recently? Are you traveling a great deal and not arriving in the mail? The trustee will mail a claim form to every "customer" at the address listed in its brokerage firm's records. If the brokerage firm records relied upon by a trustee are up to date, you will not receive a claim form, and that could leave you at a serious disadvantage in the liquidation proceeding. If you don't get a claim form then the trustee, in a worst of the worst, may not be processing it accurately and you may go to the SEC Web Site

Yes, I'm, and then I start the intake as I designed it. I put different content and design, you know, and also working in just what the form from the site, Web site page Template? Added to the content!

1. *What is the main idea of the passage?*
 The passage discusses the importance of maintaining accurate records in a business or organization, highlighting the challenges and benefits of record-keeping.

2. *What are the key points mentioned in the text?*
 The key points include the need for consistent record-keeping, the role of technology in managing records, and the importance of regular audits to ensure data integrity.

3. *How does the author support their argument?*
 The author supports their argument by providing examples of common record-keeping mistakes and explaining how proper record management can lead to better decision-making and operational efficiency.

4. *What is the author's conclusion?*
 The author concludes that while record-keeping may seem tedious, it is a critical component of any successful business or organization, and investing in proper record management systems is essential for long-term success.

15- I didn't get a chair for my
What should I do?

2) Go to SIPC's Web site at <http://www.sipc.org>. Shortly after a liquidation proceeding starts, SIPC will post a copy of the claim form on its Web site. What you email the claim electronically, you can print out the claim form on the Web site and send it in. You also can consult the SIPC Web site to find the address to use to write to the trustee and request a claim form.

I think I was a victim of fraud. My broker convinced me to buy securities that went down sharply. Can SIPC return the amount of my initial investment?

No, SIPC returns the current value of your eligible holdings at a brokerage firm, if your securities have gone down in value, that is just part of the normal risk involved in being an investor. On the other hand, if your securities have gone up in value since you purchased them, SIPC will endeavor to return those securities to you at their current value. You may have a general creditor claim for your market losses, but that is not something that falls within the scope of SIPC. Funds from SIPC cannot be used to pay damage claims based on fraud.

How long will it take for me to get control of my account again?

Every liquidation proceeding is different. In some instances, a trustee may be able to transfer accounts in as little as two to three weeks. However, if the funds are tied up in real-estate, brokerage firm wire transfers, or for any other reason it is not possible to transfer your

account to a financially healthy borrower from the proceeds of the first term, you can cut down on the delays by having your claim promptly, correctly and with all required documentation.

After the liquidation proceeding involving my "old" brokerage firm started, I received a notice that my account was transferred to another brokerage firm. Does that mean I don't have to bother with the claim form?

No. You should still complete the claim form and attach it to your return. There are a number of things which might go wrong with a transfer of your assets to the new beneficiary. Your account may be rejected by the new firm, or returned to the trustee for some other reason. If anything does go wrong, you will be the owner of your account, the claim form will be the only way you will be able to recover your assets. Fill out the claim form and attach it to your return. You have been told your account has been transferred.

I don't understand how to fill in the character form. Where can I get help?

You can find a step-by-step guide to filling in a claim form on the SIPC Web site at <http://sipc.gov/sipcform>. Keep in mind that your claim form cannot be filed electronically. However, you can use the SIPC Claim Form Online Generator to fill out your form. If you do so, your email will print out and mail the completed form and all required attachments to the central clearinghouse. Your claim form and the attachments accompanied by a \$100 fee will be mailed to the clearinghouse in the mail only when it is received in total by the clearinghouse in the mail. Make sure to copy the front and back of your claim form later related documents and the form sent in the company by certified mail after your claim is received. Be sure to include the date of the claim and the date of your claim.

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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
Adversary Proceeding
No. 08-01789-BRL
SECURITIES INVESTOR PROTECTION
CORPORATION,
Plaintiff-Applicant,
v
BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC.
Defendant.

TRANSCRIPT OF MEETING
Friday, January 30, 2009
Westin Cypress Creek Hotel
400 Corporate Drive
Ft. Lauderdale, Florida 33334
(Transcribed from MP3 sound file
provided to the undersigned
court reporter via the Internet.)

Reported by
Katherine Milam, RPR
Notary Public, State of Florida

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1
2 PROCEEDINGS
3
4 MR. PUGATCH: I am getting over a cold, so if
5 I cough a little bit, I apologize, but that's what
6 we're stuck with here.
7 I will tell you, first of all, before I get
8 involved in introducing myself and my firm and the
9 other lawyers involved that we've been involved in
10 this case now since shortly after the incident was
11 first brought to the attention of the public and
12 working closely with Mike, with Steve, and they've
13 been doing nothing but spending all day, every day
14 and interfacing with us dealing with this and
15 trying to put this in the best posture so that
16 whatever the outcome, you're all given the best
17 chance to make a recovery here, and they'll
18 continue to do so.
19 My name is Chad Pugatch. I'm a senior partner
20 in Rice, Pugatch, Robinson & Schiller, P.A. We are
21 a local Fort Lauderdale and Miami law firm.
22 I've been practicing here in South Florida for
23 about 32 years, and virtually all of that
24 specializing in the insolvency field, as well as
25 litigation related to that.

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1 From my firm here, I have Travis Vaughan,
2 who's an associate in our firm.
3 One of my partners, Ken Robinson, is also
4 actively involved in this case, and he's out of
5 town on family matters this weekend and could not
6 be here today, but Ken is also a member of the New
7 York Bar, as is my other partner, Lisa Schiller,
8 and they're both actively involved and available as
9 needed for what we need to accomplish here, as well
10 as in New York.
11 We also have Mr. Jim Sallah, who's here. Jim
12 is a securities lawyer, and he's going to introduce
13 himself shortly and give you some of his
14 background, but as Mike pointed out, the two main
15 areas that we need to be keenly involved in in
16 order to commence the process of protecting all of
17 your rights through the partnerships is the
18 insolvency area and the securities area.
19 We'll obviously draw on other professionals as
20 needed. There will come a point in time where
21 we'll need an accountant or tax professional
22 involved, but our goal here is to have a team
23 focused on those areas that need to be immediately
24 attended to in order to protect all of your rights.
25 In doing that, let me say this and say it at

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1 the outset, just so everyone's clear and
2 understands.
3 We have been retained. I say we, our firm,
4 Mr. Sallah, have been retained by the partnerships,
5 and we are representing the partnerships.
6 It's not a matter -- and I know some people
7 have e-mailed me or I've talked to some people.
8 It's not a matter of not wanting to help any of you
9 individually, but we have certain ethical
10 constraints as lawyers as to what we are permitted
11 to do, and we can't get involved in any area that
12 even has the potential of a conflict of interest,
13 and it's important, therefore, that you all realize
14 that having us be here and represent the
15 partnerships is not a substitute for whatever you
16 all need to do in terms of getting your own legal
17 advice, your own tax advice and protecting your own
18 interests.
19 We will help and cooperate and provide
20 whatever input we can, and I think you'll see some
21 of that as we go through the agenda items here
22 today, but I wanted to make sure everyone is clear
23 that you should not simply say, okay, these guys
24 are there, and they're helping the partnership, so
25 I can just rely on them.

<p style="text-align: right;">Page 5</p> <p>1 There may be different issues and other issues 2 or issues where the good of the partnership as a 3 whole is different than what you may need to 4 consider as individuals. And if anyone has any 5 questions on that, when we get to the portion when 6 we go into questions and answers, we'll certainly 7 be happy to deal with that. 8 The goal here is to go through the agenda. We 9 felt, given the number of people that are involved 10 here, both in person and by telephone, we ought to 11 have some organization and structure as to this. 12 And each one of you has been handed a package. 13 We tried to keep it as simple and 14 straightforward as possible, but that package 15 commences with an introduction that I have 16 prepared, and it then goes through an outline of 17 the items we propose to cover through the course of 18 the meeting. 19 We may deviate from that a little bit in the 20 sense that something may come up that's linked to 21 something else, and the flow of the conversation 22 takes us there. It may be that we cover more than 23 one thing in the course of some discussion, so bear 24 with us if we don't exactly follow the script of 25 the outline. We're simply trying to get you the</p>	<p style="text-align: right;">Page 7</p> <p>1 manner that it would be possible to conduct a vote 2 in a manner, after further reflection, I don't 3 think, and we don't think it's the proper thing to 4 do to actually conduct any vote at this meeting, so 5 we're going to go through information. We're going 6 to provide information and discussion points to 7 you. 8 You'll each have your own adviser to consult 9 with, and if there are one or more things to 10 conclude from this, as I think there will be, you 11 all as the partners should be voting on, then we 12 will put that out in the form of a written ballot 13 where no one's being put under time pressure. 14 You'll have an adequate opportunity to understand 15 what you're doing, and we can properly then keep a 16 record of and tabulate these ballots based upon the 17 percentage interests that are in the partnership. 18 So that's generally the format that we're going to 19 use. 20 Going through the outline also and the 21 introduction, the one thing I have in bold letter 22 out of all of this here is please be patient. 23 This is a learning curve for all of us. This 24 is a problem that's not even at this point two 25 months old yet, and there's a lot for you to get</p>
<p style="text-align: right;">Page 6</p> <p>1 most information as possible. If I somehow forget 2 something at the end, we'll certainly pick that up 3 in the questions and answers. 4 Having said that, let me say, first of all, 5 and I think this went out in the notice, we are 6 recording this meeting, so therefore, everything 7 that's said by the professionals, anything that's 8 said by any of you in the discussions you may ask 9 or discussion that we may have is being recorded. 10 It's handled through the same company that's 11 handling the conference call, and as I think most 12 of you realize, there are some people who are 13 participating in this meeting by conference call. 14 We tried to make it as accessible to everybody as 15 we could. And having said that, we put this 16 together pretty quickly. 17 When this situation came up, and we started 18 getting into it and realizing how the partnership 19 structure was played out, we felt that the most 20 important thing we could do in terms of getting 21 everybody involved and getting the process started 22 was to provide information, and it's the goal of 23 this meeting of the partnership, first and 24 foremost, to provide all of you with information. 25 Although we sent the notice out in such a</p>	<p style="text-align: right;">Page 8</p> <p>1 your arms around in terms of understanding it as 2 the investors who potentially lost money, and there 3 is a lot for us as professionals to get our arms 4 around in terms of understanding all the facts and 5 background and understanding exactly what needs to 6 be done to protect all your interests. 7 You also need to understand that there are 8 some things that are more time-sensitive than 9 others, and one of the most important things in 10 terms of time sensitivity is to make sure that we 11 meet deadlines and that claims are filed. And 12 we'll talk about that some more as well, so we have 13 to give a lot of attention to those aspects of our 14 job up front. 15 So, to the extent that you may get to a point 16 where you have questions and you don't feel we have 17 given you complete answers, we're going to do our 18 best to do that with the information that's on 19 hand. We don't want to give misinformation, and we 20 have certainly points we're looking at that we 21 don't have answers to yet or are not prepared to 22 give opinions on. 23 You all in the course of your questions may 24 raise points that we either didn't consider or that 25 we need to add to the list, and rather than giving</p>

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<p>Page 9</p> <p>1 out misinformation, we'll add those to the equation</p> <p>2 and try to factor those in in terms of the</p> <p>3 information we provide in the future.</p> <p>4 So, that's kind of the gist of how we intend</p> <p>5 to proceed today.</p> <p>6 I also would like to discuss a little up front</p> <p>7 about confidentiality and how we're handling that,</p> <p>8 and I want to start out up front by apologizing. I</p> <p>9 know I got several -- I won't say irate, but</p> <p>10 concerned e-mails from people because when we sent</p> <p>11 the initial notice out to try to get everyone the</p> <p>12 most notice we could as quickly as possible, we</p> <p>13 goofed a little bit, and my assistant, when she</p> <p>14 sent it out, did not blind-copy everybody on the</p> <p>15 e-mail. I'll take full responsibility for that,</p> <p>16 and I'll apologize to you. There's nothing I can</p> <p>17 do to undo it at this point, other than to tell you</p> <p>18 that it won't happen again. Any further</p> <p>19 correspondence we send through e-mail will clearly</p> <p>20 be done through blind copy so that nobody has any</p> <p>21 further concern about that.</p> <p>22 Having said that, we have tried to get</p> <p>23 information out to you, and we'll continue to do</p> <p>24 so. We want to make sure in doing that that we</p> <p>25 have accurate and up-to-date information for all of</p>	<p>Page 11</p> <p>1 statement, and it's right at the top that it's</p> <p>2 attorney/client privileged and work product.</p> <p>3 There's also confidentiality that attaches to</p> <p>4 the business of the partnerships over and above</p> <p>5 that.</p> <p>6 It may sound like I'm being overly-cautious,</p> <p>7 and it may be that nothing comes out of this</p> <p>8 meeting that couldn't be discussed with somebody</p> <p>9 else who's not privy to this information, but we</p> <p>10 ask you, please, to respect the confidentiality and</p> <p>11 privacy of your other partners and respect the</p> <p>12 process so that what we do as a partnership through</p> <p>13 its professionals can, as much as possible, be</p> <p>14 treated with the proper attorney/client privileges</p> <p>15 and not open doors that we may not think are</p> <p>16 important now, but may become important later on in</p> <p>17 terms of what information does or doesn't get</p> <p>18 shared with third parties.</p> <p>19 Let me also talk about the press.</p> <p>20 I know I've gotten calls from the press. The</p> <p>21 calls that I've gotten are because they have gotten</p> <p>22 information from people who got in notices, and</p> <p>23 again, you all have the right certainly to do</p> <p>24 whatever you think is appropriate individually, but</p> <p>25 I ask you to respect the rights (inaudible)</p>
<p>Page 10</p> <p>1 you, so anyone who feels that there is either a</p> <p>2 different address or another address or some other</p> <p>3 manner that you want us to provide you with notice,</p> <p>4 please, you all have the contact information from</p> <p>5 our office, and you can certainly feel free to do</p> <p>6 that.</p> <p>7 These partnerships are not exactly the same.</p> <p>8 They may be the same in structure, but they don't</p> <p>9 all contain the same partners.</p> <p>10 There's some overlap, so there's a great deal</p> <p>11 of non-overlap. However, the issues that face each</p> <p>12 of these partnerships are substantially the same,</p> <p>13 but they're not the same in each case, as you may</p> <p>14 hear.</p> <p>15 We have created through the managing partner</p> <p>16 with the partnerships what we refer to as a common</p> <p>17 interest or joint defense agreement.</p> <p>18 Therefore, insofar as you as members of the</p> <p>19 partnerships are dealing with us as the lawyers and</p> <p>20 the things that we're discussing here may be a</p> <p>21 attorney/client privileged, you need to understand</p> <p>22 that that privilege applies to all of you with</p> <p>23 regard to the partnerships you're in and to the</p> <p>24 other partnerships which are part of this meeting.</p> <p>25 I've specifically put into these materials a</p>	<p>Page 12</p> <p>1 partners and the partnerships themselves, and</p> <p>2 therefore, don't divulge or disseminate to the</p> <p>3 press things that are meant to remain private and</p> <p>4 confidential to the partners.</p> <p>5 This is for all your benefit. In my view, it</p> <p>6 accomplishes nothing at this point to share partial</p> <p>7 information with third parties that becomes public,</p> <p>8 and at some point, it will become regrettable if we</p> <p>9 end up losing rights or having rights altered</p> <p>10 because that happened.</p> <p>11 The particular reporter that I spoke to from</p> <p>12 the Sun-Sentinel, I simply told him, I have no</p> <p>13 comment, I'm representing my clients, and that</p> <p>14 business is private, and we're not prepared to</p> <p>15 comment.</p> <p>16 I asked him specifically not to attend this</p> <p>17 meeting and not to be out in the hallway and to</p> <p>18 respect the privacy of the people that are here,</p> <p>19 and he indicated he would do that, and he</p> <p>20 indicated, of course, that he'll bug me in</p> <p>21 follow-up later, and he'll get the same response.</p> <p>22 We're not prepared at this point to comment.</p> <p>23 There may come a point in time that it's</p> <p>24 appropriate to get information, but we'll do that</p> <p>25 in a thought-out manner and not just piecemeal. I</p>

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<p style="text-align: right;">Page 13</p> <p>1 really ask all of you to respect the same thing. 2 What I said to him and what I say to all of 3 you is this meeting is occurring as if it were 4 occurring in my conference room in my office with 5 all of you being invited as members of the 6 partnership, except my conference room is not big 7 enough, so this becomes my conference room. It's a 8 private meeting. Please, all of you respect that. 9 I think I've probably covered most of what's 10 in the introduction, but to the extent I didn't, I 11 think it would probably be covered by the 12 discussion that comes through the outline of agenda 13 points. 14 First of all, professionals that are involved. 15 Our firm is here to provide general guidance 16 and to cover the insolvency issues which are 17 present in this case which are going to be the 18 majority of the issues. 19 To the extent the issues are also securities 20 issues, Mr. Sallah is here and will introduce 21 himself and explain his role to you. 22 Our firm has been doing this for a long time. 23 When I say our firm, our firm in its various forms. 24 The current firm that encompasses the merger of my 25 firm with the other partners that I have has been</p>	<p style="text-align: right;">Page 15</p> <p>1 scheme, assuming it is one, that anyone ever 2 perpetrated, and that probably goes all the way 3 back to Ponzi himself. 4 While I don't profess to have been involved in 5 the Ponzi case itself, we have been over the course 6 of the last 30 years that I've been doing this 7 involved in a number of these case that are either 8 Ponzi schemes themselves or other cases that are in 9 the nature of massive investor fraud. 10 I'll give you some examples, just so -- you 11 may have heard some of them, and these, for the 12 most part, are local. 13 Probably one of the earlier ones I got 14 involved with was the case of First Fidelity. It 15 was a mortgage fraud case back in the early 80's in 16 which people were duped into investing in either 17 second mortgages that didn't have any collateral 18 behind them or alternatively had their money in 19 what was referred to as a money market. 20 Many of them didn't even want to be in the 21 particular mortgages because the returns that were 22 being given were so large, and it was strictly a 23 case that involved taking in new investor money to 24 pay old investors. 25 I represented the bankruptcy trustee in that</p>
<p style="text-align: right;">Page 14</p> <p>1 in existence for about seven years, but I've been 2 doing this work in this town for about 32 years 3 through one firm or another. 4 There are lawyers I see in this room who I've 5 dealt with before. There's lawyers -- at least one 6 lawyer in this room I've worked with before. 7 There are a couple of people in this room that 8 have been clients of ours through other capacities 9 over the years, so I know some of you, and I look 10 forward to working with you, although certainly not 11 under these circumstances. But we've been involved 12 in the course of our practice over the years in 13 doing work that encompasses exactly this type of 14 work. 15 When I say exactly this type of work, I'm not 16 sure there's ever been something exactly like this, 17 and that's something that you all have to 18 understand as well. 19 As much as you might hear the word Ponzi 20 scheme, or people might try to talk in 21 generalities, there is no generality that applies 22 to the size and scope of what's happened in this 23 Madoff situation, so we all have to see ourselves 24 along a little bit. 25 However, certainly, this isn't the first Ponzi</p>	<p style="text-align: right;">Page 16</p> <p>1 case. We took over from a State court receiver 2 appointed through the controller's office. That 3 case took a number of years to unwind. It was very 4 difficult. Probably the most difficult part of 5 that case was from the bankruptcy trustee's point 6 of view was facing the questions from a lot of 7 investors who would simply come in and say, you 8 know, before you all and the State came in here, we 9 were getting our money, so it must be your fault. 10 And you try to explain to those people, no, 11 you weren't getting your money. You were getting 12 somebody else's money. And some got it, some 13 didn't, but that was probably the first one. 14 I was involved also as the bankruptcy 15 trustee's counsel in a case called International 16 Gold Bullion Exchange. You who've been around here 17 for a while may know that one as well. 18 That was a case involving the Alderdice 19 brothers, again going back to the 80's, in which 20 they ran what was a gold investment scheme that 21 became massive, and again, which also turned out to 22 be not backed by the property that was supposedly 23 being purchased. 24 The key in this case in terms of the publicity 25 it got was the same as opening up a safe in their</p>

<p>Page 17</p> <p>1 offices by the initial receiver who found a bunch 2 of wood painted gold bars in the safe, although 3 that was probably more of a smoking gun than it was 4 reality, but that case played out over a long 5 period of time. 6 It involved dealing with the investor claims. 7 It involved, unfortunately, also what we have heard 8 referred to as clawback claims that may or may not 9 have to be dealt with in this case, and we'll talk 10 about that later, but we were involved in that one. 11 Other cases, Premium Sales, we were involved 12 in that. There's one attorney who's here in the 13 room. I remember co-counseling part of that with 14 his firm. 15 There was a case more recent, Fin Fed, 16 Financial Federated, which was a very large 17 viatical Ponzi scheme involving trading in life 18 insurance policies that were taken out on people 19 that were purportedly terminally ill, and that 20 involved huge losses, significant recoveries and a 21 lot of criminal prosecution of the people who 22 perpetrated that more recent. 23 We've been involved in other types of fraud 24 cases. I could go on, but I don't think you want 25 to keep hearing me spout off on that.</p> <p>Page 18</p> <p>1 Suffice it to say we have a lot of experience 2 in this area, and we've been involved on -- really 3 on different ends of it. We've been involved on 4 the trustee's end. We've been involved in the 5 investors' end, and in one or two cases, I have to 6 confess, I've represented the bad guy along the way 7 because even bad guys are supposed to be 8 represented, but we have a lot of experience in 9 this, and therefore, I think we bring a lot to bear 10 to the table that involves not only myself, but the 11 partners that I referred to. 12 One of my other partners, Arthur Rice, has 13 also been involved in many fraud cases over the 14 years, has litigated fraud cases and has functioned 15 in several cases as an SEC receiver himself. 16 So I think we have what it takes to handle 17 this situation for the benefit of these 18 partnerships, and we'll bring everything we have to 19 the table. 20 We're an eight-person firm. We do nothing but 21 insolvency work, and that's what's referred to in 22 the vernacular as a boutique firm. We're not a 23 full-service firm that does all kinds of law, but 24 the bottom line is that if we have to throw eight 25 lawyers at this in order to get the job done, we</p>	<p>Page 19</p> <p>1 will do whatever it takes to get the job done for 2 our clients. 3 Having said that, let's go on to the other 4 aspects of this. 5 I'd ask Mr. Sallah to give me a break on my 6 voice here and take over and introduce himself and 7 tell you what his experience is and what he brings 8 to the table. 9 MR. SALLAH: Hi. My name is Jim Sallah, and 10 I'm a principal in the law firm of Sallah & Cox. 11 It's a three-person boutique law firm in Boca 12 Raton. We do nothing but securities law. 13 We're former SEC attorneys. My partner, Jeff, 14 is a former Assistant U.S. Attorney in economic 15 crimes where he prosecuted Ponzi scheme cases for 16 the Department of Justice here in the Southern 17 District. 18 Before that, he and I worked together at the 19 Securities and Exchange Commission where we were in 20 enforcement and prosecuted a handful of fairly 21 large Ponzi scheme cases here in South Florida. 22 In fact, I worked with Chad's partner, Arthur 23 Rice. He was my receiver in a case called SEC 24 HAWA, (phonetic). It was a Ponzi scheme out of 25 West Palm.</p> <p>Page 20</p> <p>1 Before that, I was an in-house attorney. I 2 was an assistant general counsel at Raymond James 3 where I represented Raymond James -- it's a 4 brokerage firm, and their subsidiaries and 5 investment adviser in mutual funds in a variety of 6 regulatory matters, litigation, general counseling. 7 All we do is securities work. That's it. We 8 do nothing else. 9 We represent investors. We also represent, in 10 many occasions, brokerage firms, and my partner has 11 a fairly large white collar criminal defense 12 practice. 13 And let me begin by saying because we do 14 represent a lot of individuals, I cannot say how 15 sorry how I am for what's happened to you all. 16 It's unfortunate. 17 People don't realize. It's, you know, worse 18 than somebody putting out -- you know, putting a 19 gun up to your face and taking your wallet because 20 at least there, there's a limited amount of money, 21 but when somebody operates through the guise of an 22 investment adviser or a large brokerage firm, you 23 know, you really trust them with your nest egg, and 24 what people like Madoff probably don't realize, 25 although I wonder up in his, you know, \$10 million</p>
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<p style="text-align: right;">Page 21</p> <p>1 penthouse, if he's thinking about it and reflecting 2 on how he's affected -- not only that he's affected 3 all your lives, but he's affected the lives of your 4 children, your grandchildren, your parents, 5 people's, you know, financial abilities, where they 6 send their kids to school, what they leave to their 7 grandkids, what they leave to their heirs, where 8 they put their parents in an assisted living 9 facility. 10 This is affected by Mr. Madoff, so it wasn't 11 just you all. It was all the people whose lives 12 are financially dependent on you, so for that, I'm 13 very sorry. 14 I want to reiterate that my firm is only 15 representing -- we don't represent the limited 16 partners. We're representing the partnership 17 itself, okay, just the partnerships itself, the 18 entities themselves. 19 Derivatively, if what we're doing for the 20 partnerships helps you, that's great, and 21 obviously, I hope it does, but I'm just being 22 retained to represent the entities and to basically 23 give counsel where securities lawyers are affected, 24 to Chad and his firm, and obviously, we've 25 represented receivers before, SEC receivers.</p>	<p style="text-align: right;">Page 23</p> <p>1 get to where we are today? 2 And rather than taking up a lot of time on 3 that, I'm sure that most, if not all of you, have 4 been following this in the press. You probably 5 have been following it on the various websites that 6 are applicable, so I don't want to take your time 7 up with a lot of background. 8 We put together a very simple and very short 9 page that we've basically put on here with a 10 summary of events, and then some important 11 deadlines and dates, and it commences with the 12 infamous December 11th date with the SEC Complaint 13 and the institution of first, the receivership for 14 Madoff Securities, and then one specific protection 15 was brought in for the Madoff entities. 16 That started a whole different set of 17 circumstances because at that point, this case 18 began functioning, in essence, as a bankruptcy 19 case, because the SPIC laws provide for the 20 liquidation and administration of these cases to 21 occur under the bankruptcy laws. 22 So basically, you have a bankruptcy judge, you 23 have a bankruptcy trustee, and that's the way this 24 case is proceeding, and you could follow that 25 through the various websites that are out there.</p>
<p style="text-align: right;">Page 22</p> <p>1 Obviously, both in bankruptcy context and in 2 just straight-out receivership context, we both 3 represented individuals and receivers. 4 So I'm here to interface with SPIC, with 5 Mr. Picard, with Mr. Richards, the SEC Receiver, 6 whoever it need be where any security issues arise, 7 and as you know, a lot of them will. 8 So I'm going to let Chad take over, and at the 9 end, if there's any questions, to the extent I can 10 answer them, I'm happy to do that. 11 MR. PUGATCH: We expect that at the end of 12 this, you're all going to have questions and things 13 that need to be discussed, so after we go through 14 these points, it's kind of going to become more of 15 an open forum, discussion, question and answer. 16 At that point, we'll go back and forth and try 17 to answer your questions within our sphere of 18 knowledge the best we can. 19 I think that in order to go through this 20 logically, if we start with the package that I 21 handed out or that was handed out to each of you, 22 it starts with my introduction and the agenda 23 items. 24 The first thing that I put on there is 25 basically, a summary of the background. How did we</p>	<p style="text-align: right;">Page 24</p> <p>1 There are a couple of them I think that if you 2 haven't already seen them, and I probably should 3 have put this in the outline, but there's a 4 www.Madofftrustee.com website, and there's a 5 www.SPIC.org website, both of which have a lot of 6 information, and again, you've probably been 7 following them. I'm not telling you, most of you 8 anything you don't already know, but to the extent 9 you haven't been, you can get a wealth of 10 information off of those websites and keep up 11 pretty much daily to what goes on in this case. 12 Yeah, I'll be happy to. 13 Www.Madoff -- I'm sure you all know how to 14 spell that -- trustee with no breaks in it .com, 15 and then www.SIPC.org. 16 If anyone still needs any of that, when we're 17 done here, you can come up to one of us, and we'll 18 get you this information. 19 Significant events in the bankruptcy case, 20 other than the appointment of the trustee, probably 21 commenced with the December 23rd order and approval 22 of the trustee's notice of procedures and claim 23 forms, and if you look behind that information 24 initial page, you'll see as Exhibits A through E, I 25 believe it is, we've tried to give you basic --</p>

<p>Page 25</p> <p>1 maybe it's D. We've tried to give you the basic 2 information that was sent out to all of the 3 potential creditors, and that includes the notice 4 itself, notice to customers and creditors of 5 Bernard L. Madoff Investment Securities, LLC and to 6 all other parties in interest, and that gives you 7 some information, including -- it establishes 8 certain deadlines, including primarily the date for 9 what's referred to on page 3 as the meeting of 10 creditors. 11 That meeting of creditors is being held on 12 February 20th, 2009 at 10:00 o'clock in the morning 13 at the auditorium, U.S. Bankruptcy Court, Southern 14 District of New York. 15 I'm not sure how big that auditorium is, but 16 they may think about moving that before it actually 17 gets there. 18 I know when we did IGBE, we ended up having to 19 use part of the armory because of the number of 20 people that wanted to be there. 21 In any event, the notice of creditors in a 22 bankruptcy case, in any bankruptcy case is an 23 opportunity not with the judge being there, but an 24 opportunity for the creditors to normally question 25 the Debtor, although, I'm sure in this case,</p> <p>Page 26</p> <p>1 Mr. Madoff either won't be there. If he's there, 2 he's taking the Fifth Amendment, and for creditors 3 to basically find out initially what's going on in 4 the case. 5 It's the event in a bankruptcy case that kicks 6 off a lot of deadlines and starts the process of 7 providing information to creditors. 8 A decision needs to be made as to whether 9 these partnerships actually attend the meeting, and 10 the only reason I say that is because there's 11 usually not a lot that goes on at those meetings if 12 you don't have an opportunity to question the 13 person that is, in effect, the perpetrator of the 14 problem, and it's usually information that can be 15 gotten either through a transcript or through 16 interface with people who go there, so we'll make 17 the decisions on that. 18 Certainly, any of you who are interested have 19 the right to be there. I don't know that it really 20 is productive or necessary for anybody to plan on 21 attending that meeting. 22 Assuming that Madoff himself would not testify 23 at that meeting, then in all likelihood, it will 24 simply be the bankruptcy trustee, disseminating 25 information, again, most of which is available on</p>	<p>Page 27</p> <p>1 the websites in any event. 2 The other information that we have in this 3 package deals with filing of claims, and rather 4 than doing that piecemeal, I'm going to come back 5 to that so we can discuss the claims process in 6 more detail. 7 The deadlines that you'll see at the bottom of 8 the page include both claims bar dates, the most 9 significant one being, from our point of view, the 10 March 4th, 2009 deadline, which is the deadline for 11 customer claims. 12 That is the deadline for claims to receive 13 maximum SPIC protection and the deadline that the 14 partnerships have to go by in order to file their 15 claims. 16 It may be a deadline that individuals utilize 17 to file claims as well. I'm going to come back to 18 that again and discuss it in context so that you 19 understand what the pros and cons are on that. And 20 then there's a subsequent bar date of July 2nd, 21 2009 for basically customer claims that would not 22 have priority under SIPA and also for other 23 creditor claims. 24 My view is that if claims are going to be 25 filed, they ought to be filed by the March 4th</p> <p>Page 28</p> <p>1 deadline in order to try to obtain the maximum 2 priority. 3 Deadlines that are listed are when claims must 4 be received, not when you stick them in the mail, 5 so anybody who is filing a claim, it ought to be 6 sent timely in an appropriate way, whether it's 7 Fed Ex'd or some other delivery that you get a 8 receipt and you know that it's delivered on time, 9 and certainly, it's never a good idea to wait to 10 the last minute. 11 The other dates that are on here are dates 12 that are significant court events. 13 You'll see on January 12th, the approval of 14 the trustee's requests for authority to subpoena 15 documents and examine witnesses. 16 This is to use the powers of the Court to 17 conduct depositions, to subpoena records from 18 different companies and for the Trustee to start 19 the process of investigating what happened, who's 20 responsible for it and what possible assets may be 21 recovered. 22 The 21st, a motion to extend time to assume or 23 reject leases doesn't affect any of you, and then 24 on January 29th, the approval of a stipulation of 25 the Trustee with a couple of the banks involved</p>
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<p style="text-align: right;">Page 29</p> <p>1 that generated a turnover of about \$535 million 2 from accounts to the Debtor's name. 3 So the good news there is at least there's 4 liquidity for the bankruptcy trustee and the 5 professionals that he's retained to do their job 6 and try to do their best job of recovering assets 7 and property, doing forensic accounting and 8 investigating what needs to be done to try to 9 recover the most dollars for the creditors. 10 In as much as the Madoff Securities proceeding 11 is being administered in the nature of a bankruptcy 12 proceeding, we'll also need to talk about what 13 issues come up under bankruptcy law, both in terms 14 of trying to maximize recovery, and also, the 15 potential pitfalls that are out there in terms of 16 what you've probably heard in the newspapers and 17 commonly referred to as clawback liability, which 18 is really just the utilization of the avoiding 19 powers of a bankruptcy court to satisfy transfers 20 and try to bring them back into the estate, and 21 that's something that we'll also come to and talk 22 about in the context of the claims. 23 I'd like to go first into some of the 24 background so that everyone understands what we're 25 dealing with in terms of the entities here.</p>	<p style="text-align: right;">Page 31</p> <p>1 appropriate accounting to each of you as partners, 2 so these partnerships are not formally in a 3 wind-down posture, but they are no longer 4 conducting any other business, other than the 5 business of trying to protect and preserve claims 6 for the benefit of the partners and to disseminate 7 information to the partners so they can try to 8 protect their own claims, and hopefully not, but 9 ultimately, if necessary, to provide a defense 10 (inaudible) from the partnerships. 11 FEMALE SPEAKER: Can you repeat that? 12 MR. PUGATCH: In that regard, we're looking at 13 the issue of whether we should formally present the 14 process of winding down the partnerships. 15 At this point, the determination, it probably 16 does not matter whether we start that process 17 immediately, but we'll continue to look at that, 18 because effectively, whether we call it that or 19 not, these partnerships are in a wind-down mode. 20 They're no longer conducting any future business 21 unrelated to what I just described. And if anyone 22 has any questions on that, we'll definitely come 23 back to that in the course of the discussion. 24 The main thing the partnerships have to do up 25 front, other than gathering and commencing the</p>
<p style="text-align: right;">Page 30</p> <p>1 S & P and P & F are general partnerships under 2 Florida law. 3 These are the primary entities that we're 4 dealing with here. 5 That means that each of you sitting here as a 6 partner is a general partner in a general 7 partnership. 8 You have rights as a partnership in terms of 9 recovery that are normally pro rata based upon the 10 percentage share of your interest in the 11 partnership. That's the good news. 12 The bad news is that as general partners, you 13 also have potential joint and several liability for 14 any obligations of the partnerships, and right now, 15 there are no real obligations of the partnerships, 16 other than the obligation of the professionals that 17 are being covered by the funds that are still on 18 hand, but to the extent we get to discuss potential 19 avoidance powers and that kind of liability, you 20 need to understand where your particular position 21 is with regard to that. 22 These partnerships were for the purpose of 23 investing in Bernard L. Madoff Securities. 24 There is no other business of these 25 partnerships other than that and providing the</p>	<p style="text-align: right;">Page 32</p> <p>1 information process, is to protect and file claims. 2 And I'm going to take you to item E on the outline. 3 In that regard, at a minimum, as I said 4 earlier, the partnerships will be filing the 5 appropriate claims by the March deadline to protect 6 the rights of the partnerships in the SPIC 7 proceeding. 8 It's uncertain at this point in time exactly 9 how much that will generate in recovery, and it's 10 uncertain at this time whether the claims will be 11 limited to the partnerships or whether individuals 12 will also have rights to file their own claims, 13 understanding that the trading accounts were 14 between the partnerships and Madoff and that each 15 of you invested money in these partnerships, but 16 were not trading directly with Madoff. 17 You all read, I've been reading, there's no 18 definitive resolution. There have been discussions 19 about urging SPIC to up the proceedings to allow 20 not just for these direct traders to file claims, 21 but for allowance of the rights of the individuals 22 consumers, if you will, to file their own claims. 23 I don't think that I am -- I doubt that Jim is 24 prepared at this point to tell you that it's likely 25 that that will be (inaudible) --</p>

<p>Page 33</p> <p>1 FEMALE SPEAKER: I can hear him. 2 MR. PUGATCH: -- under the current law. 3 However, there's always the prospect in a case like 4 this that the law gets changed, the rules gets 5 changed to accommodate a particular situation, and 6 right now, we don't know if that's going to happen. 7 There have been urgings coming from various sources 8 that the government should open the doors to that. 9 Call it what you want. Call it a change of 10 the rules. Call it a bail-out, as the word of the 11 day is these days, but it is certainly possible 12 that because of the massive nature of it, perhaps 13 because of the SEC not quite being awake at the 14 switch, or for other reasons, that a decision will 15 be made to allocate more funds and to allow for 16 those claims to be made. 17 There is no way for us to know at this point 18 whether that's going to happen or when it's going 19 to happen. 20 What we do know is that we're facing that 21 claims bar date in early March and that at least 22 the partnerships have to comply with that bar date 23 to maximize the protection. 24 The question then becomes what should the 25 individual partners do?</p>	<p>Page 35</p> <p>1 Madoff, being that there were funds flowing back 2 and forth based upon the trading that was 3 occurring. 4 If you decide to put yourself out there as an 5 individual and file a claim, you are putting 6 yourself above the radar screen, and if you look at 7 the claim form, there may even be information on 8 that claim form that starts to give them a leg up 9 to decide whether you are somebody that they should 10 pursue or should not pursue. 11 Whether the potential benefit of having that 12 individual claim as a backup to the partnership 13 claim outweighs putting yourself out there is going 14 to be determined in part by whether you think 15 you're net up or net down. And that's why you have 16 to go to your lawyer, your accountant, and you have 17 to figure that out. 18 We will say that information is being put 19 together, and the partnerships will be providing 20 information to each of you in a private manner that 21 will give you what you need as far as we can 22 determine what you need to file a claim, that being 23 the trading information based on the partnership's 24 account, and also, the copy of the K-1 as to your 25 percentages.</p>
<p>Page 34</p> <p>1 And let me reemphasize at this point that it's 2 not our function to, nor are we really permitted to 3 provide you with individual advice on that, but I 4 will urge each one of you to talk to somebody who 5 can give you competent advice as to whether you 6 should or should not do that. 7 Now, I will throw out to you some of the pros 8 and cons, just so you can understand the nature of 9 the dilemma. 10 On the one hand, if you want to preserve your 11 rights, you might say I'll file that claim. Worst 12 case scenario, it gets disallowed, and if it's 13 allowed, I'm standing in line with everybody else. 14 However, you must all realize that because 15 there is potential for what's been referred to as 16 clawback liability here, that at some point in 17 time, somebody may come to the partnerships or to 18 the members of the partnerships or anyone else and 19 say, You know what? You got more than you should, 20 and we want some or all of it back. 21 Well, right now, each of you as partners in 22 these partnerships is, for lack of a better word, 23 below the radar screen. 24 All they know up there is that there's an S & 25 P and P & S that had trading agreements with</p>	<p>Page 36</p> <p>1 What additional to that you might need or want 2 to add, that will be your decision. If you decide 3 to file a claim, if you don't decide to file a 4 claim, at least, you'll have that information, and 5 you'll make your decision on an informed basis. 6 And that, within the limits of representing 7 the partnerships, is pretty much as far as I can 8 go. 9 I can't tell you what to do, but I can give 10 you the pros, I can give you the cons, and that's 11 what you've got to take to your adviser. 12 Another thing you're going to have to 13 consider, and I've kind of gone through C, we've 14 talked about deadlines, but I'm on D, is that there 15 may also be tax issues here, and the partnerships 16 will certainly have appropriate tax advisers to 17 make sure that the partnerships do what they're 18 supposed to do and have the appropriate advice, but 19 each of you as the individuals -- and I'm not a tax 20 lawyer. I go to my tax lawyer and accountant, just 21 like all of you do. Please don't -- this is 22 anything (inaudible) opening a door that you may 23 decide to walk through or not, but it's been 24 pointed out to us that there may be rights here for 25 each of you to go back and amend returns based upon</p>

<p style="text-align: right;">Page 37</p> <p>1 the fact that some of this income may not have been 2 real income, and if you remove some of the income 3 that's reflected on the K-1's and that you may be 4 able to go back as much as three years. 5 I'm told that in all likelihood, the IRS in 6 each district, including this one, will end up with 7 a point person that looks these things over and 8 deals with them, and it may be an avenue for you to 9 lessen the burden here; it may not, but please 10 consult with your appropriate tax adviser and take 11 a look at that and determine whether it's 12 appropriate for you. 13 The next one, on E, I've just called the 14 insolvency proceedings, and I'd like to just give 15 you some idea of how the proceedings are likely to 16 play out. 17 Right now, the professionals retained by the 18 Trustee are going to marshal and bring in assets. 19 They're trying to get their arms around what's out 20 there to freeze it, protect it, bring it in, find 21 out where all the records are, bring those records 22 in, analyze -- is that feedback coming from some of 23 the people that are on the phone? Okay. 24 Those of you that are on the phone, if you 25 could do us a favor, I think in the instructions,</p>	<p style="text-align: right;">Page 39</p> <p>1 avoidable because not all preferences and not all 2 transfers are avoidable, so if there's a 3 determination under the law that it's an avoidable 4 preference, it simply means for non-insiders, 5 looking back 90 days from the effective date of the 6 petition. In this case, it really wasn't a 7 petition, but to the date that the SIPA proceedings 8 became administered by the bankruptcy court, 9 looking back 90 days and determining within that 90 10 days who got anything and whether what they got 11 enabled them to recover more than other people 12 similarly situated who didn't get something within 13 90 days. 14 That's about the simplest way that I can put 15 it. 16 So they start by taking a list of what moneys 17 or properties were paid out of the Debtor estate 18 within those 90 days. Then they start analyzing 19 whether those are the kinds of claims that they 20 might pursue in order to get money back. 21 Just because a claim arises in that 90-day 22 period and money was paid over does not 23 automatically mean that it gets paid back. 24 There are defenses to a preference claim. 25 The most common defenses are new value.</p>
<p style="text-align: right;">Page 38</p> <p>1 there's a procedure to mute your end of the call so 2 you can hear, but not talk until we're ready to get 3 into the question and answer, and we're getting a 4 little feedback due to the speakers. 5 The initial phase of this is to find out what 6 can be done to bring in assets. 7 At the same time, assuredly, the bankruptcy 8 trustee and its professionals is going to also 9 start looking at ways to bring back money into the 10 estate that may legally not be entitled to stay in 11 the hands of the people who've gotten it, and this 12 is what we've heard referred to as clawback 13 liability. 14 Clawback liability is really just a slang term 15 for what we refer to in bankruptcy lingo as 16 litigation of avoidance claims. And an avoidance 17 claim is a right of a bankruptcy trustee to set 18 aside certain transfers, avoid them; therefore, 19 bring money or property back into the bankruptcy 20 estate. 21 The two most common ways that that's done in a 22 bankruptcy proceeding is through what's called an 23 avoidable preference and what's called an avoidable 24 fraudulent conveyance. 25 An avoidable preference, and I use the word</p>	<p style="text-align: right;">Page 40</p> <p>1 Hopefully, that wouldn't apply here because that 2 means you put more money in after you got it out, 3 and the other most common one would be transactions 4 that occurred in the ordinary course of business 5 under ordinary business terms. 6 Certainly, there's a defense here on any of 7 those claims that arise within that 90 days that if 8 they were the result of a normal trading activity 9 that had been going on for that whole period of 10 time, defenses will be raised that those are 11 transactions in the ordinary course of business 12 under the ordinary business terms between the 13 Debtor, Madoff Securities, and in this case, the 14 creditors receiving the money. 15 (Inaudible) to know how that's going to play 16 out. That is a simpler standard than what is 17 applicable to the other type of recovery under 18 fraudulent conveyance. 19 I will stop at this point, and I'm not sure 20 where it is in my outline, but I want to bring up 21 at this point a set of facts that is applicable in 22 this case to P & S, not applicable to S & P. 23 There was based upon requests that were made 24 in the ordinary course of business very shortly 25 before this all became locked in a payment that was</p>

<p style="text-align: right;">Page 41</p> <p>1 received back by P & S in the amount of \$800,000. 2 That was a result of certain people being 3 processed out of that partnership. That money was 4 received. That money clearly comes within the 5 preference period. We don't know at this point 6 whether it's a defensible transaction or not, but 7 my advice has been to the partnership to hold that 8 money, not spend it, not do anything with it until 9 it can be determined whether it's defensible that 10 that money does not have to go back. 11 The last thing in the world we want to do is 12 have that money not be available so that if it does 13 have to go back, it becomes an \$800,000 claim that 14 becomes (inaudible) to all the members of the 15 partnership. 16 So please understand, any of you who are or 17 were aware that that exists that it's been our 18 firm's advice that that money simply be held. That 19 means it's not available to be distributed. It 20 means it's not available for us to draw on for fees 21 or anything else. It's just going to sit there 22 until we figure out what needs to be done with it 23 and whether it's defensible. 24 Beyond that, there's this other set of issues 25 that apply to that \$800,000.</p>	<p style="text-align: right;">Page 43</p> <p>1 of that group or not part of that group, but we're 2 not in a position right now, nor should we be 3 forced to rush into a position of making that 4 determination prematurely. That issue does not 5 apply to S & P. 6 Once the claims are identified, the next 7 question is what will they do in terms of clawback 8 liability? 9 The preferences, we have identified. The 10 other type of liability that needs to be dealt with 11 is what I refer to as fraudulent transfer 12 liability. 13 Fraudulent transfer liability is somewhat of a 14 misnomer because it doesn't really mean or imply 15 that anybody who was involved in it was guilty or 16 participated in a fraud. It's an insolvency word 17 of art that means that under certain conditions, 18 transactions may be avoidable, and there is one set 19 of those that would be based upon avoiding 20 transactions that were the result of actual fraud 21 or that were committed with actual fraudulent 22 intent. 23 It's unlikely that that would apply to any of 24 the general investors who got money back at any 25 time in these partnerships, or for that matter, any</p>
<p style="text-align: right;">Page 42</p> <p>1 One way to look at it would be that that money 2 was requested in order to cash out certain people. 3 Therefore, those certain people would have a claim 4 or a priority claim or the only claim to those 5 funds. 6 On the other hand, the moneys were requested 7 by the partnership through Madoff where it was all 8 done through one account without any specificity on 9 the Madoff end as to how that money was going to 10 get allocated once it got back in the hands of the 11 partnership. 12 I'm not here at this point to make a 13 determination as to which of those views is 14 correct, but there again, in fairness to everybody, 15 until it's determined in one way or another -- 16 first of all, does it get kept at all one way or 17 the other, and if it is going to get kept, how it 18 should be shared. 19 The only prudent thing to do is to protect 20 everybody's interest and say hang onto it, do 21 nothing with it. 22 So that's where we are with regard to that set 23 of funds right now, and again, we respect the fact 24 that different people are going to have different 25 views on that, depending on whether they are part</p>	<p style="text-align: right;">Page 44</p> <p>1 of the other investors in their own right. 2 But there's another set of rules, laws that 3 apply to fraudulent transfers that may make a 4 transfer constructively fraudulent, meaning that 5 the effect of the transfer was to hinder, delay or 6 defraud other creditors, and the most typical group 7 of those were transfers during the time when an 8 entity was insolvent that were made with less than 9 adequate consideration. 10 I won't go into the litany of other, what we 11 call badges of fraud that may apply to determine 12 constructive fraudulent intent, but suffice it to 13 say that those facts may apply to the entire course 14 of conduct of Madoff Securities. 15 And remember, this is not measured by what all 16 of you did. It's measured by what Madoff 17 Securities did. And the theory would go somewhat 18 like this. 19 If in fact, this was a Ponzi scheme, and I'll 20 stop there and say that that term gets thrown 21 around very liberally, and in this case, and you 22 start by saying that anyone admits it is, or if so, 23 when it became a Ponzi scheme, because the question 24 of if becomes one that becomes very significant to 25 the timing of the trustee's right to claim recovery</p>

<p style="text-align: right;">Page 45</p> <p>1 and the question of when becomes applicable to how 2 far back a trustee can go in trying to set aside 3 (inaudible). 4 Having said that, I'll tell you that this 5 proceeding is occurring in New York, and assuming 6 it's governed by New York law, that it's my 7 understanding that that reach-back period would be 8 six years under New York law. It's four years 9 under Florida law, two years under bankruptcy law, 10 but the State law is also capable of being used by 11 the bankruptcy trustee, so you have to assume up to 12 two years as a general starting point for how far 13 back they could potentially go, and the conditions 14 under which a bankruptcy trustee will be allowed to 15 clawback are premised on the fact that if it was a 16 Ponzi scheme, it was not a legitimate business 17 enterprise, and if wasn't a legitimate business 18 enterprise, there couldn't be legitimate profits. 19 Therefore, if what you got back was what you 20 put in, that's one thing. If you got back 21 something more than you put in, income, profit, 22 that it's not real profit, and therefore, it was a 23 fraudulent transfer and ought to be put back. 24 Each of you will need to look at your account 25 to understand that, and it may not necessarily play</p>	<p style="text-align: right;">Page 47</p> <p>1 can't have your cake and eat it too. 2 For example, if the only thing the trustee is 3 going to do is allow through the SIPA proceedings a 4 claim to each of these partnerships, and you're not 5 going to be allowed to have individual claims, 6 they'll be funneled through and limited by that on 7 the theory that Madoff Securities only dealt with 8 these partnerships, didn't deal with all of you, 9 then the issue of net up or net down over the 10 course of time may be viewed at the partnership 11 level and not at your individual level. 12 Only if the partnership as initial transferee 13 is determined to be in a position where there could 14 be clawback liability would then possibly the trust 15 would be able to go to what we call subsequent 16 transferees, you all be the potential subsequent 17 transferees. 18 So again, it's an issue that's out there. 19 It's not one that I can tell you at this early 20 stage, we're done analyzing, but at least, a little 21 ray of sunshine in all of the rain clouds that 22 there may be some block or limitation there as to 23 how far back and through the Trustee can or will 24 decide to go. 25 Getting beyond all of that in the course of</p>
<p style="text-align: right;">Page 46</p> <p>1 out the way you think it does when you look at the 2 history of your account over that period of time. 3 Again, I think that the information that the 4 partnership, each partnership will be able to 5 generate to you will help you understand that in 6 terms of money in and money out, and rather than 7 disseminating any of that financial information as 8 part of the packages you've received, and 9 understanding that each of you have confidential 10 rights as to what occurred in your name, that 11 information is going to be sent out separately and 12 privately. It's not going to be disseminated to 13 the group. 14 You'll need that in order to go to your own 15 counsel and evaluate not only what your exposure 16 is, but also, again, getting back to that issue of 17 do you or do you not run the risk of filing an 18 individual claim, submitting yourself to the 19 jurisdiction of the Court and putting yourself 20 above the radar screen where you may not be there 21 right now. 22 Another issue, and this may be better news, is 23 it's not clear how many layers the Trustee will be 24 able to or will decide to go through in order to 25 get it money, and it comes under the theory of you</p>	<p style="text-align: right;">Page 48</p> <p>1 the insolvency proceedings, the court, ultimately, 2 the estate will be reduced to money, and then after 3 payment of the expenses of administering the case, 4 which I assure you will be substantial in terms of 5 legal and accounting fees and other professional 6 time, there's going to be some net amount that will 7 have to be distributed to those having legitimate, 8 allowed claims in the proceedings. And so the next 9 phase of that becomes (inaudible) at some point, 10 those claims will be viewed, analyzed. A 11 determination will be made to as which are valid 12 and which are not. 13 If the claims are determined not to be valid, 14 then the Trustee would be forced to object to those 15 claims. The claimants would have the right to 16 defend themselves and try to legitimize their 17 claims, and once that process plays out, and the 18 court makes all those rulings, at some point, 19 hopefully, money will be distributed. 20 (Inaudible) don't know right now. How long 21 it's going to take, nobody could possibly know 22 right now. 23 These proceedings, unfortunately, don't unwind 24 quickly, and I say that with regard to experience 25 in cases much smaller than this one.</p>

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1 Given the scope of what they have to get their
2 arms around, it's going to take I think at least
3 several years before this case gets to that point.
4 It could possibly be longer.
5 Whether at some point in that process, there
6 will be some mechanism to make some (inaudible)
7 distributions to creditors, possibly, but again,
8 it's way too early in the case for us to possibly
9 tell whether that's going to happen.
10 That just gives you some idea of how this
11 process in the bankruptcy court will play out over
12 time.
13 Our role -- when I say our role, our role,
14 Mr. Sallah's role, in terms of counsel for the
15 partnerships, initially, claims and claims
16 deadlines, we have to get everything properly
17 perfected.
18 Monitoring the proceedings, just keeping our
19 eye on what's going on so that if more deadlines
20 come up, more issues up that need to be dealt with,
21 we stay on top of that for the benefit of the
22 partnerships.
23 That includes any hearings that may be
24 determining people's rights, or at some point, we
25 have to make decisions as to whether we actively

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1 participate in the proceedings.
2 We're trying to be mindful that there are
3 limited dollars to go around here.
4 The last thing in the world anyone wants to do
5 is come to you as partners and say the money's used
6 up, you're all being charged a capital call to
7 contribute to legal defense.
8 Right now, there's a good chunk of money there
9 that if we use it wisely will hopefully last us
10 out, so we're trying to be mindful not to waste
11 money on things that will not necessarily produce
12 significant results.
13 We're not looking at this, just so you know,
14 either law firm, as a blank check just to spend
15 your money till there's no more there.
16 We're trying to make this work and make it
17 last and use it so that if we get to a point where
18 defensive procedures become necessary, whether it's
19 defending claim objections, or hopefully not, but
20 possibly defending clawback claims that there's
21 money there in order to accomplish that.
22 At some point, it's also going to become
23 appropriate to determine the availability of either
24 filing or participating in claims against third
25 parties.

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1 Now, having said that, the property of a
2 bankruptcy estate includes the right to recover on
3 avoidance claims and certain other rights in causes
4 of action that may be available to the Debtor as a
5 whole.
6 So the rights that will accrue against a lot
7 of these people that are determined to have been
8 co-conspirators or co-perpetrators of this whole
9 situation will probably belong to the Trustee for
10 the benefit of all creditors and not to any
11 individual group of creditors, but certainly, we'll
12 monitor and look at actions that may be available
13 to the partnerships.
14 Mr. Sallah, with his attorney's expertise,
15 it's part of what he does to look at securities
16 claims and otherwise, and it's our full intention
17 to look at that, analyze it and determine what may
18 be appropriate, and then with all of your
19 participation, to determine what is appropriate to
20 spend our money on.
21 I've kind of gone through some of these, so
22 I'm skimming. As I said, I'll probably end up
23 jumping around.
24 The next significant point really I think has
25 to do with how we operate going forward, and I've

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1 kind of jumped down to "G" at this point, future
2 operations of the partnerships.
3 Of course, it's necessary that Mike and Steve
4 remain involved to the extent of being the most
5 logical people to provide information.
6 For the benefit of the partnerships, we think
7 it's appropriate to look at bringing in an
8 independent third party to administer the wind-down
9 of the partnerships and the participation in these
10 insolvency and liquidation proceedings.
11 There are people out there that specialize in
12 this. Certainly, we, having done this for many
13 years, deal with a lot of them. There are some of
14 them who are bankruptcy trustees.
15 There are some of them who are other
16 professionals that engage in this type of conduct,
17 so basically, they could have a professional
18 insolvency liquidator, administrator at what I
19 think will turn out to be a reasonable and
20 necessary cost come in and make the decisions for
21 the benefit of all the partners that need to be
22 made on how this thing proceeds going forward.
23 We're interviewing and looking at those
24 prospects to determine who's willing to do it,
25 who's competent to do it, and also looking at

<p style="text-align: right;">Page 53</p> <p>1 costs.</p> <p>2 I will tell you, and I've been authorized by</p> <p>3 them to at least share this, the company we've</p> <p>4 looked at up front is a company known as Moecker,</p> <p>5 M-o-e-c-k-e-r & Associates. They've been down here</p> <p>6 for a long time. They function in all different</p> <p>7 areas of insolvency law as administrators. They</p> <p>8 have individuals that have acted as bankruptcy</p> <p>9 trustees, including Chapter 11 reorganizations.</p> <p>10 They have individuals who function as</p> <p>11 assignees for potential creditors to liquidate</p> <p>12 estates under State law, and they function as</p> <p>13 secretaries to creditors committees and almost any</p> <p>14 aspect of insolvency that you could imagine.</p> <p>15 I've worked with these people before. I've</p> <p>16 used different people in this firm as plan</p> <p>17 administrators when Chapter 11 plans get confirmed,</p> <p>18 and so we're evaluating, and we'll be making a</p> <p>19 report and recommendation as to bringing somebody</p> <p>20 in to perform that function.</p> <p>21 Obviously, that's not going to replace those</p> <p>22 who are already there in terms of providing</p> <p>23 information, cooperating and doing the leg work of</p> <p>24 what needs to be done, but there really needs to be</p> <p>25 one voice and one point person who's objective,</p>	<p style="text-align: right;">Page 55</p> <p>1 that if we do have to defend anything, there's</p> <p>2 money there to do it. That's the current game</p> <p>3 plan.</p> <p>4 Frankly, without that money being there, these</p> <p>5 partnerships would not be in a position to protect</p> <p>6 themselves without asking each of you to have a</p> <p>7 capital call, you know, pro rata for the money it</p> <p>8 takes to do that, and it's just not the best way to</p> <p>9 go at this point, and it may be totally avoidable,</p> <p>10 depending on how this plays out cost-wise, so we're</p> <p>11 going to create some budget of what we see going</p> <p>12 forward as the fees and costs that will have to be</p> <p>13 inclusive of the cost of the professional that we</p> <p>14 bring in as the manager, assuming you all vote and</p> <p>15 approve doing that.</p> <p>16 As I said earlier, we're also evaluating</p> <p>17 whether we should commence a formal wind-down of</p> <p>18 these partnerships under Florida law and whether</p> <p>19 it's necessary to do that at this time, and we'll</p> <p>20 report back on that as well.</p> <p>21 The last item that I wanted to go over before</p> <p>22 I sit down and shut up for a while you ask some</p> <p>23 questions is how we handle things going forward.</p> <p>24 We felt very strongly, as I said, that we</p> <p>25 needed to have this meeting and as quickly as</p>
<p style="text-align: right;">Page 54</p> <p>1 who's not himself a creditor and part of this who</p> <p>2 will make objective and impartial decisions as to</p> <p>3 how to move forward.</p> <p>4 That is something that we anticipate very</p> <p>5 quickly after we're done here, probably sometime in</p> <p>6 this coming week, submitting to the partners for a</p> <p>7 vote, so you can expect, I'd say within a week to</p> <p>8 have a report and a ballot dealing with at least</p> <p>9 that issue going forward.</p> <p>10 We're happy to discuss that in terms of</p> <p>11 getting everyone's feelings and opinions out on the</p> <p>12 table at the conclusion of the meeting, but we</p> <p>13 think that it's really important that you all</p> <p>14 objectively evaluate that to protect everyone's</p> <p>15 best interests going forward.</p> <p>16 Cost of professionals' fees. As I said, it's</p> <p>17 our goal that we don't have to ask anyone to dip</p> <p>18 into their pockets.</p> <p>19 Right now, I can tell you, and these are round</p> <p>20 numbers, that there's about \$64,000 in the S & P</p> <p>21 account and \$109,000 in the P & S account. That's</p> <p>22 exclusive of the \$800,000 which has been set aside.</p> <p>23 We believe that money needs to remain there to</p> <p>24 be used for operating costs, for the payment of</p> <p>25 professional fees and to keep a reserve there so</p>	<p style="text-align: right;">Page 56</p> <p>1 possible get everyone together in the same place so</p> <p>2 we could start a system of information, cooperation</p> <p>3 and decision making.</p> <p>4 This is a really nice room, and they have</p> <p>5 really good Starbucks coffee, but it's very</p> <p>6 expensive, and it's certainly not practical going</p> <p>7 forward that we continue to have meetings this way.</p> <p>8 As I said, you're all welcome to my conference</p> <p>9 room. I don't think you'll fit, so how do we</p> <p>10 operate going forward?</p> <p>11 The suggestion from our end is that what we do</p> <p>12 in the near future can be accomplished by two</p> <p>13 different manners.</p> <p>14 Number one, obviously, there's written</p> <p>15 communication, periodic status updates,</p> <p>16 communication where voting is necessary on issues,</p> <p>17 and to periodically meet by the conference call</p> <p>18 method.</p> <p>19 This system that we have in place that's</p> <p>20 allowed people to dial in today can function from</p> <p>21 somebody's office, as well as it can from this</p> <p>22 conference room, and therefore, it's our proposal</p> <p>23 that at least for the next couple of meetings, we</p> <p>24 schedule regular dates to do that, and we do it</p> <p>25 with everyone being in position to dial in to a</p>

<p style="text-align: right;">Page 57</p> <p>1 conference call, and that's going to be a little 2 bit tough logically, but I've done them before with 3 a number of people. 4 All it really requires is as you're sitting 5 here so quietly and patiently listening to me that 6 you do the same thing on the phone, and then when 7 we get to the point where people have the 8 opportunity to ask questions, they simply identify 9 themselves since you're not going to be visually 10 apparent to each other so that everyone knows who's 11 doing the talking, and I would suggest that for 12 everyone's benefit, we can do that a lot more 13 cost-effectively in the future. 14 If there becomes a point in time where we get 15 to a major issue, and it justifies the expense of 16 something like this again, we can always decide to 17 do that in the future. And I just throw that out 18 there for your consideration, and I think if 19 there's one other ballot item other than management 20 we put out there that we need a ballot item to 21 decide how best to go forward and conduct periodic 22 meetings in the future. 23 Having said that, let me first ask anybody up 24 at this end whether I've not covered something we 25 generally intended to cover, and then we'll just go</p>	<p style="text-align: right;">Page 59</p> <p>1 Mike? 2 (Inaudible audience input) 3 The question was if it's determined that 4 either of these partnerships received more than it 5 put in over the last four or six years, depending 6 on what the clawback period might be determined to 7 be, is it worth going forward? And it's a 8 legitimate question. 9 I don't think the facts are going to bear out 10 that that's what happened, but it's certainly 11 something that we should look at, because again, if 12 we're, by filing a claim, putting the partnerships 13 out there as potential targets, we may want to 14 evaluate whether that's necessary. 15 The only thing I would say on that, Mike, is 16 that whereas all the individual investors are below 17 the radar screen, these two partnerships had direct 18 trading agreements with Madoff, were dealing 19 directly with Madoff. There will be a 20 back-and-forth trail of money back and forth. 21 There weren't that many entities that were dealing 22 with him directly, and therefore, I think at least 23 it's realistic to assume that if there was that 24 issue there, it's going to be addressed one way or 25 the other.</p>
<p style="text-align: right;">Page 58</p> <p>1 to the floor, open to your questions and to your 2 dialogue. 3 Also, in terms of the funds that are on hand, 4 I think that subsequent to the third quarter of 5 2008, no other fees -- although these guys have 6 been working and doing what they're doing, there's 7 been no other fees taken out. The only fees that 8 have been paid out subsequent to that were 9 retainers for our firm and for Mr. Sallah in order 10 to commence this process, regular business 11 expenses, paying for this, things of that nature, 12 but no other fees taken out. 13 In that case, I thank you very much for being 14 so patient, and now, you get your turn. 15 I'm not sure how we've got this set up. 16 What I want is for the people who are 17 listening on the phone to be able to hear the 18 questions. 19 I ask the guys in the back with the P.A. 20 stuff, is there another mike here that the audience 21 could use, or do they need to come up Here? 22 (Inaudible audience input.) 23 I can do that, and if it's more appropriate 24 for Mr. Sallah to answer the question, I will defer 25 it. But who wants to go first?</p>	<p style="text-align: right;">Page 60</p> <p>1 The one thing I'll say is this. Again, I 2 pointed it out before. 3 You all sit out there as the general partners, 4 and other than the fact that you may be jointly and 5 severally liable on a clawback theory, you are 6 subsequent transferees for everything you got back, 7 so there may still be a value in putting up a 8 defense at the front end, even if there is a 9 clawback claim against either of the partnerships 10 because at a minimum, we all know as lawyers, if 11 you put up a good enough fight, you can a lot of 12 times settle a lot cheaper than simply rolling over 13 and defaulting and getting a large judgment that 14 would then pass through to all the partners. 15 Jim, did you want to add anything to that? 16 I'm not going to let him off that easy. 17 MR. SALLAH: I think the question, why you 18 limit it to the last six years was look, you know, 19 the simple example of a clawback claim is I'm Joe 20 Blow. I invested -- assume I invested directly 21 with Madoff, okay? I put in \$100,000 ten years 22 ago. 23 Over the last ten years, let's say I get back 24 120,000. I think my principal's still there. I 25 think the 120,000 is all interest.</p>

<p style="text-align: right;">Page 61</p> <p>1 I'm a net profiteer. I'm somebody who's</p> <p>2 subject to a profiteering profit claim, to a</p> <p>3 clawback claim. My exposure's \$20,000.</p> <p>4 And I guess your question is in a similar</p> <p>5 example, if all my money, if let's say 10,000 was</p> <p>6 (inaudible) six years ago, 10,000 was in the last</p> <p>7 six years, okay, is the clawback claim limited to</p> <p>8 the last six years?</p> <p>9 Yes, it is limited to the last six years.</p> <p>10 However, if I put in \$10,000, and in the last,</p> <p>11 you know -- or \$100,000 ten years ago, and in the</p> <p>12 last few years, I got back, you know, \$90,000, I'm</p> <p>13 still a net loser, or I put \$100,000 ten years ago,</p> <p>14 nine years ago, I get \$110,000 back. Okay? I'm a</p> <p>15 net profiteer, but I'm outside the Statute of</p> <p>16 Limitations period.</p> <p>17 I'm using this example of Joe Blow as a</p> <p>18 partnership, so just because you got a lot of money</p> <p>19 back or got profits back in the last six years, you</p> <p>20 have to look at the whole time period.</p> <p>21 Over the entire life of the partnership, was</p> <p>22 it a net winner, or was it a net loser? And I</p> <p>23 think that's -- is that why you asked in the</p> <p>24 six-year time period?</p> <p>25 Yeah. And if it's a net loser, which I think</p>	<p style="text-align: right;">Page 63</p> <p>1 the partnership will look at it based upon all the</p> <p>2 transactions. In other words, you have to look at</p> <p>3 the records of the partnership's trading account</p> <p>4 with Madoff and look at all of the trades and all</p> <p>5 of the payments.</p> <p>6 However, if they're going to go through to an</p> <p>7 individual, it would be a matter of saying okay,</p> <p>8 let's look at your account, your trades. How much</p> <p>9 did you put in? How much did you take out as an</p> <p>10 individual? And that would only occur if the</p> <p>11 ruling in the case were to let the Trustee go to</p> <p>12 that second level of people.</p> <p>13 Otherwise, if it only gets evaluated at the</p> <p>14 partnership level, and you're all general partners,</p> <p>15 if the partnership's a net loser, you all benefit</p> <p>16 from that in terms of not being exposed, but if the</p> <p>17 partnership is a net winner, under the theory of</p> <p>18 joint and several liability, you could all be at</p> <p>19 risk, even if that did not pan out that all the</p> <p>20 people were net winners or losers. And I don't say</p> <p>21 that to be alarmist.</p> <p>22 I'm simply trying to point out that at this</p> <p>23 point, we don't really know how that's going to</p> <p>24 play out, and that's why we got to still evaluate</p> <p>25 it.</p>
<p style="text-align: right;">Page 62</p> <p>1 Chad says that's how the facts are going to bear</p> <p>2 out -- we don't know yet, there's no clawback</p> <p>3 claim.</p> <p>4 MR. PUGATCH: Yes, this gentleman in the</p> <p>5 front. Just state your name first. Your name</p> <p>6 first.</p> <p>7 Yeah, Larry Aldridge (phonetic) asked whether</p> <p>8 each person's formula stands on its own basically</p> <p>9 or whether each is affected by the other.</p> <p>10 I think to the extent that the liability were</p> <p>11 to pass through the partnership and the court were</p> <p>12 to allow the Trustee to go against the subsequent</p> <p>13 transferees, you each stand on your own in terms of</p> <p>14 whether you're net up or down.</p> <p>15 However, as I was trying to explain before and</p> <p>16 probably didn't do it real well, if the only way</p> <p>17 they get to you is as a subsequent transferee to</p> <p>18 the partnership, and the formula as to the</p> <p>19 partnership is a net loser, that might cut them off</p> <p>20 from going after any of the next tier of people,</p> <p>21 the individuals, even though some of you may be net</p> <p>22 up. And that's an issue we have to look at.</p> <p>23 Does that explain what you were looking for?</p> <p>24 (Inaudible audience input)</p> <p>25 MR. PUGATCH: I don't think so. I think that</p>	<p style="text-align: right;">Page 64</p> <p>1 (Inaudible audience input)</p> <p>2 Yeah, it's not -- it's not going to get looked</p> <p>3 at on that short a term.</p> <p>4 They're going to take all the exposure</p> <p>5 within -- assume it's the six-year period. They're</p> <p>6 going to take that whole six-year period and use</p> <p>7 that period to evaluate it.</p> <p>8 Someone else?</p> <p>9 (Inaudible audience input)</p> <p>10 Okay. All right. I don't -- the question is</p> <p>11 for someone who put their money in recently, did</p> <p>12 that really put them in a different posture?</p> <p>13 And the other comment was from this gentleman,</p> <p>14 that he seems lost. I'm going to try to take</p> <p>15 whatever time -- I didn't tell my wife what time I</p> <p>16 was going to be home tonight, to answer your</p> <p>17 questions, whatever it takes.</p> <p>18 This is a very complex area of the law. It's</p> <p>19 an area of the law that even a lot of lawyers have</p> <p>20 trouble with, so no one should feel here that by</p> <p>21 not understanding what's going on either that I</p> <p>22 explained it bad or that you're alone because it</p> <p>23 takes time to deal with that, but I'll do whatever</p> <p>24 I can to clarify for you. This is not -- it's not</p> <p>25 an easy area of the law, and this is certainly not</p>

<p style="text-align: right;">Page 65</p> <p>1 an easy case. It's one that I'm sure is going to 2 be in law school textbooks for a long time. 3 I don't think in terms of your first question 4 that it really makes any difference in terms of 5 your rights whether you were more recent than 6 somebody else. 7 The only issue that affects timing is the 8 clawback issue. If you put money in, and you 9 didn't get it back, then that's the bad news, but 10 it's also the good news in the sense that there 11 should not be a basis for someone to come directly 12 after you and say you got a transfer that you got 13 to pay back. 14 I'd like to go to the back of the room a 15 little bit, this gentleman right here. 16 (Inaudible audience input) 17 The question was, Will you all be getting 18 amended K-1's for the last six years? 19 I think that the statement that was made is 20 that you may have the right to amend if you intend 21 to make those claims. I'm not sure it's been 22 determined how that's going to be handled at a 23 partnership level. 24 If you let me take a minute, I might be able 25 to answer your question.</p>	<p style="text-align: right;">Page 67</p> <p>1 I don't think so. I don't think so. 2 When you say anybody else, define who you mean 3 by anybody else. 4 (Inaudible audience input) 5 No, sir. It was strictly -- well, it 6 definitely -- the fact that these partnerships were 7 dealing directly with Madoff may increase the 8 potential for recovery on the level you're talking 9 about. 10 Jim, maybe you went to deal with that in a 11 little more detail. 12 MR. SALLAH: The idea was that yeah, maybe you 13 would be able to break through. Remember, this is 14 good and bad, as Chad said. 15 Let's say that there's two of you sitting next 16 to each other. One person invested \$100,000 17 (inaudible). 18 FEMALE SPEAKER: Hello? 19 UNIDENTIFIED SPEAKER: Is somebody running a 20 machine? 21 FEMALE SPEAKER: I don't know. I can't hear a 22 thing. 23 UNIDENTIFIED SPEAKER: Excuse me. Could 24 you -- could you stop for a second? We got a 25 problem on our -- our line.</p>
<p style="text-align: right;">Page 66</p> <p>1 The answer is that the CPA's from the 2 partnership level have not made that determination 3 yet. I think to a certain degree -- I mean this is 4 a huge situation. 5 The IRS is going to come out with policies and 6 procedures that apply to this, and they're waiting 7 to see how that plays out to make sure it's done 8 correctly. 9 (Inaudible audience input) 10 The question was, What's going to happen in 11 2008? 12 Clearly, the partnerships are going to have to 13 do their tax returns, and I would assume that there 14 would be a K-1. Whether it shows profit or loss is 15 another issue, but certainly, the tax work that's 16 required is going to be done. 17 Is that a fair statement? 18 (Inaudible audience input) 19 Yeah. The question -- the question is were 20 these two partnerships dealing directly with Madoff 21 Securities, or did they go through intermediary 22 firms? And the answer is they had trading 23 agreements directly with Madoff Securities and 24 dealt directly. 25 (Inaudible audience input)</p>	<p style="text-align: right;">Page 68</p> <p>1 MR. SALLAH: (inaudible) for \$20,000. It's 2 good, and it's bad, depending on whose shoes you're 3 in. 4 And I know it's horrific. I've represented 5 people before who have been sued by receivers for 6 fraudulent transfer, and the people come in. 7 They're innocent investors. They got sucked into a 8 Ponzi scheme. They think they've lost all their 9 money, and yet, all of a sudden, they find out that 10 they've been sued, and say wait a minute, how did I 11 get sued? 12 And then you have to understand, over time, 13 they believe they were getting back profits, and 14 they had their principal. In fact, they think 15 they've lost all their principal. 16 It's a Ponzi scheme. It doesn't matter. The 17 whole thing's a fraud. There's no profits and 18 principal. They just look at here are the net 19 winners, here are the net losers, and that's how 20 they determine it, so be careful what you wish for 21 is what I'm saying, depending on whose shoes you're 22 in, whether you're up. 23 You're really need to go back once the 24 partnership before -- and this is not -- again, I 25 don't represent you individually, but think long</p>

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1 and hard and consult with somebody before you fill
2 out one of those SPIC claims to find out whether
3 you're up or down.
4 Forget the -- forget the statement you got.
5 Figure out how much money you put in, how much
6 money you got out. Are you a net winner, a net
7 loser before you fill out that SPIC form.
8 And again, that's advice I'd give my brother,
9 my mother, whoever, not legal advice. You should
10 check with your own attorney. That's what I would
11 do if I were -- if I were in your shoes and --
12 MR. PUGATCH: And unfortunately, it's the one
13 decision that has to be made pretty quick, that we
14 don't have a lot of time to make that decision.
15 Pat?
16 (Inaudible audience input)
17 No intermediaries. They were dealing
18 directly. I've seen the trading agreements. There
19 are trading agreements signed by these gentlemen
20 that deal directly with Madoff Securities, and
21 that's the only agreements that I've seen.
22 (Inaudible audience input)
23 No liability insurance that I'm aware of that
24 covers anything like this.
25 I'd like to get -- I know you all have more

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1 questions. I'd like to be fair and get to people
2 who have not asked questions yet. This gentleman
3 back here.
4 (Inaudible audience input)
5 Okay. That was a limited partnership that was
6 created to deal with the fiduciary investments, the
7 IRA, the pension fund, those kinds of investment
8 that had to come in in a certain manner that were
9 required to come in through a limited partnership,
10 and that limited partnership is itself a partner
11 in -- I think it's S & P.
12 This lady way in the back over there.
13 (Inaudible audience input)
14 Yeah. As necessary, there's going to come a
15 point in time where we need to have an accountant.
16 When you say to go over the books and records,
17 that's a very broad term.
18 An accountant can be very expensive, depending
19 on what you ask them to do, so to the extent we
20 need to have accounting help, certainly. The
21 primary thing is tax help, and then the second
22 would be if there's any issue or question as to
23 whether the books are balancing or not, which to my
24 understanding, there's not going to be any such
25 question in this case, but certainly, the intention

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1 is when necessary, just like we've been hired as
2 lawyers, to have an independent accountant firm
3 involved in this case as well.
4 Ma'am?
5 (Inaudible audience input)
6 Well, I'm not in a position to deal with those
7 kinds of questions right now. I understand that
8 you have your issues, individual issues.
9 I'm here -- well, I'm here, I'm here for the
10 partnerships, and I'm not in a position to answer
11 those kinds of questions. I'm here to deal --
12 excuse me? I think that he knows?
13 I think he knows the gentleman. I -- I don't
14 have answers to those questions, ma'am.
15 Again, please, this has been very at this
16 point, dignified. Let's leave it that way. I'm
17 not saying you don't have a right to your
18 questions. I'm saying this is not the appropriate
19 time for those kinds of questions to be dealt with,
20 nor is it my function to deal with those kinds of
21 issues.
22 I'm here to protect the partnerships vis-a-vis
23 the claims in the insolvency proceedings.
24 Sir?
25 (Inaudible audience input)

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1 I'm sorry. I couldn't hear the first part of
2 that.
3 (Inaudible audience input)
4 I believe it's under S & P, and for those --
5 the question was Guardian Angel Trust, there's an
6 entity, Guardian Angel Trust, LLC, which has
7 certain members in it that invested, and that
8 investment was by Guardian Angel Trust as a partner
9 in S & P.
10 A couple more people in the back that I don't
11 mean to be ignoring. This lady way in the back in
12 the green.
13 (Inaudible audience input)
14 If I understand that question, which is can
15 anybody else be held liable for what the deceased
16 person used?
17 First of all, I can't give legal advice on
18 that because that's one of the areas where it would
19 not be the partnership.
20 I can tell you generally, that claims against
21 a person estate's, if there's a probate estate, are
22 generally captured within that estate, and there's
23 a notice procedure as to making claims in that
24 estate, but that would be something that the lawyer
25 who's administering the estate would need to

<p style="text-align: right;">Page 73</p> <p>1 answer, and it would not be appropriate -- I can't 2 give advice on an individual matter like that. 3 FEMALE SPEAKER: Can you take a question, a 4 phone question? 5 MR. PUGATCH: This lady right here? 6 (Inaudible audience input) 7 Yeah, there are records on that, and we're 8 going through them. We're just not prepared at 9 this point in time to make definitive statements on 10 that, but I can assure you that is being processed 11 right now, and those records are being reviewed, 12 and that process is being undertaken. 13 At the appropriate time, I think the intention 14 is that the individual partners in a private manner 15 will get reports of information like that, and it 16 won't like a take a long time to get that out. 17 This gentleman way in the corner. 18 (Inaudible audience input) 19 Yeah. You know what? It's an excellent 20 question. 21 The question is what kind of return could you 22 possibly expect? And I'm not trying to duck this 23 because it's a reasonable question, but it's way 24 too early to determine in this case how it's going 25 to play out.</p>	<p style="text-align: right;">Page 75</p> <p>1 claims body is likely to be much less than \$30 2 billion dollars, so you have to figure out how much 3 do you have to divvy up, and how big is the pie 4 that you're giving it to, the pieces? 5 And it's way too early to tell that right now. 6 Am I going to sit here right now and tell you 7 that you're likely to get most of your money back? 8 No, I would say that would be unrealistic. 9 Yes, sir. 10 (Inaudible audience input) 11 Yeah, that's an excellent, excellent point. 12 I'm not in a position to speak as to whether that 13 decision has to be made at the partnership level or 14 whether each individual has their own right to do 15 that, but you all should talk to your tax advisers 16 on that, and we will do the same thing with regard 17 to doing that at the partnership level. It's an 18 excellent point. 19 Again, somebody who didn't get to ask a 20 question yet. 21 UNIDENTIFIED SPEAKER: What was the question? 22 UNIDENTIFIED SPEAKER: What was the question? 23 UNIDENTIFIED SPEAKER: If you're not repeating 24 the question, we don't know what you're talking 25 about.</p>
<p style="text-align: right;">Page 74</p> <p>1 I could tell you I've seen the range from no 2 recovery to the unsecured creditors, to people 3 getting close to a hundred cents on the dollar and 4 everything in between, and it really depends on the 5 facts. And the biggest facts that are going to 6 have to play out here is number one, how much was 7 really there? 8 I mean, what was really there in terms of what 9 was being traded? And what securities are left? 10 What cash is left? 11 As you just heard and saw in this order, 12 there's \$500 million in one fell swoop that they 13 brought in. 14 Now, obviously, the money that comes in that's 15 up front is what we commonly in our business call 16 the low-hanging fruit, the one -- the fruit that's 17 easiest to pick, and then it gets more complicated. 18 They have to start going after people and 19 suing people to bring money in, and so that has to 20 play out. 21 The other thing that's an open book in this 22 case is how big are the claims? 23 I mean, this thing started out with this 24 dramatic 50 billion dollars. 25 Well, we're already finding out that the</p>	<p style="text-align: right;">Page 76</p> <p>1 UNIDENTIFIED SPEAKER: The last question. 2 FEMALE SPEAKER: We have telephone questions 3 too. 4 UNIDENTIFIED SPEAKER: Yeah. 5 UNIDENTIFIED SPEAKER: Well, someone's 6 recently sued the FTC in connection with this 7 matter. 8 FEMALE SPEAKER: I'm hearing the people on the 9 telephone. 10 MR. SALLAH: We'll see how -- I don't think -- 11 in fact, we were wondering if they had filed a 12 motion to dismiss or what position -- the SEC's 13 going to say look, we're a governmental agency, we 14 make mistakes, there's no gross negligence or 15 something that you can, you know, sovereign -- you 16 know, there's sovereign immunity that protects, 17 that protects governmental agencies. 18 I mean, frankly, the SEC, and as Chairman Cox 19 said, screwed up. They missed it. It was right 20 under their nose, and they it missed, as did Banco 21 Santander, BNP Paribas, who invested billions of 22 dollars, presumably after they did due diligence on 23 Madoff, went and met with him. 24 Of all the funds out there, they decided to 25 invest with Madoff, large entities.</p>

<p style="text-align: right;">Page 77</p> <p>1 I mean, it was -- the guy was -- what am I 2 going to say? Was apparently pretty good because 3 he duped a lot of people, a lot of large banks. 4 Your primary regulator, the SEC, the guy ran 5 Nasdaq. I mean he -- if there's anyone that knew, 6 you know, knew how to finagle someone, it was him, 7 so yeah, the SEC's been sued -- I don't think 8 successfully, but we'll see. 9 Maybe there's -- you know, again, this is a 10 case like I've never seen before. I don't think 11 Chad has either. This is very unique, we'll just 12 see how it bears out. 13 MR. PUGATCH: (Inaudible) the process, and I 14 saw a link to an article, and what Jim was 15 referring to is somebody who I don't think has yet 16 sued the SEC, but there's a process under the law 17 when you're trying to sue the sovereign in which 18 you give notice, and I think it's a six-month 19 notice before you're allowed to proceed with that 20 kind of a suit. 21 UNIDENTIFIED SPEAKER: Can you hear me? 22 MR. PUGATCH: And that notice process was 23 commenced by somebody, referencing back, as I 24 understand it, in the article to a 1965 case in 25 which I think the Government was sued because the</p>	<p style="text-align: right;">Page 79</p> <p>1 I ask, please, one at a time, and identify 2 yourselves. 3 FEMALE SPEAKER: Okay. I'll go first, if 4 that's okay. 5 MR. PUGATCH: Sure. 6 MS. PILLSBURY: I'm Edith Pillsbury. I'm 7 calling from Portland, Oregon, and I have three 8 quick questions. 9 We lost some of the telephone transmission for 10 a while, so you may have answered these already. 11 Why do we have a March 4th deadline? 12 We don't -- I mean it's not your choice, but 13 why is the deadline so soon? 14 It's already February, and we don't have the 15 information we need to file separately or as the 16 partnership. That's question one. 17 Question two, did I understand it correctly 18 that I might actually owe money if, "A," there 19 is -- I have a net gain, or "B," if the partnership 20 does? 21 And my third question is I'm not sure I 22 understood whether or not there's a legal issue 23 about filing separately or if it's just a personal 24 decision. Thank you. 25 MR. PUGATCH: Okay. I think -- I think we've</p>
<p style="text-align: right;">Page 78</p> <p>1 Coast Guard didn't replace the lights in a 2 lighthouse and caused a crash of a vessel, so I 3 mean I'm all in favor of creative lawyering, and 4 and that's pretty creative, and if that stands up, 5 then certainly, it will be the bell whistle, but it 6 certainly won't be the only person who gets in 7 line. 8 If there's a determination at some point that 9 they are liable to be sued, then you can assure 10 yourselves that we will take whatever action we 11 have to to protect ourselves in that process, and I 12 assume that everybody else will, and it'll just be 13 another reason perhaps for the government to simply 14 decide to open the pocketbook and enlarge the pot 15 for SIPA recovery. 16 You know, what I'd like to do at this point 17 is -- 18 FEMALE SPEAKER: Hello? 19 MR. PUGATCH: A lot of people who are on the 20 phone, and they really -- I hear the rumbling in 21 the background. I apologize to all of you. 22 There's been a deluge of questions at this end, but 23 we're not ignoring you, so what I'd like to do now 24 is to respect the people who called in and let them 25 have an opportunity to ask some of their questions.</p>	<p style="text-align: right;">Page 80</p> <p>1 all got those questions. 2 First of all, the March 4th deadline, you are 3 correct. It's established by the Court. Unless 4 the Court extends it, we're stuck with that 5 deadline, and I will simply tell you that the 6 partnerships -- we'll make sure that each partner 7 has the information necessary so that if any 8 partner decides to file that claim, they will be 9 able to do it by the deadline. 10 We're looking at a deadline that at this point 11 is about -- almost five weeks away, and we'll have 12 that information out very quickly to everyone, so 13 you'll have more than enough time to consult with 14 your own lawyers, please, and make your decision as 15 to whether you're going to file that individual 16 claim or not. 17 As to the second question, yes, you did hear 18 correctly that there's a possibility that 19 individuals could have liability if they were net 20 winners and net losers, but there are a lot of 21 factors that go into that and it's not clear at 22 this point that any of you in these entities will 23 have that exposure. 24 What we did say is that you will want to talk 25 to your lawyers and determine whether because you</p>

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1 have that potential exposure, it's advisable for
2 you to file an individual claim or not file an
3 individual claim, and we can't give that advice.
4 You need to go to your own lawyers to do that. Did
5 I make that clear?
6 FEMALE SPEAKER: Yeah. I understand now.
7 MR. PUGATCH: Anyone else on the phone that
8 had a question?
9 UNIDENTIFIED SPEAKER: Yeah, I have a
10 question.
11 MR. PUGATCH: Go ahead.
12 MR. CAPLINGER: This is Jim Caplinger in
13 West Virginia.
14 Let's see. First off, since the meeting is
15 being taped, does that mean we can get it through a
16 CD or MP3 file?
17 MR. PUGATCH: I think that there is a
18 procedure to obtain the recording.
19 Our Office Manager was the one who set this
20 up, and what I will do is for the benefit of the
21 people who are here and the people who are on the
22 phone is we'll find out exactly what that procedure
23 what is, and we will do a follow-up notice to
24 everybody, telling them what they need to do to get
25 the recording if they want the recording.

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1 MR. CAPLINGER: Great, and what about
2 hand-outs? We didn't -- I didn't get a hand-out.
3 MR. PUGATCH: What I can do is scan and
4 e-mail. Well, I could I mail it too, but --
5 MR. CAPLINGER: You can e-mail it. That's
6 fine.
7 MR. PUGATCH: That's an e-mail. I'm not sure
8 if there was anyone who didn't have an e-mail
9 address for us, but it's a lot quicker and cheaper
10 to do e-mails, but anybody who will contact our
11 office and tell us that they did not -- if they're
12 on the phone and did not get the hand-out, that
13 we'll be happy either by mail or by scanning and
14 e-mailing to get you the hand-out. Not a problem.
15 MR. CAPLINGER: When they send out the --
16 first of all, to Edith Pillsbury, if you want to
17 file individually, that's available on the websites
18 that were mentioned previously.
19 MS. PILLSBURY: Uh-huh. Thanks.
20 MR. CAPLINGER: As far as our personal
21 indebtedness up or down, is that something we're
22 going to get sent to us then before March 4th?
23 MR. PUGATCH: Yes. That's what I was saying.
24 MR. CAPLINGER: Okay.
25 MR. PUGATCH: You'll have it way before

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1 March 4th. You will have that information, I would
2 assume within the next week or two, so you'll have
3 plenty of time to consult -- I'm sorry. Hang on
4 one second.
5 It's pretty much done, so it just needs to get
6 reviewed, so I'd say within a week, that will go
7 out to each of you so you know where you stand.
8 MR. CAPLINGER: Yeah.
9 UNIDENTIFIED SPEAKER: If you're a net loser,
10 is there any chance that you will have liability?
11 MR. PUGATCH: If you're a net loser, the
12 question is would you have a chance of having
13 liability?
14 The only way that you could have liability,
15 and I'm not saying you would --
16 UNIDENTIFIED SPEAKER: To the partnership.
17 MR. PUGATCH: The only way you could have
18 liability as a net loser is if the partnership were
19 determined to be a net winner, and therefore, the
20 partnership was liable, creating joint and several
21 liability of the partners.
22 We don't think that the facts are going to
23 bear that out, but to answer your question, that
24 would be the only way I could see as we sit here
25 right now that that could occur. And I have a lady

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1 I think that has a question relevant to that, so
2 I'm going to deviate from the phone for a minute.
3 Yes, ma'am?
4 UNIDENTIFIED SPEAKER: (inaudible) that there
5 were direct agreements with Madoff.
6 MR. PUGATCH: I think we'll have that pretty
7 quickly.
8 I'm sorry. Hang on one second, please.
9 UNIDENTIFIED SPEAKER: Although I'm not sure
10 he actually said it.
11 MR. PUGATCH: We should have that information
12 within a week.
13 The main issue is just figuring out exactly
14 whether we go back to inception or whether we go
15 back to just the time frame within this clawback
16 period, so bear with us for about a week, and we'll
17 have that information to each of you as well.
18 UNIDENTIFIED SPEAKER: I don't think that what
19 he said has -- has meant that --
20 MR. PUGATCH: Yeah. Well, each partner will
21 get a statement that involves their individual
22 account, and we'll disseminate the general
23 partnership information to each of you for the
24 partnership that you're in.
25 Can we go back to the phone with any more

<p>Page 85</p> <p>1 questions?</p> <p>2 UNIDENTIFIED SPEAKER: I have a quick</p> <p>3 question. Hello?</p> <p>4 MR. PUGATCH: Yes, sir.</p> <p>5 MR. MARANARO: Yes. My name is Steve</p> <p>6 Maranaro, (phonetic). My question, we were</p> <p>7 basically, from what I understand, grandfathered</p> <p>8 in, my mother-in-law, who passed away. We</p> <p>9 basically were listed on her account, and we came</p> <p>10 in, and then a few years went by. We added money.</p> <p>11 We don't actually have any kind of paperwork</p> <p>12 on a partnership agreement.</p> <p>13 UNIDENTIFIED SPEAKER: Okay.</p> <p>14 MR. PUGATCH: Certainly, you should have that.</p> <p>15 If anybody does not have a copy of their</p> <p>16 partnership agreement and wants one, then again,</p> <p>17 contact my office, and either by mail or by scanned</p> <p>18 e-mail, I will get you a copy of the partnership</p> <p>19 agreement. Fair enough?</p> <p>20 MR. MARANARO: Okay, but how am I a part of a</p> <p>21 partnership if I don't actually have an agreement</p> <p>22 that's signed?</p> <p>23 MR. PUGATCH: To be honest with you, under</p> <p>24 Florida law, partnerships don't even have to have</p> <p>25 agreements. They can be based on a handshake, so</p>	<p>Page 87</p> <p>1 here today.</p> <p>2 Anybody else on the phone before we go back to</p> <p>3 the people in the room?</p> <p>4 MS. PILLSBURY: I have -- I have -- this is</p> <p>5 Edith again. I have one more quick question.</p> <p>6 If you should owe, does the money go into the</p> <p>7 pool to be distributed with the other investors?</p> <p>8 MR. PUGATCH: I'm not sure I really heard</p> <p>9 that. Can you repeat it again?</p> <p>10 MS. PILLSBURY: If you have a net -- if you're</p> <p>11 net up, you owe money. Correct? Where does that</p> <p>12 money go?</p> <p>13 MR. PUGATCH: If you're net up, it means that</p> <p>14 you got more back than you put in.</p> <p>15 MS. PILLSBURY: Yeah, so do you owe money back</p> <p>16 to the partnership?</p> <p>17 MR. PUGATCH: It wouldn't be to the</p> <p>18 partnership.</p> <p>19 If there's any issue at all, it's whether the</p> <p>20 bankruptcy trustee will come looking for the money,</p> <p>21 and we don't know the answer to that yet, but it's</p> <p>22 not a matter of the partnership claiming it back.</p> <p>23 It's a matter of the bankruptcy trustee, and as we</p> <p>24 explained earlier, there's an issue as to whether</p> <p>25 the Trustee could go through the partnership to</p>
<p>Page 86</p> <p>1 there's a lot of answers to that questions, and I'm</p> <p>2 not sure it's really appropriate to deal with that</p> <p>3 right now, but it's certainly possible that you are</p> <p>4 and possible that you're not, and again, those are</p> <p>5 questions your own individual lawyers have to</p> <p>6 answer for you.</p> <p>7 MR. MARANARO: Okay. All right. Very good.</p> <p>8 MR. PUGATCH: Anybody else on the phone before</p> <p>9 we go back to the people that are here live?</p> <p>10 MR. CAPLINGER: In terms of -- this is Jim</p> <p>11 Caplinger again.</p> <p>12 In terms of the total amount of investment in</p> <p>13 either the regular S & P or the IRA, P & S, would</p> <p>14 the IRA offset if you had had a profit, say from</p> <p>15 the -- from the individual account versus the IRA</p> <p>16 account, the regular account versus the retirement</p> <p>17 account?</p> <p>18 MR. PUGATCH: I think, if I understand the</p> <p>19 question, is do you aggregate all the accounts,</p> <p>20 including the IRA account to determine net up or</p> <p>21 down? And I don't know the answer to that as we</p> <p>22 sit here.</p> <p>23 My gut reaction would be that the IRA is a</p> <p>24 separate entity because it's a fiduciary account,</p> <p>25 but I wouldn't be prepared to answer that as we sit</p>	<p>Page 88</p> <p>1 both levels or not.</p> <p>2 MS. PILLSBURY: Okay.</p> <p>3 MR. PUGATCH: I'd like to go back now to the</p> <p>4 room for a little bit. Yes, sir.</p> <p>5 (Inaudible audience input)</p> <p>6 Yeah, the -- no, each one of these</p> <p>7 partnerships was operated separately. They had</p> <p>8 separate trading agreements. There are separate</p> <p>9 partnerships. They have separate written</p> <p>10 agreements, and they would not be aggregated under</p> <p>11 any theory that I -- that I would understand.</p> <p>12 UNIDENTIFIED SPEAKER: What was the question?</p> <p>13 MR. PUGATCH: I'm sorry. The question was</p> <p>14 whether the two partnerships would be lumped</p> <p>15 together for purposes of the way it would be looked</p> <p>16 at, and if you heard my answer, I think they would</p> <p>17 be treated separately, from everything that I've</p> <p>18 seen and understand.</p> <p>19 Somebody over here had a question. Yes, sir?</p> <p>20 (Inaudible audience input)</p> <p>21 Oh, Pfizer was the entity administering the</p> <p>22 IRA accounts I think. They were the ones that</p> <p>23 administered the funds, so that's why your</p> <p>24 statements came through them.</p> <p>25 Ma'am?</p>

<p style="text-align: right;">Page 89</p> <p>1 (Inaudible audience input)</p> <p>2 MR. PUGATCH: Well, the answer is it probably</p> <p>3 belongs to you. Whether you want to ask for it to</p> <p>4 be given back or whether you want to try to do some</p> <p>5 kind of rollover, so it doesn't lose its protected</p> <p>6 status, that is something you really should talk to</p> <p>7 your -- to your accountant about.</p> <p>8 UNIDENTIFIED SPEAKER: What was the question?</p> <p>9 MR. PUGATCH: The question was if you have</p> <p>10 money in your Pfizer account, which would be part</p> <p>11 of your IRA, would you have a right, and should you</p> <p>12 go after asking for it to be withdrawn?</p> <p>13 I'm no CPA, and again, I'm no tax lawyer, but</p> <p>14 I do know that if you take money out of your IRA,</p> <p>15 you may be subject to tax penalties, and so there</p> <p>16 may be a way you can simply get that rolled into</p> <p>17 another account without suffering that problem, so</p> <p>18 talk to your accountant or your lawyer, and they</p> <p>19 should be able to tell you that.</p> <p>20 MR. CAPLINGER: Pfizer told me that the money</p> <p>21 was frozen. This is Jim Caplinger.</p> <p>22 MR. PUGATCH: I'm sorry. I couldn't</p> <p>23 understand that.</p> <p>24 MR. CAPLINGER: I called Pfizer, and they said</p> <p>25 the money was frozen.</p>	<p style="text-align: right;">Page 91</p> <p>1 Again, I don't -- this is general. I'm not</p> <p>2 giving legal advice. I would argue, look, that was</p> <p>3 never -- he invested. You required that we</p> <p>4 maintain a thousand dollars in cash. It would</p> <p>5 never be invested through Madoff. Why would you</p> <p>6 possibly hold that money back from me?</p> <p>7 I mean Pfizer's probably pretty nervous right</p> <p>8 now.</p> <p>9 (Inaudible audience input)</p> <p>10 MR. PUGATCH: Yeah. I think that was the</p> <p>11 deadline for broker-dealers to file claims. That</p> <p>12 would not be applicable to anybody here.</p> <p>13 UNIDENTIFIED SPEAKER: Please restate the</p> <p>14 question.</p> <p>15 MR. PUGATCH: The question was that this lady</p> <p>16 had heard through some testimony that was given by</p> <p>17 the SPIC Chairperson that there was a January 12th</p> <p>18 deadline for filing certain claims, and my answer</p> <p>19 was that as I understand it, that was the deadline</p> <p>20 for broker-dealer claims to be filed. That would</p> <p>21 not be applicable to the claims that would be filed</p> <p>22 by these partnerships or the individuals. That's</p> <p>23 the March 4th deadline.</p> <p>24 Yes, sir, way in the back right.</p> <p>25 (Inaudible audience input)</p>
<p style="text-align: right;">Page 90</p> <p>1 MR. PUGATCH: Well, they may be freezing the</p> <p>2 money because of issues they may have with worrying</p> <p>3 about clawback through the bankruptcy trustee as</p> <p>4 well.</p> <p>5 I think Mr. Sallah wanted to address that for</p> <p>6 a minute.</p> <p>7 UNIDENTIFIED SPEAKER: I just had a question</p> <p>8 because I mean, for example, if you have an IRA</p> <p>9 account, and you think -- you think you have a</p> <p>10 thousand dollars that, you know, it was invested a</p> <p>11 hundred percent in Madoff, and you've been</p> <p>12 decimated because of Madoff, are you assuming --</p> <p>13 was there (inaudible) \$1,000 in cash, or was it</p> <p>14 invested? Do you know?</p> <p>15 Oh, so they -- Pfizer said they maintained --</p> <p>16 (inaudible.) As cash, just required for the -- to</p> <p>17 cut through the IRA account. Okay. Perfect.</p> <p>18 (Inaudible audience input)</p> <p>19 UNIDENTIFIED SPEAKER: Oh, I have no clue.</p> <p>20 They may say because it was earmarked. It depends.</p> <p>21 It would be interesting. I would assume -- I don't</p> <p>22 know this, we don't know, but was it earmarked for</p> <p>23 Madoff, or was it earmarked for you?</p> <p>24 I would argue, if I were -- if I were you,</p> <p>25 that's my money, it shouldn't be frozen.</p>	<p style="text-align: right;">Page 92</p> <p>1 Sure. I can tell you for our firm, we're</p> <p>2 strictly working by the hour. We were given a</p> <p>3 retainer, and we're drawing down on that retainer</p> <p>4 on an hourly basis.</p> <p>5 The fees range from my hourly rate at \$475 an</p> <p>6 hour down to associates that probably go down to</p> <p>7 the \$250 an hour level and paralegals at a hundred</p> <p>8 and a quarter, and we try to get work done at the</p> <p>9 lowest common denominator, meaning I'm not sitting</p> <p>10 there doing research at my hourly rate and devoting</p> <p>11 my time to the things that require my experience</p> <p>12 and expertise.</p> <p>13 Mr. Sallah is being retained separately and</p> <p>14 getting a retainer, and he can speak to his</p> <p>15 arrangement.</p> <p>16 MR. SALLAH: Yeah. My -- my hourly is, and</p> <p>17 again, my role is a little -- a little more</p> <p>18 limited. My hourly is \$375 an hour, and our</p> <p>19 associate, Joshua Katz, any research and most of</p> <p>20 the work that's going to be done -- and again, a</p> <p>21 lot of the work is going to limited, he's at 225 an</p> <p>22 hour.</p> <p>23 I will tell you this though. I mean to the</p> <p>24 extent that there are any claims that the</p> <p>25 partnership has against third parties, securities</p>

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1 claims, i.e., the Pfizer, accounting firms, third
2 parties who -- and again, very early, I've just
3 been engaged.
4 To the extent the partnership has claims,
5 okay, I would -- and we haven't really discussed
6 this, but I would encourage the partnership, with
7 my help, to find counsel that would pursue those
8 claims on a contingency fee where they would
9 basically -- if they were going to sue or -- and
10 again, this is -- because a lot of securities firms
11 will sue brokerage firms, count on -- you know,
12 understand the difference between contingency.
13 It's not hourly.
14 It's -- it's -- they take a percentage of what
15 they recover, so again, because a lot of these
16 claims are somewhat attenuated, you don't know if
17 there's a viable entity on the other side, that you
18 wouldn't be throwing good money after bad. You're
19 not going to go pursue a third-party accounting
20 firm, a Pfizer, a broker-dealer if there were one
21 involved, and again, I don't know. This goes back
22 a long way. I was just retained.
23 I want to see whatever professionals may have
24 touched this who may have liability insurance,
25 something like this, but to the extent that those

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1 claims would be pursued, I wouldn't want to bill
2 you for it because you may be throwing good money
3 after bad, and I wouldn't want to see, or at least
4 the partnership maybe, and I wouldn't want to see
5 the partnership do that, so I would recommend at
6 least that the partnership engage counsel to do
7 that on a contingency fee basis.
8 UNIDENTIFIED SPEAKER: What about non-security
9 claims against third parties, what has been done to
10 investigate those?
11 MR. SALLAH: Well, what do you mean? When you
12 say non-securities claims, what do you mean? Like
13 an accountant screw-up or an auditor should have
14 caught this or something?
15 UNIDENTIFIED SPEAKER: Negligence.
16 MR. SALLAH: Pardon?
17 UNIDENTIFIED SPEAKER: Just straight
18 negligence, wilful.
19 MR. SALLAH: Yeah, just straight negligence?
20 No, it depends.
21 Again, I would -- yeah, any third-party claims
22 again that at least -- remember, I'm securities
23 counsel, that I would -- that I'd foresee being out
24 there, right now, I would, again, try to see those
25 things pursued on a contingency basis.

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1 Again, there's a lot -- just so you know,
2 there's firms out here all the time. You say you
3 lost money in Madoff.
4 I understand a lot of those firms are charging
5 a contingency just to help people fill out SIPA
6 claims, and again, to me, that's absurd, but to the
7 extent they're going after third parties, the Banco
8 Santanders, the HSBC's, the, you know, the BNP
9 Paribas, they're doing those on a contingency fee,
10 although, as we found out Banco Santander
11 apparently is paying off.
12 They're just going to pay their clients off
13 because they realize they had an obligation to do
14 due diligence. Of the 150 possible or 200 money
15 managers out there, they selected Bernie Madoff
16 after they did, purportedly, on their website,
17 extensive due diligence.
18 I don't, you know -- again, they've got some
19 exposure there too, but those are the claims that
20 are being pursued on a contingency fee.
21 Regarding other claims, I don't know. I mean
22 it's something we'd have to discuss. Again, this
23 is very new, but most firms will do that on a
24 contingency fee basis.
25 MR. PUGATCH: Yeah, and I'll take a question

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1 in a second, but I just want to echo that. I agree
2 with that as to all claims. I don't think these
3 partnerships can afford to pursue plaintiffs'
4 litigation on an hourly basis.
5 I think that the funds have to be conserved
6 for what's defensive, and if there's going to be
7 any claims pursued, that certainly, contingent
8 arrangements should be investigated.
9 Yes, sir.
10 (Inaudible audience input)
11 Well, right now, in terms of initially being
12 retained, we've done that through the managing
13 partner, but that's part of what I'm suggesting, is
14 that we look at getting an independent objective
15 manager in here to take over and make these
16 decisions, subject to obviously those decisions
17 that require a vote, and what I'd like to do after
18 we air out the general questions is just get any
19 questions that anybody has specifically as to that
20 process I've suggested, and also, what I threw out
21 in terms of a suggested procedure for how we
22 communicate in the future.
23 Yes, sir?
24 (Inaudible audience input)
25 What's that?

<p style="text-align: right;">Page 97</p> <p>1 (Inaudible audience input)</p> <p>2 I hope it's not that bad. If you think -- if</p> <p>3 you think mine are bad, you don't know what New</p> <p>4 York lawyers charge.</p> <p>5 FEMALE SPEAKER: I have a phone question.</p> <p>6 MR. PUGATCH: Excuse me?</p> <p>7 (Inaudible audience input)</p> <p>8 Well, again, I'll be happy to discuss that</p> <p>9 with anybody, but for 32 years of experience and</p> <p>10 what I do, I think I'm at the middle range. Again,</p> <p>11 I don't sit there and do every hour of work that</p> <p>12 needs to be done. That's why we have associates</p> <p>13 doing research, et cetera.</p> <p>14 I don't want to take up any more of the meter</p> <p>15 running explaining that. I'll be happy to do that</p> <p>16 off the -- off the meter to anybody after the</p> <p>17 meeting.</p> <p>18 FEMALE SPEAKER: I have a question on the</p> <p>19 phone, please.</p> <p>20 FEMALE SPEAKER: You may have to speak up.</p> <p>21 UNIDENTIFIED SPEAKER: Speak up.</p> <p>22 FEMALE SPEAKER: Well, I thought I was.</p> <p>23 MR. PUGATCH: Excuse me, people on the phone,</p> <p>24 I'm going to come back to you guys in a minute.</p> <p>25 I'm trying to be fair.</p>	<p style="text-align: right;">Page 99</p> <p>1 legally still be part of the general partnership</p> <p>2 fund, and we're not in a position right now to</p> <p>3 answer those questions, which is why, in all</p> <p>4 fairness, for all those reasons, we've simply set</p> <p>5 that money aside, don't spend it and wait until</p> <p>6 we -- we can figure out what's going to happen.</p> <p>7 I think the first set of issues is does the</p> <p>8 partnership get to keep it at all before we worry</p> <p>9 about who gets to share in it?</p> <p>10 (Inaudible audience input)</p> <p>11 Yeah, and I don't know the answer to that. I</p> <p>12 don't think they were, but and --</p> <p>13 UNIDENTIFIED SPEAKER: Restate the question,</p> <p>14 please.</p> <p>15 MR. PUGATCH: The question was -- or it was</p> <p>16 more of a comment.</p> <p>17 The question was would there be a list</p> <p>18 distributed before any of that \$800,000 is</p> <p>19 distributed, and the second comment was that some</p> <p>20 of Mike's family who lost money might be in that.</p> <p>21 I don't think that they were in that group, but one</p> <p>22 way or the other, I would not advise the</p> <p>23 partnership to distribute any money without there</p> <p>24 being agreement as to how it gets distributed or</p> <p>25 some kind of a court proceeding, you know, to</p>
<p style="text-align: right;">Page 98</p> <p>1 FEMALE SPEAKER: Okay.</p> <p>2 MR. PUGATCH: And there's a gentleman asking a</p> <p>3 question here. After I get done with his question,</p> <p>4 we'll go back to the people on the phone for some</p> <p>5 more questions.</p> <p>6 FEMALE SPEAKER: Thank you.</p> <p>7 MR. PUGATCH: So be patient. Thank you.</p> <p>8 (Inaudible input from audience.)</p> <p>9 MR. PUGATCH: There was a decision process by</p> <p>10 which certain people had to be removed from P & S,</p> <p>11 and because of that, funds were requested in order</p> <p>12 to cash those people out. That \$800,000 represents</p> <p>13 a payment that was made because of that request.</p> <p>14 So, the issues, to recap, are twofold:</p> <p>15 Number one, forgetting for a moment who gets</p> <p>16 to share in that, if it gets to be kept, the first</p> <p>17 question is does it get to be kept at all, or</p> <p>18 whether it will at some point become an avoidable</p> <p>19 preference since it occurred virtually, you know,</p> <p>20 simultaneously with the bankruptcy filing.</p> <p>21 The second -- the second set of questions is,</p> <p>22 and this really is one more of partnership law, and</p> <p>23 perhaps, you know, constructive trust is whether</p> <p>24 just those people who were supposed to be cashed</p> <p>25 out share in that or whether it's money that would</p>	<p style="text-align: right;">Page 100</p> <p>1 determine it, so that nobody, in effect, gets to</p> <p>2 unilaterally make that decision.</p> <p>3 (Inaudible audience input)</p> <p>4 We're not? Okay.</p> <p>5 There was nobody from Mike's family in that</p> <p>6 group, but even without Mike's family being in</p> <p>7 there, it's not fair to anybody that that gets</p> <p>8 distributed without all the partners having to</p> <p>9 either approve it, or alternatively, have some</p> <p>10 third party make that determination based upon the</p> <p>11 law.</p> <p>12 (Inaudible input from audience.)</p> <p>13 Yeah, I think if I didn't make that clear</p> <p>14 before, what I said at the outset is although when</p> <p>15 the notice of this meeting went out, we said we</p> <p>16 might vote today, that we had up front made the</p> <p>17 decision that it would not be appropriate to vote</p> <p>18 today for exactly the reason you described.</p> <p>19 Everyone needs to get a chance to digest this,</p> <p>20 and whatever we decide to put out there to vote,</p> <p>21 you should be able to read it, take it to your</p> <p>22 lawyer and make an informed decision before you</p> <p>23 vote, and that's the way we're going to handle it.</p> <p>24 (Inaudible input from audience.)</p> <p>25 If that were the case, and I'm not in a</p>

<p style="text-align: right;">Page 101</p> <p>1 position to discuss that, then it should certainly</p> <p>2 be looked at as to whether there's accountability,</p> <p>3 and again, that's why my recommendation is that you</p> <p>4 all approve getting an independent person to</p> <p>5 supervise this, so that whatever investigation</p> <p>6 decisions are made, nobody comes back and says,</p> <p>7 well, it's because of Mike or anybody else, that</p> <p>8 basically, it's an independent evaluation and</p> <p>9 recommendation to all of you from a professional</p> <p>10 person as to what is or is not out there.</p> <p>11 FEMALE SPEAKER: What was the question?</p> <p>12 MR. PUGATCH: That's the best I think that we</p> <p>13 can offer right now.</p> <p>14 UNIDENTIFIED SPEAKER: Restate the question.</p> <p>15 FEMALE SPEAKER: What was the question?</p> <p>16 MR. PUGATCH: Oh, the question was whether</p> <p>17 somebody should evaluate, if for example, if</p> <p>18 somebody like Avellino or Bienes got some kind of</p> <p>19 fees out of this partnership, whether it would be</p> <p>20 appropriate that they be asked to pay any of it</p> <p>21 back. I'm summarizing, but -- and what I said is</p> <p>22 that should be evaluated by an independent person,</p> <p>23 and that's the best thing that this partnership or</p> <p>24 these partnerships could do is have somebody so</p> <p>25 that you will have the credibility of knowing that</p>	<p style="text-align: right;">Page 103</p> <p>1 is going to be done in any of those issues, that</p> <p>2 client, in my view, should be somebody independent</p> <p>3 for all your benefit.</p> <p>4 Yes, ma'am?</p> <p>5 (Inaudible audience input)</p> <p>6 UNIDENTIFIED SPEAKER: Restate the question,</p> <p>7 please.</p> <p>8 MR. PUGATCH: The question -- the question --</p> <p>9 the question is whether -- whether -- who will be</p> <p>10 participating in the decision, and I thought I said</p> <p>11 earlier we're going to submit that for a vote.</p> <p>12 We're going to make a recommendation. We'll give</p> <p>13 you who we recommend, with appropriate resumé may</p> <p>14 qualifications and whatever and ask you to vote on</p> <p>15 a person.</p> <p>16 I'd like to go back to the phone because we</p> <p>17 did promise those people we'd give them --</p> <p>18 UNIDENTIFIED SPEAKER: How many general</p> <p>19 partners are there?</p> <p>20 MR. PUGATCH: I'm sorry?</p> <p>21 UNIDENTIFIED SPEAKER: How many general</p> <p>22 partners are there in P & S?</p> <p>23 MR. PUGATCH: In P & S? Approximately 200</p> <p>24 per --</p> <p>25 UNIDENTIFIED SPEAKER: No, I meant S & P, S &</p>
<p style="text-align: right;">Page 102</p> <p>1 that decision was made by somebody with no ax to</p> <p>2 grind.</p> <p>3 (Inaudible input from audience.)</p> <p>4 FEMALE SPEAKER: Repeat the question.</p> <p>5 MR. PUGATCH: It's a meaningless question at</p> <p>6 this point in time. You all can -- can get</p> <p>7 whatever information you need on that, but in</p> <p>8 fairness, I'd really like to stick to the issues</p> <p>9 that affect everybody.</p> <p>10 (Inaudible audience input)</p> <p>11 Because -- because I'm not here right now,</p> <p>12 deal with those kinds of issues. I'm not saying</p> <p>13 they won't be dealt with. I'm saying have an</p> <p>14 independent person. The best, most economical,</p> <p>15 fairest thing you can do is get in here independent</p> <p>16 to evaluate that stuff, somebody who's a trained</p> <p>17 professional who does that for a living.</p> <p>18 UNIDENTIFIED SPEAKER: We couldn't hear that</p> <p>19 question.</p> <p>20 MR. PUGATCH: I'm -- I'm a lawyer. Lawyers</p> <p>21 have to have clients. Lawyers don't run</p> <p>22 partnerships. Lawyers don't make the decisions for</p> <p>23 their clients. Lawyers provide legal advice and</p> <p>24 legal representation.</p> <p>25 I have to have a client, and in regard to what</p>	<p style="text-align: right;">Page 104</p> <p>1 P.</p> <p>2 MR. PUGATCH: Hang on one second.</p> <p>3 (Inaudible) get exact numbers on that.</p> <p>4 Between the two partnerships, it's about 200 people</p> <p>5 in total.</p> <p>6 UNIDENTIFIED SPEAKER: Thank you.</p> <p>7 FEMALE SPEAKER: I have a question, please.</p> <p>8 MR. PUGATCH: Well, SBJ is a partner in S & P.</p> <p>9 FEMALE SPEAKER: All right. I have a</p> <p>10 question.</p> <p>11 MR. PUGATCH: Yes.</p> <p>12 MS. O'NEILL: Okay. This is Darlene O'Neill</p> <p>13 from Jacksonville, Florida.</p> <p>14 MR. PUGATCH: I'm sorry. I cannot understand</p> <p>15 you.</p> <p>16 MS. O'NEILL: Okay. My husband received a</p> <p>17 traditional IRA fourth quarter statement from</p> <p>18 Fiserv, and I called Fiserv to see if that money</p> <p>19 was actually there, and if so, could we withdraw</p> <p>20 that, the IRA money, and the young woman said yes.</p> <p>21 And she's in the process of mailing me forms to</p> <p>22 fill out to give that money.</p> <p>23 Am I to understand that that money is frozen,</p> <p>24 or is not there?</p> <p>25 MR. PUGATCH: You know, I don't know the</p>

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<p style="text-align: right;">Page 105</p> <p>1 answer to that.</p> <p>2 A lady who asked the question earlier said</p> <p>3 that she was told that money is frozen.</p> <p>4 MS. O'NEILL: Okay.</p> <p>5 MR. PUGATCH: Now, if you're getting different</p> <p>6 information --</p> <p>7 MS. O'NEILL: Yeah.</p> <p>8 MR. PUGATCH: -- you should certainly, you</p> <p>9 know, do whatever you can do to pursue that, and if</p> <p>10 they'll give you your money back, then great, but</p> <p>11 I'm only answering questions based upon the</p> <p>12 information that's being given to me here.</p> <p>13 MS. O'NEILL: Yeah. Well, I've listened to</p> <p>14 all this for a couple of hours now, is why I chimed</p> <p>15 in, because it, you know, is contradicting, so</p> <p>16 that's why I asked the question, so I'm waiting for</p> <p>17 the forms.</p> <p>18 MR. PUGATCH: Well, I'm glad -- I'm glad you</p> <p>19 pointed that out, and I guess anybody who's</p> <p>20 involved with Pfizer should make their own</p> <p>21 independent inquiry as to whether they can get</p> <p>22 their money back.</p> <p>23 MS. O'NEILL: Yeah.</p> <p>24 FEMALE SPEAKER: But does that money not have</p> <p>25 to come down from --</p>	<p style="text-align: right;">Page 107</p> <p>1 The question was in relation to an inquiry of</p> <p>2 the IRS as to net operating losses, and what we</p> <p>3 said at the very beginning was that it's definitely</p> <p>4 an issue, and you should definitely each talk to</p> <p>5 your tax adviser to determine whether you have an</p> <p>6 opportunity to amend your returns and take</p> <p>7 advantage of that.</p> <p>8 That's not something that we can advise you,</p> <p>9 but you definitely should check that out.</p> <p>10 UNIDENTIFIED SPEAKER: One question.</p> <p>11 MR. PUGATCH: Yes, this gentleman right here</p> <p>12 in the middle.</p> <p>13 (Inaudible input from audience.)</p> <p>14 It would probably be dependent on whether the</p> <p>15 partnership does or doesn't get pursued for that.</p> <p>16 UNIDENTIFIED SPEAKER: What was the question,</p> <p>17 please?</p> <p>18 MR. PUGATCH: The question was whether there</p> <p>19 is some reckoning that occurs between the</p> <p>20 individual partners if somebody is net up and</p> <p>21 somebody else is net down during that six-year</p> <p>22 period, and I would think that the answer is</p> <p>23 dependent on whether the partnership itself gets</p> <p>24 sued for that money.</p> <p>25 If the partnership itself gets sued for that</p>
<p style="text-align: right;">Page 106</p> <p>1 UNIDENTIFIED SPEAKER: Why don't you write</p> <p>2 Fiserv a letter, explain to them, say, look,</p> <p>3 apparently, you've earmarked it. Yet, you have</p> <p>4 custody of at least \$1,000 of mine that was, you</p> <p>5 know, that you kept in cash in order to, um, you</p> <p>6 know maintain the account for me.</p> <p>7 MS. O'NEILL: Right.</p> <p>8 UNIDENTIFIED SPEAKER: I'd like it back. If</p> <p>9 you don't want to give it to me back, please, you</p> <p>10 know, explain to me in writing why you won't give</p> <p>11 it back to me. That's all.</p> <p>12 I mean hold their feet to the fire and make</p> <p>13 them -- pin them down as to their explanation as to</p> <p>14 why you're not entitled.</p> <p>15 Again, that's what I would do if I were you.</p> <p>16 MS. O'NEILL: Okay. Thank you very much.</p> <p>17 MR. PUGATCH: Anybody else on the phone before</p> <p>18 we go back to the room again?</p> <p>19 UNIDENTIFIED SPEAKER: This may be too</p> <p>20 individual a question, but I asked the IRS about</p> <p>21 net operating losses if a fraud was committed. I</p> <p>22 mean is it too early to think about something like</p> <p>23 that?</p> <p>24 MR. PUGATCH: No, I don't think it's too</p> <p>25 early.</p>	<p style="text-align: right;">Page 108</p> <p>1 money and the exposure is caused by certain people</p> <p>2 and not by others, then that would certainly have</p> <p>3 to be evaluated as to whether the partnership has</p> <p>4 claims against any of its partners.</p> <p>5 (Inaudible input from audience.)</p> <p>6 MR. PUGATCH: The answer is yes, and I don't</p> <p>7 say that by saying that that's a determination as</p> <p>8 to whether that -- that point of law would prevail</p> <p>9 or not, but it would certainly be one of the things</p> <p>10 that the partnership would have an obligation to</p> <p>11 look at since it involves its partners.</p> <p>12 UNIDENTIFIED SPEAKER: The question?</p> <p>13 MR. PUGATCH: It's almost like part of the</p> <p>14 adjustment of people's capital accounts up and down</p> <p>15 as general partners under the general partnership</p> <p>16 laws.</p> <p>17 FEMALE SPEAKER: What was the question?</p> <p>18 UNIDENTIFIED SPEAKER: What was the question?</p> <p>19 MR. PUGATCH: We would be looking at that</p> <p>20 issue at the appropriate time.</p> <p>21 The question was would we be handling that?</p> <p>22 We as lawyers would certainly be looking at</p> <p>23 that issue at the appropriate time, yes.</p> <p>24 Yes, in the corner.</p> <p>25 (Inaudible input from audience.)</p>

<p style="text-align: right;">Page 109</p> <p>1 MR. PUGATCH: The answer, to my knowledge, is</p> <p>2 no and no.</p> <p>3 UNIDENTIFIED SPEAKER: What was the question?</p> <p>4 MR. PUGATCH: Oh, the question was whether</p> <p>5 there are any lawsuits pending against either of</p> <p>6 these partnerships and whether there are</p> <p>7 investigative agencies looking at these</p> <p>8 partnerships, and I said to my knowledge, and I</p> <p>9 think to the knowledge of the managing partner, the</p> <p>10 answer would be no on both counts.</p> <p>11 Anybody else?</p> <p>12 UNIDENTIFIED SPEAKER: I have a question.</p> <p>13 MR. PUGATCH: Yes, sir.</p> <p>14 UNIDENTIFIED SPEAKER: Going back to the net</p> <p>15 operating loss question, the IRS said I had to</p> <p>16 demonstrate that fraud had been committed and I had</p> <p>17 to provide proof of that.</p> <p>18 What proof do I have to show them?</p> <p>19 MR. PUGATCH: Well, the question was based</p> <p>20 upon a comment from the IRS that they had to</p> <p>21 demonstrate that fraud had been committed, and the</p> <p>22 answer is that is it may be premature to really be</p> <p>23 in a position to have that proof, but one of two</p> <p>24 things is going to happen.</p> <p>25 Either you'll get that proof individually, or</p>	<p style="text-align: right;">Page 111</p> <p>1 that.</p> <p>2 One would be to provide choices. The other</p> <p>3 would be for us to go through the interview process</p> <p>4 and simply put somebody out there, and if you</p> <p>5 approve them, fine. If you don't, then go to the</p> <p>6 next level.</p> <p>7 My view, and this is just my opinion, is if,</p> <p>8 given the number of people, you put too many</p> <p>9 choices out there, it's going to be almost a</p> <p>10 meaningless exercise, and what I would personally</p> <p>11 prefer to see is that we make the evaluation with</p> <p>12 the input of the lawyers and then put somebody out</p> <p>13 there for approval, tell you why we think they</p> <p>14 should be approved, give you their qualifications</p> <p>15 and credentials to look at and that the vote simply</p> <p>16 be yes or no.</p> <p>17 If the vote carries, great. If the vote</p> <p>18 doesn't carry, then we'll do the same thing with</p> <p>19 the next person, but we're certainly interviewing</p> <p>20 and looking at more than one firm.</p> <p>21 There are several -- several firms, several</p> <p>22 individuals that I think could fulfill that role</p> <p>23 that are local here, and we're certainly looking at</p> <p>24 at least three in terms of being fair and doing due</p> <p>25 diligence.</p>
<p style="text-align: right;">Page 110</p> <p>1 as I've been advised, the IRS will probably assign</p> <p>2 an individual or a unit from each district to these</p> <p>3 issues from this case because it's a broad enough</p> <p>4 nationwide or international issue, and so it may</p> <p>5 come that the IRS at some point will have a policy</p> <p>6 as a given that it is or it isn't.</p> <p>7 (Inaudible input from audience.)</p> <p>8 UNIDENTIFIED SPEAKER: Another question. Can</p> <p>9 you recommend more than one outside firm to make</p> <p>10 the decisions or make the recommendations that</p> <p>11 you've discussed? And also, has there been any</p> <p>12 communication with Avellino or Bienes since all</p> <p>13 this news broke?</p> <p>14 MR. PUGATCH: The first part of that question,</p> <p>15 I didn't hear. Something about an outside firm.</p> <p>16 UNIDENTIFIED SPEAKER: Right. Will you</p> <p>17 recommend -- give a choice, more than one outside</p> <p>18 firm so that people can make a decision?</p> <p>19 MR. PUGATCH: Okay. I think I understand the</p> <p>20 question.</p> <p>21 The question is in terms of finding this</p> <p>22 independent person who will take over management --</p> <p>23 UNIDENTIFIED SPEAKER: Right.</p> <p>24 MR. PUGATCH: -- will we provide a choice?</p> <p>25 You know, there's two schools of thought on</p>	<p style="text-align: right;">Page 112</p> <p>1 UNIDENTIFIED SPEAKER: And then has there been</p> <p>2 any communication with Avellino or Bienes from the</p> <p>3 partnership since all this news broke?</p> <p>4 MR. PUGATCH: No. To my knowledge, there's</p> <p>5 been no partnership communication with either of</p> <p>6 them. I certainly have not had any communication</p> <p>7 with either of them.</p> <p>8 Anyone else in the room here with a question?</p> <p>9 Yes, ma'am?</p> <p>10 (Inaudible audience input)</p> <p>11 MR. PUGATCH: Excellent question. I apologize</p> <p>12 because it's one that I was asked to include and</p> <p>13 cover, and it just got lost in the shuffle there.</p> <p>14 The question really is in terms of getting</p> <p>15 SPIC to open up the governmental pocketbook and</p> <p>16 increase both the size of the pot for all of you</p> <p>17 and also expand the level of creditors that will be</p> <p>18 entitled to participate, who do you write to, and</p> <p>19 how do you expedite that process?</p> <p>20 And I think the answer is you write to your</p> <p>21 Congressman, you write to anybody in power you</p> <p>22 know, and you get as many other people as you know</p> <p>23 that are affected or care to do the same thing.</p> <p>24 I mean that's one -- one good thing about our</p> <p>25 government is that we do as citizens have that</p>

<p style="text-align: right;">Page 113</p> <p>1 ability to put pressure on the people who make the 2 decision, and you should definitely do that. 3 I would start with local Congressman, 4 Senators, anybody at the local Florida level is 5 usually the place to start because they have a 6 greater degree of responsiveness to their 7 constituency. Anybody you know. It cannot hurt, 8 anybody who's got a name, position of power, the 9 more the merrier. 10 (Inaudible input from audience.) 11 FEMALE SPEAKER: What happened? 12 MR. PUGATCH: Yeah, there is -- the question 13 is over and above simply just corresponding with 14 Congressmen or Senators or whatever, is there a 15 judge overseeing it? And the answer is yes. 16 The judge who's overseeing the bankruptcy 17 proceedings, of the SPIC proceedings is Judge Burt 18 Lifland. He's an excellent judge. He's between 19 around for a long time. I know him personally. 20 He was the judge in the Eastern Airlines case 21 many, many years ago, and he's a very, very 22 sensitive and responsive individual. 23 I know that at his level, and I think also the 24 District Judge that initiated these proceedings 25 have made comments on the record that it would be</p>	<p style="text-align: right;">Page 115</p> <p>1 difference between going to the press and going to 2 the Congressman? I'll tell you exactly what it is. 3 With all due respect to the press, they're out 4 to write a story. They're not out to help you, and 5 therefore, they're out for the sensationism, 6 they're looking for the train wreck, so to speak. 7 That's what makes good press. That's what sells 8 newspapers. 9 Sometimes in the process, that does help 10 people and put pressure on people. 11 Your Congress -- 12 (Inaudible input from audience.) 13 MR. PUGATCH: No, but I'm not suggesting that 14 you go to your Congressman and divulge confidential 15 information about what's going on. 16 I'm saying you go to them and write a letter 17 that says hey, I'm an investor, I got hurt, a lot 18 of other people got hurt. You know, our life 19 savings are in jeopardy here, and you have the 20 power to help us get SPIC to open the wallet and 21 expand the protection. Please do that. And that's 22 basically the difference. 23 Yeah, this lady in the back over here. 24 (Inaudible input from audience.) 25 FEMALE SPEAKER: Okay, so I'll talk to you</p>
<p style="text-align: right;">Page 114</p> <p>1 appropriate for the government to consider doing 2 that. 3 Having said that, they don't have any more 4 control over that. They're in the judicial branch 5 of the government. It's going to take the 6 legislative branch to cause that to have to happen. 7 (Inaudible input from audience.) 8 Yeah, the question is could we include 9 information to help people with who and how they 10 should write? And we'll do what we can on that. 11 I mean basically, you're talking about the 12 people in charge at SPIC, and you're talking about 13 the list of your local Senators and Congressmen, 14 and we can certainly provide that information. 15 Most of them also have e-mail access, so yes, we'll 16 do that, be happy to do that. 17 Have I worn you out yet with a sample letter? 18 Sure, I'll put together a sample letter. I have no 19 problem with that. 20 (Inaudible audience input.) 21 That was too much Starbucks coffee or I 22 haven't worn you out yet. 23 Yes, ma'am. 24 (Inaudible input from audience.) 25 MR. PUGATCH: The question was what's the</p>	<p style="text-align: right;">Page 116</p> <p>1 tomorrow. 2 (Inaudible input from audience.) 3 MR. PUGATCH: I understand you're all upset, 4 and don't take anything we've said as not being 5 sensitive to that, and I understand that sometimes 6 what you get back is a form letter, and I 7 understand that sometimes, you get frustrated, and 8 you figure it's not doing any good. 9 (Inaudible input from audience.) 10 MR. PUGATCH: You're not getting paid unless 11 they change the rule and -- all right. Can I? 12 Look, you know what? It didn't take very long -- 13 and I'm not trying to put false hopes out there. 14 Don't get me wrong. I understand exactly where 15 you're coming from. 16 UNIDENTIFIED SPEAKER: Restate the question, 17 please. 18 MR. PUGATCH: It didn't take five years for 19 Congress to decide to do a bail-out of banks and 20 certain other things like that. 21 If the scope of this is broad enough, as it 22 appears to be, and if enough pressure gets put on 23 the right people, it's possible for it to have an 24 effect. 25 Are we naive enough to say, yes, it's going</p>

<p>Page 117</p> <p>1 to? No. But, you know, I'll tell you what. 2 I can't even remember which Congressman it 3 was, but I remember during this last election 4 seeing adds out there for one of the Congressman, 5 and I don't even want to mention the name, but I 6 think I remember who it was, but I don't even want 7 to put that out there without remembering for sure, 8 and the whole point was that so-and-so helps us, he 9 helps his constituents, and look, we had this 10 business, and we were almost shut down, and he went 11 and wrote letters and whatever. And the gist of it 12 was I'm there for you, my constituents. 13 Well, go to all those people who put stuff out 14 there out like that when they want your vote and 15 put whatever pressure you can on them. At least, 16 then, you'll be able to look yourself in the mirror 17 and say, like you have, that you've done it. 18 (Inaudible input from audience.) 19 MR. PUGATCH: Exactly. 20 (Inaudible input from audience.) 21 I will agree with that, and I urge everybody 22 again, don't -- don't take it for granted. Don't 23 think that your voice doesn't count. The more 24 voices, the more chance. 25 UNIDENTIFIED SPEAKER: Restate the question.</p>	<p>Page 119</p> <p>1 rather than having each name submitted to a vote. 2 We'll look at that. I mean it's a legitimate 3 point. And let me go back to the agreements. 4 I just want to make sure for everyone's 5 benefit that whatever we do, it's pursuant to the 6 agreement. 7 Yes, ma'am. 8 (Inaudible input from audience.) 9 Well, that's why -- it was originally 10 suggested -- you know, I'm sorry. I was originally 11 suggesting that we do -- 12 UNIDENTIFIED SPEAKER: Restate the question. 13 MR. PUGATCH: The comment that was made, more 14 than a question, is that there ought to be an 15 outline or a proposal as to what -- whether it's 16 Moecker or anybody else, what that person is going 17 to do, and I thought I said before that that would 18 be part of what we'd be putting out there would be 19 a proposal, including a resumé and all that, and 20 certainly, an outline in terms of the ballot as to 21 what that person's going to do, but, you know, 22 you've got competing things here. 23 One person is saying save the money. Another 24 person's saying go out there and investigate every 25 potential cause of action.</p>
<p>Page 118</p> <p>1 (Inaudible input from audience.) 2 FEMALE SPEAKER: We lost a lot of money. 3 MR. PUGATCH: The question really was 4 shouldn't the managing partner, along with counsel, 5 be able to simply just use their discretion and 6 judgment and appoint somebody? 7 The reason I had suggested the vote is because 8 in my interpretation of the partnership agreement, 9 and I think we're all bound about what the 10 agreement is that it's best that we have the 11 51 percent in dollar amount required to, in effect, 12 to make what amounts to a management change. 13 I don't want somebody coming back later and 14 saying that what we did was not authorized by the 15 partnership agreement. 16 (Inaudible input from audience.) 17 MR. PUGATCH: But that would require a vote 18 too, so I see what you're saying. In other words, 19 have the vote be to designate -- 20 (Inaudible input from audience.) 21 MR. PUGATCH: Right. 22 (Inaudible input from audience.) 23 MR. PUGATCH: Okay, so -- so the proposal is 24 simply to have the vote be to designate the 25 managing partner and counsel to pick the person,</p>	<p>Page 120</p> <p>1 At some point, that has to be reconciled, and 2 really, the majority rule should carry as to how we 3 go forward. 4 There's really no other way that I would know 5 how to do it and reconcile it, other than to see 6 what the partnership agreement says, which is 7 submit it to a vote. 8 (Inaudible audience input) 9 Yeah. Anybody has a right to withdraw from 10 the partnership. You could do that today. You 11 could do it tomorrow. It would not be my view that 12 that exculps liability for all the things that have 13 already happened, but it could certainly cut off 14 potential liability in the future, and there again, 15 you should each go to your individual attorney or 16 adviser and decide what's best for you. 17 Yes, sir. 18 (Inaudible input from audience.) 19 No. The question was would that allow you to 20 go directly to SPIC for your claim. No, your claim 21 is locked. 22 As I said, what's already happened happened, 23 and your claim would be based upon what's already 24 happened, so you're locked into the partnership 25 insofar as your claims and what's already happened.</p>

<p>Page 121</p> <p>1 David?</p> <p>2 (Inaudible input from audience.)</p> <p>3 Well, and I agree with you, and that's why I'm</p> <p>4 saying I'm not here on behalf of the partnership to</p> <p>5 provide that opinion.</p> <p>6 I'm simply saying that certainly, anybody has</p> <p>7 a right to resign, and they should check with their</p> <p>8 own legal advisers before they make this decision.</p> <p>9 UNIDENTIFIED SPEAKER: What was the question?</p> <p>10 MR. PUGATCH: I'm not advocating that</p> <p>11 decision.</p> <p>12 The question -- it wasn't a question. It was</p> <p>13 a comment by one of the attorneys here that there</p> <p>14 may be issues with simply resigning by virtue of</p> <p>15 the provisions of the agreement that deal with how</p> <p>16 you get paid out and what you get paid out when</p> <p>17 you -- when you leave the partnership and that the</p> <p>18 partnership obviously may not be in a position to</p> <p>19 fulfill that, and you want a lawyer to look at how</p> <p>20 that affects your legal rights before you do it</p> <p>21 because, you know, there's very little liability</p> <p>22 going forward here.</p> <p>23 The liability, to the extent there is any is</p> <p>24 pretty much for what's already happened anyway.</p> <p>25 The gentleman in the front.</p>	<p>Page 123</p> <p>1 MR. PUGATCH: I'm not sure I got all or</p> <p>2 understood the question. I know it had to do with</p> <p>3 the request in my agreement that we put a form</p> <p>4 together for the letter to your Congressman.</p> <p>5 UNIDENTIFIED SPEAKER: Right and bullet points</p> <p>6 in.</p> <p>7 MR. PUGATCH: And bullet points in.</p> <p>8 UNIDENTIFIED SPEAKER: Yeah, really, specific,</p> <p>9 clear, so they're absolutely sure about what would</p> <p>10 be best for -- for us, what we're asking for.</p> <p>11 MR. PUGATCH: Now, again, what the request</p> <p>12 was, and what I'd be doing is putting a letter that</p> <p>13 basically says, you know, we've been seriously hurt</p> <p>14 by all this, and you can help by passing laws or</p> <p>15 getting rules changed to allow claims to be made by</p> <p>16 the individual end parties that were hurt, rather</p> <p>17 than through the entities. And we'll put something</p> <p>18 more legally specific, but that's what we're</p> <p>19 talking about. I don't know what other bullet</p> <p>20 points we'd be talking about, but...</p> <p>21 UNIDENTIFIED SPEAKER: If that's sufficient,</p> <p>22 that's great.</p> <p>23 MR. PUGATCH: I'm going to do a form that's</p> <p>24 going to be along those lines.</p> <p>25 You all are entitled to use it, not use it,</p>
<p>Page 122</p> <p>1 (Inaudible input from audience.)</p> <p>2 MR. PUGATCH: That sounds logical. The</p> <p>3 comment that was made was if both the partnership</p> <p>4 and the individual are down, it would seem safe to</p> <p>5 file for the March 4th, and all I'll say is, and I</p> <p>6 think Jim's echoing this, that sounds logical, but</p> <p>7 again, we're not here to give you that advice. You</p> <p>8 have to make your own evaluation of that, but I</p> <p>9 think you need to wait.</p> <p>10 I mean we're not for sure that the</p> <p>11 partnerships are up and down until we evaluate the</p> <p>12 time frames that are applicable, so within a week</p> <p>13 or so, you should have that information. There's</p> <p>14 plenty of time for you to make those decisions.</p> <p>15 Anyone else?</p> <p>16 UNIDENTIFIED SPEAKER: Yes.</p> <p>17 MR. PUGATCH: On the phone.</p> <p>18 UNIDENTIFIED SPEAKER: Yes. You mentioned</p> <p>19 about for a legislative tactic, writing a sample</p> <p>20 letter for Congress people, and I'd also like, if</p> <p>21 possible, bullet points, so if people are going to</p> <p>22 go individually talk to their legislators that</p> <p>23 they'd have really clear, distinct ideas about what</p> <p>24 would be, you know, what would be preferable for</p> <p>25 us.</p>	<p>Page 124</p> <p>1 add to it or do whatever you want in terms of</p> <p>2 increasing or decreasing the scope of what you ask</p> <p>3 for.</p> <p>4 Anybody else?</p> <p>5 UNIDENTIFIED SPEAKER: Can I just clarify</p> <p>6 something? Can I just clarify something you just</p> <p>7 said about the partnership?</p> <p>8 You're going to let us know whether the</p> <p>9 partnership is up or down within the next week or</p> <p>10 two before the filing?</p> <p>11 MR. PUGATCH: Yes. What I said is that we are</p> <p>12 going to send out records, from which you'll be</p> <p>13 able to determine both the partnership you're in</p> <p>14 and your individual account, whether you're net up</p> <p>15 and down within the time frame that is applicable.</p> <p>16 UNIDENTIFIED SPEAKER: Oh, okay.</p> <p>17 MR. PUGATCH: And you'll have plenty of time</p> <p>18 at that point to make the decision.</p> <p>19 UNIDENTIFIED SPEAKER: And -- and if I was</p> <p>20 down and the partnership was down, then your</p> <p>21 feeling, there would be probably nothing to lose to</p> <p>22 file?</p> <p>23 MR. PUGATCH: I'm not giving you my --</p> <p>24 UNIDENTIFIED SPEAKER: Yeah, I understand.</p> <p>25 Okay.</p>

MEETING
SECURITIES INVESTOR VS. MADOFF INVESTMENT

January 30, 2009
125-128

<p style="text-align: right;">Page 125</p> <p>1 MR. PUGATCH: There was a comment made here in 2 the room that it would probably be safe, and all 3 we're saying is that sounds logical, but you have 4 to go to your legal adviser to make those 5 decisions. The partnership lawyers cannot give you 6 advice on that. 7 UNIDENTIFIED SPEAKER: Thank you. Okay. 8 UNIDENTIFIED SPEAKER: Have all the 9 partnership records been maintained? 10 MR. PUGATCH: Yes, the partnership records 11 have been maintained. They're up to date, and I'm 12 not aware of any issue or problem with the 13 record-keeping. 14 UNIDENTIFIED SPEAKER: Where are they 15 maintained now? 16 MR. PUGATCH: Maintained by Mike Sullivan at 17 his office, at the partnership office. 18 Anyone else? 19 Yes, ma'am. 20 (Inaudible input from audience.) 21 MR. PUGATCH: The question was that this lady 22 heard that some of the net losers were going after 23 the net winners. 24 I don't think that those rights belong to the 25 individual. I think that those rights would flow</p>	<p style="text-align: right;">Page 127</p> <p>1 The only way they could really do that is if 2 they determine there was a basis for the -- as we 3 call it, clawback liability, and we have no way of 4 knowing yet whether that's going to happen. 5 (Inaudible input from audience.) 6 MR. PUGATCH: No, you don't. First of all, I 7 think we're confusing two different levels here. 8 First of all, if it was determined that the 9 partnership was net up during the clawback period 10 where the Statute of Limitations is applicable, 11 then the bankruptcy trustee could decide to pursue 12 that. 13 If that were to happen, it would be the 14 partnership that would be liable. 15 Now, whether the partnership would then say, 16 okay, the following eight people, you're the guys 17 that were up that caused this and then have a claim 18 back against them was a question that was asked 19 earlier, and it is a possibility, but we don't have 20 an answer to that right now. 21 Yes, sir. 22 (Inaudible input from audience.) 23 My understanding is that it's still a six-year 24 Statute of Limitation. 25 UNIDENTIFIED SPEAKER: A phone comment.</p>
<p style="text-align: right;">Page 126</p> <p>1 through the bankruptcy estate and would be 2 administered by the bankruptcy trustee. 3 (Inaudible audience input) 4 Yeah. The question is whether all claims are 5 stayed by a channeling injunction. I don't -- 6 normally, in a bankruptcy proceeding, there 7 wouldn't be, so I'm not specifically aware as to 8 whether there is a channeling injunction in place 9 in this case as there would be in a receivership. 10 In a bankruptcy case, it's an automatic stay 11 that creates, in effect, the channeling injunction, 12 so one way or the other, it's very clear under 13 bankruptcy law that those claims, those avoidance 14 claims are property of the bankruptcy estate, and 15 therefore, they belong to the bankruptcy trustee. 16 (Inaudible audience input) 17 No, no. We're talking about the SPIC 18 procedure is administered as a bankruptcy. 19 The SPIC proceeding that's in place for Madoff 20 Securities gets administered by law under the 21 bankruptcy law by a bankruptcy judge, and that's 22 what we're talking about. 23 (Inaudible input from audience.) 24 Well, the question is can they come in to the 25 partnership?</p>	<p style="text-align: right;">Page 128</p> <p>1 MR. PUGATCH: What I said -- the question was 2 something about Florida. 3 No, what I said is that under bankruptcy law 4 itself, under the actual bankruptcy law, the 5 fraudulent transfer clawback is two years. Under 6 Florida law, it's four years. Under New York law, 7 it's six years. The bankruptcy law allows the 8 Trustee to use State law, so assuming this gets 9 administered and it's determined that New York law 10 governs, you're looking at six years. 11 UNIDENTIFIED SPEAKER: Comment. 12 MR. PUGATCH: Anything older than the six 13 years, in all likelihood, would not count. 14 (Inaudible input from audience.) 15 MR. PUGATCH: Three-year carry-back in terms 16 of amending is what I'm being told. Again, check 17 with your accountant as to what you can or can't 18 do. 19 (Inaudible input from audience.) 20 MR. SALLAH: There's no way that this is not 21 going to be a theft loss. 22 I mean the Department of Justice indicted the 23 guy. The SEC sued the guy for running a Ponzi 24 scheme. The IRS is going to be like, prove he ran 25 a Ponzi?</p>

<p style="text-align: right;">Page 129</p> <p>1 It's not -- I'm just telling you, the IRS, 2 you're probably talking to some low-level IRS 3 person on the phone. Okay. 4 (Inaudible input from audience.) 5 MR. SALLAH: Well, you're right, and just so 6 you know, I know a lawyer, and I'm not making a 7 referral -- I'm just telling you. I know people. 8 There's a guy name Gary Gross, his name was. He 9 wiped out half of a synagogue in Boca, much less 10 than Madoff. I mean, he was sending out fake 11 statements and this and that, but he wasn't 12 actually stealing money, you know, like Madoff. It 13 wasn't a Ponzi scheme, and those people got an 14 opinion letter from a tax lawyer regarding that it 15 was a theft lost, and you're allowed to do the 16 three-year -- I mean whatever those people somehow 17 got. 18 I cannot believe with Madoff that the IRS 19 would even think about rejecting these claims and 20 say well, we'll not really sure it was theft or 21 not. It would be mind-boggling. 22 UNIDENTIFIED SPEAKER: Hello? 23 MR. PUGATCH: In any event, I don't think that 24 the end determination is that there has to be a 25 conviction before the IRS could make that</p>	<p style="text-align: right;">Page 131</p> <p>1 up and down and where the partnership is net up and 2 down, and that in a timely manner, the partnerships 3 will also produce their tax returns, and you'll get 4 your K-1's and that information also. 5 (Inaudible input from audience.) 6 When you say final, you mean this will be the 7 final year? I don't know that I have the answer to 8 that yet or whether there would be a reason why the 9 partnerships have to continue to file until this is 10 all finalized, but we'll get appropriate tax advice 11 on that. 12 As I said before, I go to my accountant. I 13 don't give tax return advice. I get it. 14 UNIDENTIFIED SPEAKER: I have one last 15 question just to clarify again. 16 If you take the whole thing as a theft loss, 17 and then in future years, money comes in through 18 SPIC or something else, how does that work? Do you 19 (inaudible) again? 20 MR. PUGATCH: Sir, I'm not an accountant, but 21 generally speaking, when you get to take a 22 write-off like that, and you get money in, you do 23 have to recoup it in the years that you recoup the 24 money. 25 UNIDENTIFIED SPEAKER: As income, yeah.</p>
<p style="text-align: right;">Page 130</p> <p>1 determination. 2 Yes, you're right, they haven't yet, but I 3 think Jim's point is simply, it would be 4 mind-boggling to believe at some point that they 5 would not. 6 Anybody else before we wrap up? 7 Again, I'm not trying to chase anybody out 8 that has a legitimate question. 9 UNIDENTIFIED SPEAKER: Phone comment. 10 MR. PUGATCH: Or leaving. 11 UNIDENTIFIED SPEAKER: Phone comment. 12 FEMALE SPEAKER: They can't hear you. 13 UNIDENTIFIED SPEAKER: Phone comment. 14 Tell your Congressman that the government 15 screwed up, the SEC screwed up. 16 MR. PUGATCH: We all concur with that. 17 There's a lot of head-nodding going on. 18 Okay. Unless there's something else, I think 19 we've probably exhausted everybody and exhausted 20 the issues. I'm sorry. 21 Yes, sir. I'm sorry. Absolutely. 22 (Inaudible input from audience.) 23 MR. PUGATCH: Yeah. What I said is that there 24 is going to be in the next week information sent to 25 each partner that will tell you where you are net</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. PUGATCH: That's normally what happens. 2 UNIDENTIFIED SPEAKER: Thank you. 3 MR. PUGATCH: Okay. Yeah. I think that -- 4 the question was who should you contact in terms of 5 an individual attorney in terms of an individual 6 attorney, and I think it is appropriate that you 7 talk to an insolvency lawyer when you're making a 8 decision as to whether to file an insolvency claim. 9 I'm also told, by the way, apparently, 10 although we've done a pretty good job of keeping 11 the press away from the inside of the hotel that 12 there are people out in the parking lot that are 13 probably unfortunately going to bug you, and 14 obviously, you make your own decisions as to how 15 you handle that, but you're not obligated to talk 16 to them, and it's unfortunate that they chose to 17 stay there and do that. 18 (Inaudible input from audience.) 19 That may be premature to go to an SEC lawyer. 20 I think that the most important and quickest issue 21 you've got to deal with is the claim in the 22 bankruptcy. 23 All right. Thank you, everybody. I 24 appreciate all the patience and the courtesy you've 25 all extended, and we will be in touch with you as</p>

<p style="text-align: right;">Page 133</p> <p>1 to the future procedures. Look for something very 2 quick, and especially for the people on the phone, 3 thank you. You were very patient, and you made 4 this very easy to deal with. I thought it would be 5 a lot messier. 6 So everybody, try to have a good weekend, and 7 look for some information next week. 8 FEMALE SPEAKER: Does anybody on the phone 9 feel that they are representing us? I'm just 10 representing basically S & P. 11 MR. PUGATCH: I'm not sure that we can still 12 hear what's going on because people are getting up 13 and leaving, but I think they are getting ready to 14 disconnect the call, so again, everyone, have a 15 good weekend. 16 FEMALE SPEAKER: Who else is on the phone? Is 17 anybody else still on? 18 UNIDENTIFIED SPEAKER: Yeah, I'm on. 19 FEMALE SPEAKER: Did they think they mostly 20 were representing S & P? 21 UNIDENTIFIED SPEAKER: Well, I think that's 22 their obligation. 23 FEMALE SPEAKER: Totally. Totally. 24 FEMALE SPEAKER: Yeah, that's what I got. 25 FEMALE SPEAKER: Yeah, yeah.</p>	<p style="text-align: right;">Page 135</p> <p>1 me just a brief general impression or...? 2 FEMALE SPEAKER: My impression is you're on 3 your own. 4 UNIDENTIFIED SPEAKER: Yeah. 5 FEMALE SPEAKER: And if you want -- if you 6 decide to go individually and file a claim that 7 that might interfere and put you out there above 8 radar. 9 UNIDENTIFIED SPEAKER: Yeah. 10 FEMALE SPEAKER: As a potential person to 11 be -- have libel put against. I think that's what 12 I got from it. 13 UNIDENTIFIED SPEAKER: Yeah. See, that's the 14 only thing that concerns me is the liability, but 15 we're so -- 16 FEMALE SPEAKER: Yeah. 17 UNIDENTIFIED SPEAKER: We're so low in this. 18 We practically have very little skin in this game, 19 but... 20 FEMALE SPEAKER: Well, as compared to millions 21 that some people did, we're not big on that ladder 22 either, but it's still, you know, today, still a 23 lot of money. 24 UNIDENTIFIED SPEAKER: Yeah. 25 FEMALE SPEAKER: So...</p>
<p style="text-align: right;">Page 134</p> <p>1 FEMALE SPEAKER: Yeah. 2 FEMALE SPEAKER: Not very encouraging, is it? 3 Jiminy. It's not very encouraging. 4 UNIDENTIFIED SPEAKER: Is anybody still there? 5 UNIDENTIFIED SPEAKER: Yeah, I'm still here. 6 FEMALE SPEAKER: Yes. 7 UNIDENTIFIED SPEAKER: Yeah, I was -- I had to 8 work, so I wasn't able to catch the vast majority 9 of that. 10 Did they say that -- anything about the -- 11 since that was being recorded, is he available? 12 UNIDENTIFIED SPEAKER: Yes, he did. He said 13 contact his office, and he would try to get an MP3 14 file or a CD or something to you. 15 UNIDENTIFIED SPEAKER: Okay. 16 UNIDENTIFIED SPEAKER: If you request it to 17 him, to Chad. You got his letter, right? 18 UNIDENTIFIED SPEAKER: Yeah. I'm kind of 19 indirectly involved it's really my sister. I had 20 left this -- this part of my dad's estate to her, 21 and so I was just on the phone, just -- so I 22 understand it better than she does, but... 23 FEMALE SPEAKER: Well, good luck in 24 understanding what was said today. 25 UNIDENTIFIED SPEAKER: Yeah. Can anybody give</p>	<p style="text-align: right;">Page 136</p> <p>1 UNIDENTIFIED SPEAKER: Don't you think that 2 the concern for them is that if you file 3 individually, you could screw up the partnership 4 claim? 5 FEMALE SPEAKER: Yeah. Oh, yeah. 6 UNIDENTIFIED SPEAKER: Yeah. 7 UNIDENTIFIED SPEAKER: And also, do you know 8 how much is in these partners? It's approximately 9 60 million in the S & P and P & S. 10 UNIDENTIFIED SPEAKER: Was that -- yeah, 11 that's what I was curious about too because I was 12 under the initial impression it was only about 13 6 million or so, but... 14 UNIDENTIFIED SPEAKER: No. No. 15 UNIDENTIFIED SPEAKER: I was off by a factor 16 of 10. 17 UNIDENTIFIED SPEAKER: I went on -- I went on 18 the Internet looking for documents filed with the 19 State of Florida, and I -- the most I found, the 20 approval for three and a half million. 21 FEMALE SPEAKER: Yeah. 22 UNIDENTIFIED SPEAKER: But I talked to Michael 23 a few days ago. 24 FEMALE SPEAKER: Uh-huh. 25 UNIDENTIFIED SPEAKER: And asked him</p>

<p style="text-align: right;">Page 137</p> <p>1 specifically. I think I sent an e-mail asking him 2 how much, and he told me there was 60 million, and 3 I'm in both of them, and I figured for my -- you 4 know, I figured it backwards, and I figured it's 5 40 million in S & P and 20 million in P & S. 6 UNIDENTIFIED SPEAKER: Uh-huh. 7 FEMALE SPEAKER: What is P & S? 8 UNIDENTIFIED SPEAKER: P -- P & S is the one 9 for the IRA. 10 FEMALE SPEAKER: Okay. 11 UNIDENTIFIED SPEAKER: And then you have -- 12 it's little bit -- it's very confusing, in fact. 13 FEMALE SPEAKER: Yes, it is. 14 UNIDENTIFIED SPEAKER: In fact, because you 15 have -- you have the partnership. You have a 16 limited partnership which -- 17 FEMALE SPEAKER: Right. 18 UNIDENTIFIED SPEAKER: -- which your 19 individual IRA account is in, invested in a -- so 20 you're in a limited partnership there, and that 21 limited partnership is invested in the P & S 22 general partnership. 23 FEMALE SPEAKER: Right. 24 UNIDENTIFIED SPEAKER: And they said that's 25 also -- that's what they had to do. I don't know</p>	<p style="text-align: right;">Page 139</p> <p>1 UNIDENTIFIED SPEAKER: Yeah, I'm the one who 2 made the comment. 3 FEMALE SPEAKER: Yeah. 4 UNIDENTIFIED SPEAKER: Because that's what 5 they told me. 6 FEMALE SPEAKER: Yeah. 7 UNIDENTIFIED SPEAKER: They told me that I -- 8 that the amount that was in my account that was 9 cash -- 10 FEMALE SPEAKER: Yeah. 11 UNIDENTIFIED SPEAKER: -- I could get out, but 12 that the part that was not cash that was invested 13 with P & S was not -- was presently F.B.I. 14 controlled. 15 UNIDENTIFIED SPEAKER: Yeah. Well, that's 16 right, and that's -- I think that's the answer you 17 get. 18 FEMALE SPEAKER: Yeah. 19 UNIDENTIFIED SPEAKER: Whoever this lady is. 20 I think that's -- 21 FEMALE SPEAKER: Yeah. 22 UNIDENTIFIED SPEAKER: You can take out your 23 cash. 24 FEMALE SPEAKER: Okay. 25 UNIDENTIFIED SPEAKER: I would think so.</p>
<p style="text-align: right;">Page 138</p> <p>1 why they had to do that. 2 FEMALE SPEAKER: Well, I'm not really that up 3 on business matters like this, but I know Monday, 4 we got an end-of-the-year statement. No, fourth 5 quarter statement from Fiserv about our IRA 6 account, and it's all this money there. 7 So I told my husband, well, I'm going to call, 8 if it's there. We're going to draw it out. 9 I called Fiserv, and they said -- and I said, 10 "What is the value of the account?" 11 Well, she told me. 12 And I said, "Would it be possible to withdraw 13 the total amount?" 14 And she said, "Of course," that she would send 15 me a form. 16 So I told my husband, I said, "Well, that's 17 wonderful news." 18 And then I hear comments on the phone line 19 today that those -- that money's frozen, so... 20 UNIDENTIFIED SPEAKER: Were you withdrawing, 21 or were you transferring to another IRA? 22 FEMALE SPEAKER: We're going to roll. 23 UNIDENTIFIED SPEAKER: Rolling it over. 24 FEMALE SPEAKER: We're going to roll it over 25 to another one.</p>	<p style="text-align: right;">Page 140</p> <p>1 FEMALE SPEAKER: Well, I'm not -- no, the 2 cash, I'm talking about that's in the actual 3 account down (inaudible). 4 UNIDENTIFIED SPEAKER: Yeah, I know the cash 5 in the Fiserv account. 6 FEMALE SPEAKER: Right. 7 UNIDENTIFIED SPEAKER: You have two parts to 8 the Fiserv account. You always have to keep some 9 cash there. 10 FEMALE SPEAKER: Right. 11 UNIDENTIFIED SPEAKER: For incidental 12 expenses. 13 FEMALE SPEAKER: Right, yeah. 14 UNIDENTIFIED SPEAKER: And that's the money 15 you want to take out, and I think you -- I don't 16 see a reason why you can't do that. 17 UNIDENTIFIED SPEAKER: She's talking about 18 rolling over her -- 19 FEMALE SPEAKER: No, I'm not talking about 20 that, no. 21 UNIDENTIFIED SPEAKER: Well, it is in an IRA, 22 but you have some of it in cash. 23 UNIDENTIFIED SPEAKER: Yeah, but she wants to 24 roll over her whole IRA account. 25 FEMALE SPEAKER: I'm talking about the whole</p>

<p style="text-align: right;">Page 141</p> <p>1 sum in the IRA.</p> <p>2 UNIDENTIFIED SPEAKER: Well, the only thing</p> <p>3 you're going to roll over is the cash anyhow, but,</p> <p>4 you know...</p> <p>5 FEMALE SPEAKER: Okay. Well, if I -- I'm</p> <p>6 waiting on the form. When I got that form, I'm</p> <p>7 taking it to a (inaudible.)</p> <p>8 UNIDENTIFIED SPEAKER: I think you can</p> <p>9 download the form on the Internet.</p> <p>10 FEMALE SPEAKER: Yeah, I probably could, but</p> <p>11 it's kind of late to be calling them.</p> <p>12 UNIDENTIFIED SPEAKER: Well, they're in</p> <p>13 Denver, so it actually isn't that late.</p> <p>14 FEMALE SPEAKER: Okay. Oh, okay.</p> <p>15 UNIDENTIFIED SPEAKER: Yeah. Yeah.</p> <p>16 FEMALE SPEAKER: Well, that's -- you know,</p> <p>17 when I called on Monday, she said she was in</p> <p>18 Denver, and she gave me her name and all that, and</p> <p>19 I was quite relieved because I said that's where</p> <p>20 the majority of our money is invested in the IRA,</p> <p>21 so if we can get that or roll that over into a</p> <p>22 different one in our bank, that's what we're going</p> <p>23 to do. You know, I'll just find out, you know, but</p> <p>24 I don't think Fiserv would have said, sure, that's</p> <p>25 the value of your account, if there was nothing</p>	<p style="text-align: right;">Page 143</p> <p>1 UNIDENTIFIED SPEAKER: Yeah.</p> <p>2 FEMALE SPEAKER: I wish I'd recorded that</p> <p>3 conversation.</p> <p>4 Well, it's been very interesting today, and</p> <p>5 I'm glad we didn't make the drive down from</p> <p>6 Jacksonville to Fort Lauderdale.</p> <p>7 UNIDENTIFIED SPEAKER: Well, I'm glad I didn't</p> <p>8 drive from West Virginia.</p> <p>9 FEMALE SPEAKER: Yeah, I am too.</p> <p>10 UNIDENTIFIED SPEAKER: I'm in -- I'm in the</p> <p>11 Tampa area, so I'm glad -- I decided not to go, and</p> <p>12 I'm glad I didn't go.</p> <p>13 FEMALE SPEAKER: No, I'm glad we didn't go</p> <p>14 because it's too far to drive, and it would have</p> <p>15 been, you know -- I don't think they accomplished</p> <p>16 anything.</p> <p>17 It's just -- I think to me, it was more</p> <p>18 depressing to hear what they said today, so -- and</p> <p>19 if everybody's expected to get their own lawyer for</p> <p>20 legal counsel, I mean that's more money that, you</p> <p>21 know, you're going to put out, so...</p> <p>22 UNIDENTIFIED SPEAKER: Well, he has to say</p> <p>23 that, whether or not you do it.</p> <p>24 FEMALE SPEAKER: Yeah.</p> <p>25 UNIDENTIFIED SPEAKER: You just have to</p>
<p style="text-align: right;">Page 142</p> <p>1 there.</p> <p>2 UNIDENTIFIED SPEAKER: Well, I got -- I got a</p> <p>3 statement that said this is the value of my account</p> <p>4 too, but when I called, I got different information</p> <p>5 than you did.</p> <p>6 FEMALE SPEAKER: Did you?</p> <p>7 UNIDENTIFIED SPEAKER: They told me that the</p> <p>8 part of my account that was in cash, I could take</p> <p>9 out, but the part that was, you know, invested</p> <p>10 through S & P --</p> <p>11 FEMALE SPEAKER: Yeah.</p> <p>12 UNIDENTIFIED SPEAKER: -- because it was</p> <p>13 related to the Madoff investigation --</p> <p>14 FEMALE SPEAKER: Yeah.</p> <p>15 UNIDENTIFIED SPEAKER: -- that that part was</p> <p>16 frozen.</p> <p>17 Now, if they go ahead and let you file the</p> <p>18 firm, and they let you take it out, well, great.</p> <p>19 FEMALE SPEAKER: Yeah.</p> <p>20 UNIDENTIFIED SPEAKER: You know, that's</p> <p>21 fantastic.</p> <p>22 FEMALE SPEAKER: Yeah.</p> <p>23 UNIDENTIFIED SPEAKER: Even if it's a</p> <p>24 bookkeeping error on their part.</p> <p>25 FEMALE SPEAKER: Yeah.</p>	<p style="text-align: right;">Page 144</p> <p>1 determine whether -- how complicated your situation</p> <p>2 is.</p> <p>3 FEMALE SPEAKER: Yeah.</p> <p>4 UNIDENTIFIED SPEAKER: And, you know, and then</p> <p>5 go from there. I mean, you know, after I find out</p> <p>6 whether I'm up and down, and I presume that I'm</p> <p>7 down --</p> <p>8 FEMALE SPEAKER: Yeah.</p> <p>9 UNIDENTIFIED SPEAKER: -- then I'll go ahead</p> <p>10 and file my individual claim next week after, you</p> <p>11 know, I see that.</p> <p>12 FEMALE SPEAKER: Yeah.</p> <p>13 UNIDENTIFIED SPEAKER: And then -- then it'll</p> <p>14 just be in process like -- like you said.</p> <p>15 FEMALE SPEAKER: Yeah.</p> <p>16 UNIDENTIFIED SPEAKER: And then I had read the</p> <p>17 article too about the lady in New York that filed</p> <p>18 suit against the SEC.</p> <p>19 FEMALE SPEAKER: Yeah.</p> <p>20 UNIDENTIFIED SPEAKER: And the value of that</p> <p>21 was that it put her in position anyhow of in case</p> <p>22 they changed the rules about suing, you know,</p> <p>23 government agencies. She went ahead and filed a</p> <p>24 claim, so at least, it's in process in case they</p> <p>25 make an arrangement because --</p>

<p style="text-align: right;">Page 145</p> <p>1 FEMALE SPEAKER: Yeah.</p> <p>2 UNIDENTIFIED SPEAKER: -- they screwed up.</p> <p>3 FEMALE SPEAKER: Well, I even talk of it was</p> <p>4 possible to file a lawsuit against Sullivan and</p> <p>5 Associates for like negligence of duty to monitor</p> <p>6 the money.</p> <p>7 UNIDENTIFIED SPEAKER: I wouldn't be surprised</p> <p>8 if people did that.</p> <p>9 UNIDENTIFIED SPEAKER: Well, it's possible to</p> <p>10 sue anybody for any reason.</p> <p>11 UNIDENTIFIED SPEAKER: Yeah.</p> <p>12 UNIDENTIFIED SPEAKER: You don't need a</p> <p>13 reason.</p> <p>14 FEMALE SPEAKER: Yeah, but even if that was</p> <p>15 done, it's going to come back on the partners.</p> <p>16 UNIDENTIFIED SPEAKER: Not necessarily, no.</p> <p>17 FEMALE SPEAKER: No?</p> <p>18 UNIDENTIFIED SPEAKER: I wouldn't think so,</p> <p>19 no. You can sue the general partner or managing</p> <p>20 partner for, you know (inaudible).</p> <p>21 UNIDENTIFIED SPEAKER: Well, I'm pretty sure</p> <p>22 Michael's probably already been sued.</p> <p>23 UNIDENTIFIED SPEAKER: Yeah.</p> <p>24 UNIDENTIFIED SPEAKER: No, no. I'm serious.</p> <p>25 I called -- I talked to him on the phone, and he</p>	<p style="text-align: right;">Page 147</p> <p>1 He's -- I've talked with him a couple of times on</p> <p>2 the phone since then, but we were good friends with</p> <p>3 his -- Greg Powell, his partner that -- he died a</p> <p>4 few years ago, but...</p> <p>5 UNIDENTIFIED SPEAKER: He was real good</p> <p>6 friends with my dad, so -- and my dad was in, you</p> <p>7 know...</p> <p>8 FEMALE SPEAKER: Yeah.</p> <p>9 UNIDENTIFIED SPEAKER: He thought really</p> <p>10 highly of him. I talked to him a couple of times,</p> <p>11 and they were very --</p> <p>12 FEMALE SPEAKER: Yeah.</p> <p>13 UNIDENTIFIED SPEAKER: You know, they knew my</p> <p>14 dad, and my dad didn't have that much skin in this</p> <p>15 game.</p> <p>16 FEMALE SPEAKER: Yeah.</p> <p>17 UNIDENTIFIED SPEAKER: And still it was -- you</p> <p>18 know, they were very concerned when I told him he</p> <p>19 had passed and all that stuff, so...</p> <p>20 FEMALE SPEAKER: Yeah, it was very sad, but</p> <p>21 anyway -- well, I'm getting off the phone.</p> <p>22 UNIDENTIFIED SPEAKER: Yeah.</p> <p>23 UNIDENTIFIED SPEAKER: Go enjoy the weather in</p> <p>24 Jacksonville. It's 20 degrees in West Virginia.</p> <p>25 FEMALE SPEAKER: Well, it's going to go down</p>
<p style="text-align: right;">Page 146</p> <p>1 said -- you know, he mentioned, so I'm mean that</p> <p>2 I'm sure that -- the point of that matter would be</p> <p>3 then how far down the ladder would you be?</p> <p>4 FEMALE SPEAKER: Yeah, right.</p> <p>5 UNIDENTIFIED SPEAKER: You know, and if the</p> <p>6 first 20 people already sued --</p> <p>7 FEMALE SPEAKER: Yeah.</p> <p>8 UNIDENTIFIED SPEAKER: -- for X amount, you</p> <p>9 know, of whatever, you know, and I mean, I know</p> <p>10 anybody can be -- can be crooked, but I mean...</p> <p>11 FEMALE SPEAKER: Yeah.</p> <p>12 UNIDENTIFIED SPEAKER: I don't -- I don't</p> <p>13 think Michael was crooked.</p> <p>14 FEMALE SPEAKER: I don't either.</p> <p>15 UNIDENTIFIED SPEAKER: No, I don't either.</p> <p>16 FEMALE SPEAKER: I don't either.</p> <p>17 UNIDENTIFIED SPEAKER: You know, and not to</p> <p>18 say that, you know, there still wouldn't be some</p> <p>19 fiduciary responsibility.</p> <p>20 FEMALE SPEAKER: Right.</p> <p>21 UNIDENTIFIED SPEAKER: But, you know, I think</p> <p>22 that he'll do the best job he can for everybody</p> <p>23 involved because I just think that's the kind of</p> <p>24 person he is.</p> <p>25 FEMALE SPEAKER: Yeah, I think so too.</p>	<p style="text-align: right;">Page 148</p> <p>1 to 25 tonight, so...</p> <p>2 UNIDENTIFIED SPEAKER: What is it here? 65 in</p> <p>3 Tampa? Yeah.</p> <p>4 FEMALE SPEAKER: 60? I've got a brother that</p> <p>5 lives in Tampa.</p> <p>6 UNIDENTIFIED SPEAKER: Since you guys are on,</p> <p>7 can I ask one more quick question?</p> <p>8 UNIDENTIFIED SPEAKER: Sure.</p> <p>9 UNIDENTIFIED SPEAKER: Did the Frank Avellino</p> <p>10 or whatever that guy's name, did he and that --</p> <p>11 remember there was two accountants.</p> <p>12 UNIDENTIFIED SPEAKER: Avellino and Bienes.</p> <p>13 UNIDENTIFIED SPEAKER: Yeah, those two guys.</p> <p>14 Where do they sit in this thing at all?</p> <p>15 UNIDENTIFIED SPEAKER: I'll tell you if you</p> <p>16 want. The Jacksonville lady, if you want to go,</p> <p>17 that's fine, but my understanding of it is that</p> <p>18 back when -- Bienes, if I'm not mistaken is related</p> <p>19 to Madoff.</p> <p>20 UNIDENTIFIED SPEAKER: Oh.</p> <p>21 UNIDENTIFIED SPEAKER: He's the son-in-law,</p> <p>22 and he was on the Board of Directors of the church</p> <p>23 that Mike goes to that I used to work at.</p> <p>24 UNIDENTIFIED SPEAKER: Is that Christ church?</p> <p>25 UNIDENTIFIED SPEAKER: Yeah, right.</p>

<p style="text-align: right;">Page 149</p> <p>1 UNIDENTIFIED SPEAKER: Oh, my God. That was</p> <p>2 my church I went to. That's how dad knew him.</p> <p>3 UNIDENTIFIED SPEAKER: Okay. Well, that's</p> <p>4 what happened, and so Bienes was on the board, and</p> <p>5 then Mike, his wife got killed. I don't know if</p> <p>6 you guys knew that.</p> <p>7 UNIDENTIFIED SPEAKER: Yeah.</p> <p>8 UNIDENTIFIED SPEAKER: His wife got killed in</p> <p>9 a bank robbery, and he was, you know, bereft for,</p> <p>10 you know, a period of time, so he kind of suspended</p> <p>11 his accounting business and just started doing</p> <p>12 volunteer work at the church because he felt like</p> <p>13 he needed to find some spiritual center. I mean he</p> <p>14 had a new baby. He was like eight months old or</p> <p>15 something and, you know, and his wife gets shot in</p> <p>16 the face, and everything was horrible.</p> <p>17 So he went and then got involved in church</p> <p>18 activity, and then Bienes was on the Board, and</p> <p>19 then after a period of time -- you probably saw the</p> <p>20 SEC filings that were in the Wall Street Journal,</p> <p>21 you know, in the 80's.</p> <p>22 UNIDENTIFIED SPEAKER: Yeah.</p> <p>23 UNIDENTIFIED SPEAKER: And -- but Bienes had</p> <p>24 asked Mike if he wanted to administer this charity</p> <p>25 fund, and that's how it was presented to us.</p>	<p style="text-align: right;">Page 151</p> <p>1 UNIDENTIFIED SPEAKER: And that -- because</p> <p>2 actually, the money was being made for the</p> <p>3 charities, not for us, but we just happened to be</p> <p>4 on this general partnership on the back end of it,</p> <p>5 so we got, you know, X amount of percentage.</p> <p>6 Now, like, my percentage has always been</p> <p>7 between 6 and 7 percent since I've been in it, so I</p> <p>8 never got higher or lower than that.</p> <p>9 UNIDENTIFIED SPEAKER: Okay, so there are</p> <p>10 different people with different -- because I was</p> <p>11 going to say, I've seen these reports of</p> <p>12 percentages. I'm looking at Dad's bank statements.</p> <p>13 I'm like, well, you didn't get anything near -- I</p> <p>14 mean some years, they were really good, but there</p> <p>15 wasn't that consistency that I was seeing</p> <p>16 elsewhere.</p> <p>17 UNIDENTIFIED SPEAKER: Well, what happened,</p> <p>18 what happened was prior to Bienes being disbarred</p> <p>19 by the SEC, the returns were higher. I wasn't</p> <p>20 involved at point, but the returns were higher. He</p> <p>21 was -- he was doing handshake deals with people</p> <p>22 saying, you know, my father-in-law is doing this,</p> <p>23 and this is -- you know, I can get you, I can get</p> <p>24 you 10, 15 percent, you know. And that's what</p> <p>25 people were investing at initially.</p>
<p style="text-align: right;">Page 150</p> <p>1 I mean the church was invested. I mean a lot</p> <p>2 of charities were invested, and the idea was that</p> <p>3 Madoff, being a good Jew, was going to do Mitzvah</p> <p>4 and do, you know, good works for the community, and</p> <p>5 so he was being --</p> <p>6 UNIDENTIFIED SPEAKER: This is starting to</p> <p>7 sound familiar. Okay.</p> <p>8 UNIDENTIFIED SPEAKER: Since -- since he was</p> <p>9 the Chairman of the NASDAQ at the time, that he</p> <p>10 could time-trade it in a way that would produce,</p> <p>11 you know, a positive result.</p> <p>12 UNIDENTIFIED SPEAKER: Right, right.</p> <p>13 UNIDENTIFIED SPEAKER: (Inaudible) speaking,</p> <p>14 so -- and then there would be no reason for him not</p> <p>15 to, "A," because he understood the market, and "B,"</p> <p>16 because he was doing this primarily to provide good</p> <p>17 works for people, for institutions.</p> <p>18 UNIDENTIFIED SPEAKER: Okay.</p> <p>19 UNIDENTIFIED SPEAKER: And then the</p> <p>20 partnership ended up just being kind of a codo</p> <p>21 (phonetic) to the institutional investment and that</p> <p>22 we were considered, you know, just like you read in</p> <p>23 the papers, that we were the lucky few that</p> <p>24 happened to fall into this, you know, thing.</p> <p>25 UNIDENTIFIED SPEAKER: Uh-huh.</p>	<p style="text-align: right;">Page 152</p> <p>1 Then after the SEC got involved, and then the</p> <p>2 whole Wall Street Journal, you know, article came</p> <p>3 out, then the percentage of return dropped to</p> <p>4 between 6 and 7 and has remained that way since,</p> <p>5 so -- but, you know, the issue was always just, you</p> <p>6 thought like, you know, you thought that it was a</p> <p>7 consistent return because of the skill of the</p> <p>8 person who was doing the investment.</p> <p>9 UNIDENTIFIED SPEAKER: Right.</p> <p>10 UNIDENTIFIED SPEAKER: And also, because you</p> <p>11 had the personal relationship, which now, in</p> <p>12 retrospect, we see, you know, how wrong that was.</p> <p>13 UNIDENTIFIED SPEAKER: Yeah.</p> <p>14 UNIDENTIFIED SPEAKER: So you had a personal</p> <p>15 relationship with someone that you liked, like</p> <p>16 Mike, and so because of that, you didn't worry.</p> <p>17 UNIDENTIFIED SPEAKER: Yeah.</p> <p>18 UNIDENTIFIED SPEAKER: I just never worried</p> <p>19 about it and never even thought -- what I liked</p> <p>20 about it was I didn't have to think about it.</p> <p>21 UNIDENTIFIED SPEAKER: Yeah.</p> <p>22 UNIDENTIFIED SPEAKER: You know, I stayed in</p> <p>23 because it was conservative.</p> <p>24 UNIDENTIFIED SPEAKER: It was conservative,</p> <p>25 and it was -- it was dealt right and, you know, I</p>

<p style="text-align: right;">Page 153</p> <p>1 could take care of other issues.</p> <p>2 UNIDENTIFIED SPEAKER: Yeah.</p> <p>3 UNIDENTIFIED SPEAKER: You know, so it was</p> <p>4 just exactly the right thing.</p> <p>5 UNIDENTIFIED SPEAKER: That was the thing,</p> <p>6 when I looked at it, what little I looked at it, I</p> <p>7 said, well, the strategy made sense.</p> <p>8 The only thing that made me suspicious was how</p> <p>9 come nobody else was onto that? But, you know, it</p> <p>10 wasn't anything I was paying too close attention to</p> <p>11 because it wasn't --</p> <p>12 UNIDENTIFIED SPEAKER: As to what?</p> <p>13 UNIDENTIFIED SPEAKER: Well, just onto the</p> <p>14 strategy and all that. You know, I mean I'm not</p> <p>15 totally into the understandings of the puts and</p> <p>16 calls and stuff, but, you know, I was looking at</p> <p>17 it.</p> <p>18 I'm like, well, God, that's -- they're</p> <p>19 doing -- I understand how it's working, but I just</p> <p>20 thought surely, over time, doesn't -- wouldn't -- I</p> <p>21 don't know, the market start to react to that?</p> <p>22 But, you know, I'm talking in real</p> <p>23 generalities, but that was the only -- you know,</p> <p>24 I'm figuring, hey, Dad knew these guys, and they</p> <p>25 seemed to know -- seemed to have a lot of, you</p>	<p style="text-align: right;">Page 155</p> <p>1 involved, any of the real SOB's, and you know,</p> <p>2 people are mad at him and, you know, on the one</p> <p>3 hand, you can't blame him. On the other hand,</p> <p>4 yeah, you can, because, you know, we all still have</p> <p>5 to be responsible for ourselves one way or the</p> <p>6 other, but -- yeah, it's just ugly. It's a</p> <p>7 horrible mess.</p> <p>8 UNIDENTIFIED SPEAKER: Yes, it is. It's</p> <p>9 incredible that I could be involved in it, you</p> <p>10 know.</p> <p>11 UNIDENTIFIED SPEAKER: Yeah, I know. It's</p> <p>12 just -- I kind of wish we just cashed out of it</p> <p>13 when Dad passed on, but, you know, hindsight is</p> <p>14 20/20, so...</p> <p>15 UNIDENTIFIED SPEAKER: Well, even then, I mean</p> <p>16 I don't know how long your dad's been gone, but I</p> <p>17 mean, you'd still be liable.</p> <p>18 UNIDENTIFIED SPEAKER: Yeah.</p> <p>19 UNIDENTIFIED SPEAKER: If it was within the</p> <p>20 last six years.</p> <p>21 UNIDENTIFIED SPEAKER: Yeah.</p> <p>22 UNIDENTIFIED SPEAKER: The clawback period.</p> <p>23 You know, I mean, for whatever I've withdrawn from</p> <p>24 the fund, I know that I'm still a net loss from my</p> <p>25 personal finances, and it's hard to feel glad about</p>
<p style="text-align: right;">Page 154</p> <p>1 know, faith in Mike, and, you know, he seemed like</p> <p>2 a good guy when I talked to him.</p> <p>3 UNIDENTIFIED SPEAKER: Well, then he is.</p> <p>4 UNIDENTIFIED SPEAKER: Yeah.</p> <p>5 UNIDENTIFIED SPEAKER: I mean I don't doubt</p> <p>6 that he is. It's just that, you know, I mean...</p> <p>7 UNIDENTIFIED SPEAKER: Yeah.</p> <p>8 UNIDENTIFIED SPEAKER: Well, he got burned</p> <p>9 badly too.</p> <p>10 UNIDENTIFIED SPEAKER: Oh, I'm sure. He's</p> <p>11 been burned real badly. I can't -- I'd just hate</p> <p>12 to be in his shoes. It could happen to a lot of</p> <p>13 people.</p> <p>14 UNIDENTIFIED SPEAKER: Well, not just -- yeah,</p> <p>15 not just the money, but the stress.</p> <p>16 UNIDENTIFIED SPEAKER: Yeah, yeah, definitely.</p> <p>17 UNIDENTIFIED SPEAKER: Hundreds of people</p> <p>18 angry.</p> <p>19 UNIDENTIFIED SPEAKER: Oh, yeah. If you're a</p> <p>20 decent person, that's going to drive you crazy. I</p> <p>21 mean, you know.</p> <p>22 UNIDENTIFIED SPEAKER: If you have any kind of</p> <p>23 conscience at all, it's even more horrible.</p> <p>24 UNIDENTIFIED SPEAKER: Oh, yeah. You'll</p> <p>25 suffer more than any of these other people</p>	<p style="text-align: right;">Page 156</p> <p>1 that.</p> <p>2 UNIDENTIFIED SPEAKER: Yeah. Yeah. I know.</p> <p>3 I know. Well, that's the thing that worries me.</p> <p>4 It's like -- it's like Dad's -- I don't know. His</p> <p>5 estate is just -- is still technically active as of</p> <p>6 last year, so I just dispensed everything last</p> <p>7 year, so I don't know if that's going to come to</p> <p>8 bite us in the ass somehow or other or not, but I</p> <p>9 mean it's such a small amount of money, it's</p> <p>10 ridiculous, but -- I don't know. It's only like</p> <p>11 five figures, so...</p> <p>12 UNIDENTIFIED SPEAKER: Well, I wouldn't worry</p> <p>13 about it.</p> <p>14 UNIDENTIFIED SPEAKER: Yeah, I'm not going to</p> <p>15 worry too much about it, but I still --</p> <p>16 UNIDENTIFIED SPEAKER: You just got to pay</p> <p>17 attention. That's all.</p> <p>18 UNIDENTIFIED SPEAKER: Yeah.</p> <p>19 UNIDENTIFIED SPEAKER: You know, personally, I</p> <p>20 mean my Mom's terminally ill right now, so to me,</p> <p>21 this is B.S. I mean I'll just do what I'm supposed</p> <p>22 to do, and I'll go on.</p> <p>23 UNIDENTIFIED SPEAKER: Yeah.</p> <p>24 UNIDENTIFIED SPEAKER: Everything -- my whole</p> <p>25 life has changed since she got sick because --</p>

MEETING
SECURITIES INVESTOR VS. MADOFF INVESTMENT

January 30, 2009
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<p style="text-align: right;">Page 157</p> <p>1 UNIDENTIFIED SPEAKER: Yeah. Well, that's how 2 it was with my dad. 3 UNIDENTIFIED SPEAKER: Yeah, your priorities 4 shift, you know, and so, you know, I got to come up 5 with five grand a month to pay for her assisted 6 living, and I was using money from my account to 7 pay for that. 8 Well, I don't have that option now, but I 9 can't bitch about it. I just have to go out and 10 figure out a new way to generate the income. 11 That's all. 12 UNIDENTIFIED SPEAKER: Exactly. I had all my 13 savings and all my IRA in there. 14 UNIDENTIFIED SPEAKER: Well -- 15 UNIDENTIFIED SPEAKER: You know, I always go 16 back to the crystal night in Germany, and the Jews 17 that picked up their suitcases and left and came to 18 the States are alive, and those that didn't are 19 gone, so you know what? When you have misfortunes 20 in life, you just pick up your suitcase. 21 UNIDENTIFIED SPEAKER: Yeah, that's what the 22 cross is all about, you know. 23 UNIDENTIFIED SPEAKER: You got to go. You got 24 to go on. You got to get on, you know. 25 UNIDENTIFIED SPEAKER: May the most just and</p>	<p style="text-align: right;">Page 159</p> <p>1 I mean I believe he will do that to the best 2 of his ability, and I'm sure he was judicious about 3 picking Pugatch to come in and do this. 4 I'm sure that he's been, you know -- I think 5 he's a square guy, and so I feel good about the 6 fact that he's going to do the best he can with 7 this. 8 UNIDENTIFIED SPEAKER: Yeah. I had that 9 feeling too, just what little I know of him, but 10 mostly what I know of him through Dad, and I was 11 like, well, yeah. 12 All right. Well, I appreciate you guys giving 13 me the extra scoop. Greatly appreciate it. 14 Thanks. 15 UNIDENTIFIED SPEAKER: Okay. Have a great 16 weekend. 17 UNIDENTIFIED SPEAKER: Okay. Bye-bye, 18 everybody. Have a good weekend. Good-bye. 19 UNIDENTIFIED SPEAKER: You too. 20 UNIDENTIFIED SPEAKER: It's just a bad time 21 for this to happen. 22 (End of recorded meeting.) 23 24 25</p>
<p style="text-align: right;">Page 158</p> <p>1 most lovable will of God be done, be fulfilled, be 2 praised and eternally exalted above all things. 3 Amen. Amen. That's the attitude. 4 UNIDENTIFIED SPEAKER: Yeah. 5 UNIDENTIFIED SPEAKER: That's the attitude you 6 got to have really. 7 UNIDENTIFIED SPEAKER: So I mean this is 8 just -- it's color. 9 UNIDENTIFIED SPEAKER: As long as you got your 10 health, you got pretty much 90 percent of the 11 battle, so.. 12 UNIDENTIFIED SPEAKER: Yeah. I feel badly. I 13 know some people are really stressing about it 14 badly, and -- and, you know, to me, I looked at it, 15 and I thought well, God, you know, that's a pain, 16 but it's just a pain. 17 My mother still has to be fed. You know, the 18 things that are important still have to be done, so 19 those things will be done, and this will get done 20 too in its time. 21 UNIDENTIFIED SPEAKER: Yeah. 22 UNIDENTIFIED SPEAKER: You know, I'm glad to 23 have Mike there because I know he -- I know he's 24 going to do whatever he can to assuage everyone's 25 pain in this regard.</p>	<p style="text-align: right;">Page 160</p> <p>1 CERTIFICATE 2 3 STATE OF FLORIDA 4 COUNTY OF BROWARD 5 6 7 I, Katherine Milam, Notary Public, Registered 8 Professional Reporter do hereby certify that I was 9 authorized to and did listen to the recorded meeting 10 provided to me via the Internet and stenographically 11 transcribed from said recording the foregoing 12 proceedings and that the transcript is a true and 13 accurate record to the best of my ability. 14 15 <i>Katherine W. Milam</i> 16 17 KATHERINE MILAM, RPR 18 Notary Public-State of Florida 19 My Commission Expires: 7-10-2017 20 My Commission No. FF 10078 21 22 23 24 25</p>