

**IN THE CIRCUIT COURT OF THE 17<sup>th</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

**CASE NUMBER: 12-034121 CA 07  
Complex Litigation Unit**

**PHILIP J. VON KAHLE, as Conservator of P&S ASSOCIATES,  
GENERAL PARTNERSHIP, and S&P ASSOCIATES,  
GENERAL PARTNERSHIP, MARGARET J. SMITH, as  
Managing General Partner of P&S ASSOCIATES, GENERAL  
PARTNERSHIP, and S&P ASSOCIATES, GENERAL  
PARTNERSHIP, a Florida Limited Partnership,**

**Plaintiffs,**

**vs.**

**JANET A. HOOKER CHARITABLE TRUST, a Charitable  
Trust, et al.,**

**Defendants.**

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**DEFENDANT, ERSICA P. GIANNA'S NOTICE OF FILING**

**COMES NOW**, Defendant, Ersica P. Gianna, an individual and as Trustee ("Gianna"), by and through her undersigned counsel and hereby files a copy of the January 30, 2009 Transcript Of The Meeting Of The Partnerships, which is marked as Exhibit "3" to Defendant, Ersica P. Gianna's Motion For Summary Judgment On The Third Amended Complaint.

**I HEREBY CERTIFY** that on March 11, 2014, I electronically filed the foregoing document with the Clerk of the Court and I also certify that the foregoing document is being served this day on all counsel of record in the manner specified, either via the Florida Courts E-Filing Portal or in some other authorized manner for those counsel or parties who are not authorized to receive electronic filings.

*Rotella Law*  
A PROFESSIONAL ASSOCIATION

Respectfully submitted,

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Certified Copy

**In the Matter Of:**  
**SECURITIES INVESTOR VS. MADOFF INVESTMENT**

08-01789-BRL

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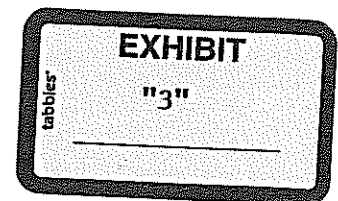
**MEETING**

*January 30, 2009*

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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



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

MR. PUGATCH: I am getting over a cold, so if I cough a little bit, I apologize, but that's what we're stuck with here.

I will tell you, first of all, before I get involved in introducing myself and my firm and the other lawyers involved that we've been involved in this case now since shortly after the incident was first brought to the attention of the public and working closely with Mike, with Steve, and they've been doing nothing but spending all day, every day and interfacing with us dealing with this and trying to put this in the best posture so that whatever the outcome, you're all given the best chance to make a recovery here, and they'll continue to do so.

My name is Chad Pugatch. I'm a senior partner in Rice, Pugatch, Robinson & Schiller, P.A. We are a local Fort Lauderdale and Miami law firm.

I've been practicing here in South Florida for about 32 years, and virtually all of that specializing in the insolvency field, as well as litigation related to that.

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

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.

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

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

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

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

1 out misinformation, we'll add those to the equation  
2 and try to factor those in in terms of the  
3 information we provide in the future.

4 So, that's kind of the gist of how we intend  
5 to proceed today.

6 I also would like to discuss a little up front  
7 about confidentiality and how we're handling that,  
8 and I want to start out up front by apologizing. I  
9 know I got several -- I won't say irate, but  
10 concerned e-mails from people because when we sent  
11 the initial notice out to try to get everyone the  
12 most notice we could as quickly as possible, we  
13 goofed a little bit, and my assistant, when she  
14 sent it out, did not blind-copy everybody on the  
15 e-mail. I'll take full responsibility for that,  
16 and I'll apologize to you. There's nothing I can  
17 do to undo it at this point, other than to tell you  
18 that it won't happen again. Any further  
19 correspondence we send through e-mail will clearly  
20 be done through blind copy so that nobody has any  
21 further concern about that.

22 Having said that, we have tried to get  
23 information out to you, and we'll continue to do  
24 so. We want to make sure in doing that that we  
25 have accurate and up-to-date information for all of



1 you, so anyone who feels that there is either a  
2 different address or another address or some other  
3 manner that you want us to provide you with notice,  
4 please, you all have the contact information from  
5 our office, and you can certainly feel free to do  
6 that.

7 These partnerships are not exactly the same.  
8 They may be the same in structure, but they don't  
9 all contain the same partners.

10 There's some overlap, so there's a great deal  
11 of non-overlap. However, the issues that face each  
12 of these partnerships are substantially the same,  
13 but they're not the same in each case, as you may  
14 hear.

15 We have created through the managing partner  
16 with the partnerships what we refer to as a common  
17 interest or joint defense agreement.

18 Therefore, insofar as you as members of the  
19 partnerships are dealing with us as the lawyers and  
20 the things that we're discussing here may be a  
21 attorney/client privileged, you need to understand  
22 that that privilege applies to all of you with  
23 regard to the partnerships you're in and to the  
24 other partnerships which are part of this meeting.

25 I've specifically put into these materials a

1 statement, and it's right at the top that it's  
2 attorney/client privileged and work product.

3 There's also confidentiality that attaches to  
4 the business of the partnerships over and above  
5 that.

6 It may sound like I'm being overly-cautious,  
7 and it may be that nothing comes out of this  
8 meeting that couldn't be discussed with somebody  
9 else who's not privy to this information, but we  
10 ask you, please, to respect the confidentiality and  
11 privacy of your other partners and respect the  
12 process so that what we do as a partnership through  
13 its professionals can, as much as possible, be  
14 treated with the proper attorney/client privileges  
15 and not open doors that we may not think are  
16 important now, but may become important later on in  
17 terms of what information does or doesn't get  
18 shared with third parties.

19 Let me also talk about the press.

20 I know I've gotten calls from the press. The  
21 calls that I've gotten are because they have gotten  
22 information from people who got in notices, and  
23 again, you all have the right certainly to do  
24 whatever you think is appropriate individually, but  
25 I ask you to respect the rights (inaudible)

1 partners and the partnerships themselves, and  
2 therefore, don't divulge or disseminate to the  
3 press things that are meant to remain private and  
4 confidential to the partners.

5 This is for all your benefit. In my view, it  
6 accomplishes nothing at this point to share partial  
7 information with third parties that becomes public,  
8 and at some point, it will become regrettable if we  
9 end up losing rights or having rights altered  
10 because that happened.

11 The particular reporter that I spoke to from  
12 the Sun-Sentinel, I simply told him, I have no  
13 comment, I'm representing my clients, and that  
14 business is private, and we're not prepared to  
15 comment.

16 I asked him specifically not to attend this  
17 meeting and not to be out in the hallway and to  
18 respect the privacy of the people that are here,  
19 and he indicated he would do that, and he  
20 indicated, of course, that he'll bug me in  
21 follow-up later, and he'll get the same response.  
22 We're not prepared at this point to comment.

23 There may come a point in time that it's  
24 appropriate to get information, but we'll do that  
25 in a thought-out manner and not just piecemeal. I

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

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

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

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

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.



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

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.



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

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.

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

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.

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](http://www.Madofftrustee.com) website, and there's a  
5 [www.SPIC.org](http://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](http://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 --

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,



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

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

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

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.

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

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

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) --

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?



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

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.

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

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,

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

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.

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

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.



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

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

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

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

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

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

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.

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



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.

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

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

1 costs.

2 I will tell you, and I've been authorized by  
3 them to at least share this, the company we've  
4 looked at up front is a company known as Moecker,  
5 M-o-e-c-k-e-r & Associates. They've been down here  
6 for a long time. They function in all different  
7 areas of insolvency law as administrators. They  
8 have individuals that have acted as bankruptcy  
9 trustees, including Chapter 11 reorganizations.

10 They have individuals who function as  
11 assignees for potential creditors to liquidate  
12 estates under State law, and they function as  
13 secretaries to creditors committees and almost any  
14 aspect of insolvency that you could imagine.

15 I've worked with these people before. I've  
16 used different people in this firm as plan  
17 administrators when Chapter 11 plans get confirmed,  
18 and so we're evaluating, and we'll be making a  
19 report and recommendation as to bringing somebody  
20 in to perform that function.

21 Obviously, that's not going to replace those  
22 who are already there in terms of providing  
23 information, cooperating and doing the leg work of  
24 what needs to be done, but there really needs to be  
25 one voice and one point person who's objective,

1 who's not himself a creditor and part of this who  
2 will make objective and impartial decisions as to  
3 how to move forward.

4 That is something that we anticipate very  
5 quickly after we're done here, probably sometime in  
6 this coming week, submitting to the partners for a  
7 vote, so you can expect, I'd say within a week to  
8 have a report and a ballot dealing with at least  
9 that issue going forward.

10 We're happy to discuss that in terms of  
11 getting everyone's feelings and opinions out on the  
12 table at the conclusion of the meeting, but we  
13 think that it's really important that you all  
14 objectively evaluate that to protect everyone's  
15 best interests going forward.

16 Cost of professionals' fees. As I said, it's  
17 our goal that we don't have to ask anyone to dip  
18 into their pockets.

19 Right now, I can tell you, and these are round  
20 numbers, that there's about \$64,000 in the S & P  
21 account and \$109,000 in the P & S account. That's  
22 exclusive of the \$800,000 which has been set aside.

23 We believe that money needs to remain there to  
24 be used for operating costs, for the payment of  
25 professional fees and to keep a reserve there so

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55

1 that if we do have to defend anything, there's  
2 money there to do it. That's the current game  
3 plan.

4 Frankly, without that money being there, these  
5 partnerships would not be in a position to protect  
6 themselves without asking each of you to have a  
7 capital call, you know, pro rata for the money it  
8 takes to do that, and it's just not the best way to  
9 go at this point, and it may be totally avoidable,  
10 depending on how this plays out cost-wise, so we're  
11 going to create some budget of what we see going  
12 forward as the fees and costs that will have to be  
13 inclusive of the cost of the professional that we  
14 bring in as the manager, assuming you all vote and  
15 approve doing that.

16 As I said earlier, we're also evaluating  
17 whether we should commence a formal wind-down of  
18 these partnerships under Florida law and whether  
19 it's necessary to do that at this time, and we'll  
20 report back on that as well.

21 The last item that I wanted to go over before  
22 I sit down and shut up for a while you ask some  
23 questions is how we handle things going forward.

24 We felt very strongly, as I said, that we  
25 needed to have this meeting and as quickly as

1 possible get everyone together in the same place so  
2 we could start a system of information, cooperation  
3 and decision making.

4 This is a really nice room, and they have  
5 really good Starbucks coffee, but it's very  
6 expensive, and it's certainly not practical going  
7 forward that we continue to have meetings this way.

8 As I said, you're all welcome to my conference  
9 room. I don't think you'll fit, so how do we  
10 operate going forward?

11 The suggestion from our end is that what we do  
12 in the near future can be accomplished by two  
13 different manners.

14 Number one, obviously, there's written  
15 communication, periodic status updates,  
16 communication where voting is necessary on issues,  
17 and to periodically meet by the conference call  
18 method.

19 This system that we have in place that's  
20 allowed people to dial in today can function from  
21 somebody's office, as well as it can from this  
22 conference room, and therefore, it's our proposal  
23 that at least for the next couple of meetings, we  
24 schedule regular dates to do that, and we do it  
25 with everyone being in position to dial in to a

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



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?

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.

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.

1 I'm a net profiteer. I'm somebody who's  
2 subject to a profiteering profit claim, to a  
3 clawback claim. My exposure's \$20,000.

4 And I guess your question is in a similar  
5 example, if all my money, if let's say 10,000 was  
6 (inaudible) six years ago, 10,000 was in the last  
7 six years, okay, is the clawback claim limited to  
8 the last six years?

9 Yes, it is limited to the last six years.

10 However, if I put in \$10,000, and in the last,  
11 you know -- or \$100,000 ten years ago, and in the  
12 last few years, I got back, you know, \$90,000, I'm  
13 still a net loser, or I put \$100,000 ten years ago,  
14 nine years ago, I get \$110,000 back. Okay? I'm a  
15 net profiteer, but I'm outside the Statute of  
16 Limitations period.

17 I'm using this example of Joe Blow as a  
18 partnership, so just because you got a lot of money  
19 back or got profits back in the last six years, you  
20 have to look at the whole time period.

21 Over the entire life of the partnership, was  
22 it a net winner, or was it a net loser? And I  
23 think that's -- is that why you asked in the  
24 six-year time period?

25 Yeah. And if it's a net loser, which I think

1 Chad says that's how the facts are going to bear  
2 out -- we don't know yet, there's no clawback  
3 claim.

4 MR. PUGATCH: Yes, this gentleman in the  
5 front. Just state your name first. Your name  
6 first.

7 Yeah, Larry Aldridge (phonetic) asked whether  
8 each person's formula stands on its own basically  
9 or whether each is affected by the other.

10 I think to the extent that the liability were  
11 to pass through the partnership and the court were  
12 to allow the Trustee to go against the subsequent  
13 transferees, you each stand on your own in terms of  
14 whether you're net up or down.

15 However, as I was trying to explain before and  
16 probably didn't do it real well, if the only way  
17 they get to you is as a subsequent transferee to  
18 the partnership, and the formula as to the  
19 partnership is a net loser, that might cut them off  
20 from going after any of the next tier of people,  
21 the individuals, even though some of you may be net  
22 up. And that's an issue we have to look at.

23 Does that explain what you were looking for?

24 (Inaudible audience input)

25 MR. PUGATCH: I don't think so. I think that

1 the partnership will look at it based upon all the  
2 transactions. In other words, you have to look at  
3 the records of the partnership's trading account  
4 with Madoff and look at all of the trades and all  
5 of the payments.

6 However, if they're going to go through to an  
7 individual, it would be a matter of saying okay,  
8 let's look at your account, your trades. How much  
9 did you put in? How much did you take out as an  
10 individual? And that would only occur if the  
11 ruling in the case were to let the Trustee go to  
12 that second level of people.

13 Otherwise, if it only gets evaluated at the  
14 partnership level, and you're all general partners,  
15 if the partnership's a net loser, you all benefit  
16 from that in terms of not being exposed, but if the  
17 partnership is a net winner, under the theory of  
18 joint and several liability, you could all be at  
19 risk, even if that did not pan out that all the  
20 people were net winners or losers. And I don't say  
21 that to be alarmist.

22 I'm simply trying to point out that at this  
23 point, we don't really know how that's going to  
24 play out, and that's why we got to still evaluate  
25 it.

1 (Inaudible audience input)

2 Yeah, it's not -- it's not going to get looked  
3 at on that short a term.

4 They're going to take all the exposure  
5 within -- assume it's the six-year period. They're  
6 going to take that whole six-year period and use  
7 that period to evaluate it.

8 Someone else?

9 (Inaudible audience input)

10 Okay. All right. I don't -- the question is  
11 for someone who put their money in recently, did  
12 that really put them in a different posture?

13 And the other comment was from this gentleman,  
14 that he seems lost. I'm going to try to take  
15 whatever time -- I didn't tell my wife what time I  
16 was going to be home tonight, to answer your  
17 questions, whatever it takes.

18 This is a very complex area of the law. It's  
19 an area of the law that even a lot of lawyers have  
20 trouble with, so no one should feel here that by  
21 not understanding what's going on either that I  
22 explained it bad or that you're alone because it  
23 takes time to deal with that, but I'll do whatever  
24 I can to clarify for you. This is not -- it's not  
25 an easy area of the law, and this is certainly not

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.



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)

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.

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

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

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

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)

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

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 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.



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

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.

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.

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

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.

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

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

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.



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

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

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

1 questions?

2 UNIDENTIFIED SPEAKER: I have a quick  
3 question. Hello?

4 MR. PUGATCH: Yes, sir.

5 MR. MARANARO: Yes. My name is Steve  
6 Maranaro, (phonetic). My question, we were  
7 basically, from what I understand, grandfathered  
8 in, my mother-in-law, who passed away. We  
9 basically were listed on her account, and we came  
10 in, and then a few years went by. We added money.

11 We don't actually have any kind of paperwork  
12 on a partnership agreement.

13 UNIDENTIFIED SPEAKER: Okay.

14 MR. PUGATCH: Certainly, you should have that.  
15 If anybody does not have a copy of their  
16 partnership agreement and wants one, then again,  
17 contact my office, and either by mail or by scanned  
18 e-mail, I will get you a copy of the partnership  
19 agreement. Fair enough?

20 MR. MARANARO: Okay, but how am I a part of a  
21 partnership if I don't actually have an agreement  
22 that's signed?

23 MR. PUGATCH: To be honest with you, under  
24 Florida law, partnerships don't even have to have  
25 agreements. They can be based on a handshake, so

1     there's a lot of answers to that questions, and I'm  
2     not sure it's really appropriate to deal with that  
3     right now, but it's certainly possible that you are  
4     and possible that you're not, and again, those are  
5     questions your own individual lawyers have to  
6     answer for you.

7             MR. MARANARO: Okay. All right. Very good.

8             MR. PUGATCH: Anybody else on the phone before  
9     we go back to the people that are here live?

10            MR. CAPLINGER: In terms of -- this is Jim  
11     Caplinger again.

12            In terms of the total amount of investment in  
13     either the regular S & P or the IRA, P & S, would  
14     the IRA offset if you had had a profit, say from  
15     the -- from the individual account versus the IRA  
16     account, the regular account versus the retirement  
17     account?

18            MR. PUGATCH: I think, if I understand the  
19     question, is do you aggregate all the accounts,  
20     including the IRA account to determine net up or  
21     down? And I don't know the answer to that as we  
22     sit here.

23            My gut reaction would be that the IRA is a  
24     separate entity because it's a fiduciary account,  
25     but I wouldn't be prepared to answer that as we sit

1 both levels or not.

2 MS. PILLSBURY: Okay.

3 MR. PUGATCH: I'd like to go back now to the  
4 room for a little bit. Yes, sir.

5 (Inaudible audience input)

6 Yeah, the -- no, each one of these  
7 partnerships was operated separately. They had  
8 separate trading agreements. There are separate  
9 partnerships. They have separate written  
10 agreements, and they would not be aggregated under  
11 any theory that I -- that I would understand.

12 UNIDENTIFIED SPEAKER: What was the question?

13 MR. PUGATCH: I'm sorry. The question was  
14 whether the two partnerships would be lumped  
15 together for purposes of the way it would be looked  
16 at, and if you heard my answer, I think they would  
17 be treated separately, from everything that I've  
18 seen and understand.

19 Somebody over here had a question. Yes, sir?

20 (Inaudible audience input)

21 Oh, Pfizer was the entity administering the  
22 IRA accounts I think. They were the ones that  
23 administered the funds, so that's why your  
24 statements came through them.

25 Ma'am?

1 (Inaudible audience input)

2 MR. PUGATCH: Well, the answer is it probably  
3 belongs to you. Whether you want to ask for it to  
4 be given back or whether you want to try to do some  
5 kind of rollover, so it doesn't lose it's protected  
6 status, that is something you really should talk to  
7 your -- to your accountant about.

8 UNIDENTIFIED SPEAKER: What was the question?

9 MR. PUGATCH: The question was if you have  
10 money in your Pfizer account, which would be part  
11 of your IRA, would you have a right, and should you  
12 go after asking for it to be withdrawn?

13 I'm no CPA, and again, I'm no tax lawyer, but  
14 I do know that if you take money out of your IRA,  
15 you may be subject to tax penalties, and so there  
16 may be a way you can simply get that rolled into  
17 another account without suffering that problem, so  
18 talk to your accountant or your lawyer, and they  
19 should be able to tell you that.

20 MR. CAPLINGER: Pfizer told me that the money  
21 was frozen. This is Jim Caplinger.

22 MR. PUGATCH: I'm sorry. I couldn't  
23 understand that.

24 MR. CAPLINGER: I called Pfizer, and they said  
25 the money was frozen.

1 MR. PUGATCH: Well, they may be freezing the  
2 money because of issues they may have with worrying  
3 about clawback through the bankruptcy trustee as  
4 well.

5 I think Mr. Sallah wanted to address that for  
6 a minute.

7 UNIDENTIFIED SPEAKER: I just had a question  
8 because I mean, for example, if you have an IRA  
9 account, and you think -- you think you have a  
10 thousand dollars that, you know, it was invested a  
11 hundred percent in Madoff, and you've been  
12 decimated because of Madoff, are you assuming --  
13 was there (inaudible) \$1,000 in cash, or was it  
14 invested? Do you know?

15 Oh, so they -- Pfizer said they maintained --  
16 (inaudible.) As cash, just required for the -- to  
17 cut through the IRA account. Okay. Perfect.

18 (Inaudible audience input)

19 UNIDENTIFIED SPEAKER: Oh, I have no clue.  
20 They may say because it was earmarked. It depends.  
21 It would be interesting. I would assume -- I don't  
22 know this, we don't know, but was it earmarked for  
23 Madoff, or was it earmarked for you?

24 I would argue, if I were -- if I were you,  
25 that's my money, it shouldn't be frozen.



1 Again, I don't -- this is general. I'm not  
2 giving legal advice. I would argue, look, that was  
3 never -- he invested. You required that we  
4 maintain a thousand dollars in cash. It would  
5 never be invested through Madoff. Why would you  
6 possibly hold that money back from me?

7 I mean Pfizer's probably pretty nervous right  
8 now.

9 (Inaudible audience input)

10 MR. PUGATCH: Yeah. I think that was the  
11 deadline for broker-dealers to file claims. That  
12 would not be applicable to anybody here.

13 UNIDENTIFIED SPEAKER: Please restate the  
14 question.

15 MR. PUGATCH: The question was that this lady  
16 had heard through some testimony that was given by  
17 the SPIC Chairperson that there was a January 12th  
18 deadline for filing certain claims, and my answer  
19 was that as I understand it, that was the deadline  
20 for broker-dealer claims to be filed. That would  
21 not be applicable to the claims that would be filed  
22 by these partnerships or the individuals. That's  
23 the March 4th deadline.

24 Yes, sir, way in the back right.

25 (Inaudible audience input)

1           Sure. I can tell you for our firm, we're  
2 strictly working by the hour. We were given a  
3 retainer, and we're drawing down on that retainer  
4 on an hourly basis.

5           The fees range from my hourly rate at \$475 an  
6 hour down to associates that probably go down to  
7 the \$250 an hour level and paralegals at a hundred  
8 and a quarter, and we try to get work done at the  
9 lowest common denominator, meaning I'm not sitting  
10 there doing research at my hourly rate and devoting  
11 my time to the things that require my experience  
12 and expertise.

13          Mr. Sallah is being retained separately and  
14 getting a retainer, and he can speak to his  
15 arrangement.

16          MR. SALLAH: Yeah. My -- my hourly is, and  
17 again, my role is a little -- a little more  
18 limited. My hourly is \$375 an hour, and our  
19 associate, Joshua Katz, any research and most of  
20 the work that's going to be done -- and again, a  
21 lot of the work is going to limited, he's at 225 an  
22 hour.

23          I will tell you this though. I mean to the  
24 extent that there are any claims that the  
25 partnership has against third parties, securities

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

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.

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

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?

1 (Inaudible audience input)

2 I hope it's not that bad. If you think -- if  
3 you think mine are bad, you don't know what New  
4 York lawyers charge.

5 FEMALE SPEAKER: I have a phone question.

6 MR. PUGATCH: Excuse me?

7 (Inaudible audience input)

8 Well, again, I'll be happy to discuss that  
9 with anybody, but for 32 years of experience and  
10 what I do, I think I'm at the middle range. Again,  
11 I don't sit there and do every hour of work that  
12 needs to be done. That's why we have associates  
13 doing research, et cetera.

14 I don't want to take up any more of the meter  
15 running explaining that. I'll be happy to do that  
16 off the -- off the meter to anybody after the  
17 meeting.

18 FEMALE SPEAKER: I have a question on the  
19 phone, please.

20 FEMALE SPEAKER: You may have to speak up.

21 UNIDENTIFIED SPEAKER: Speak up.

22 FEMALE SPEAKER: Well, I thought I was.

23 MR. PUGATCH: Excuse me, people on the phone,  
24 I'm going to come back to you guys in a minute.  
25 I'm trying to be fair.

1 FEMALE SPEAKER: Okay.

2 MR. PUGATCH: And there's a gentleman asking a  
3 question here. After I get done with his question,  
4 we'll go back to the people on the phone for some  
5 more questions.

6 FEMALE SPEAKER: Thank you.

7 MR. PUGATCH: So be patient. Thank you.

8 (Inaudible input from audience.)

9 MR. PUGATCH: There was a decision process by  
10 which certain people had to be removed from P & S,  
11 and because of that, funds were requested in order  
12 to cash those people out. That \$800,000 represents  
13 a payment that was made because of that request.

14 So, the issues, to recap, are twofold:

15 Number one, forgetting for a moment who gets  
16 to share in that, if it gets to be kept, the first  
17 question is does it get to be kept at all, or  
18 whether it will at some point become an avoidable  
19 preference since it occurred virtually, you know,  
20 simultaneously with the bankruptcy filing.

21 The second -- the second set of questions is,  
22 and this really is one more of partnership law, and  
23 perhaps, you know, constructive trust is whether  
24 just those people who were supposed to be cashed  
25 out share in that or whether it's money that would



1     legally still be part of the general partnership  
2     fund, and we're not in a position right now to  
3     answer those questions, which is why, in all  
4     fairness, for all those reasons, we've simply set  
5     that money aside, don't spend it and wait until  
6     we -- we can figure out what's going to happen.

7             I think the first set of issues is does the  
8     partnership get to keep it at all before we worry  
9     about who gets to share in it?

10            (Inaudible audience input)

11            Yeah, and I don't know the answer to that. I  
12     don't think they were, but and --

13            UNIDENTIFIED SPEAKER: Restate the question,  
14     please.

15            MR. PUGATCH: The question was -- or it was  
16     more of a comment.

17            The question was would there be a list  
18     distributed before any of that \$800,000 is  
19     distributed, and the second comment was that some  
20     of Mike's family who lost money might be in that.  
21     I don't think that they were in that group, but one  
22     way or the other, I would not advise the  
23     partnership to distribute any money without there  
24     being agreement as to how it gets distributed or  
25     some kind of a court proceeding, you know, to

1 determine it, so that nobody, in effect, gets to  
2 unilaterally make that decision.

3 (Inaudible audience input)

4 We're not? Okay.

5 There was nobody from Mike's family in that  
6 group, but even without Mike's family being in  
7 there, it's not fair to anybody that that gets  
8 distributed without all the partners having to  
9 either approve it, or alternatively, have some  
10 third party make that determination based upon the  
11 law.

12 (Inaudible input from audience.)

13 Yeah, I think if I didn't make that clear  
14 before, what I said at the outset is although when  
15 the notice of this meeting went out, we said we  
16 might vote today, that we had up front made the  
17 decision that it would not be appropriate to vote  
18 today for exactly the reason you described.

19 Everyone needs to get a chance to digest this,  
20 and whatever we decide to put out there to vote,  
21 you should be able to read it, take it to your  
22 lawyer and make an informed decision before you  
23 vote, and that's the way we're going to handle it.

24 (Inaudible input from audience.)

25 If that were the case, and I'm not in a

1 position to discuss that, then it should certainly  
2 be looked at as to whether there's accountability,  
3 and again, that's why my recommendation is that you  
4 all approve getting an independent person to  
5 supervise this, so that whatever investigation  
6 decisions are made, nobody comes back and says,  
7 well, it's because of Mike or anybody else, that  
8 basically, it's an independent evaluation and  
9 recommendation to all of you from a professional  
10 person as to what is or is not out there.

11 FEMALE SPEAKER: What was the question?

12 MR. PUGATCH: That's the best I think that we  
13 can offer right now.

14 UNIDENTIFIED SPEAKER: Restate the question.

15 FEMALE SPEAKER: What was the question?

16 MR. PUGATCH: Oh, the question was whether  
17 somebody should evaluate, if for example, if  
18 somebody like Avellino or Bienes got some kind of  
19 fees out of this partnership, whether it would be  
20 appropriate that they be asked to pay any of it  
21 back. I'm summarizing, but -- and what I said is  
22 that should be evaluated by an independent person,  
23 and that's the best thing that this partnership or  
24 these partnerships could do is have somebody so  
25 that you will have the credibility of knowing that

1 that decision was made by somebody with no ax to  
2 grind.

3 (Inaudible input from audience.)

4 FEMALE SPEAKER: Repeat the question.

5 MR. PUGATCH: It's a meaningless question at  
6 this point in time. You all can -- can get  
7 whatever information you need on that, but in  
8 fairness, I'd really like to stick to the issues  
9 that affect everybody.

10 (Inaudible audience input)

11 Because -- because I'm not here right now,  
12 deal with those kinds of issues. I'm not saying  
13 they won't be dealt with. I'm saying have an  
14 independent person. The best, most economical,  
15 fairest thing you can do is get in here independent  
16 to evaluate that stuff, somebody who's a trained  
17 professional who does that for a living.

18 UNIDENTIFIED SPEAKER: We couldn't hear that  
19 question.

20 MR. PUGATCH: I'm -- I'm a lawyer. Lawyers  
21 have to have clients. Lawyers don't run  
22 partnerships. Lawyers don't make the decisions for  
23 their clients. Lawyers provide legal advice and  
24 legal representation.

25 I have to have a client, and in regard to what

1 is going to be done in any of those issues, that  
2 client, in my view, should be somebody independent  
3 for all your benefit.

4 Yes, ma'am?

5 (Inaudible audience input)

6 UNIDENTIFIED SPEAKER: Restate the question,  
7 please.

8 MR. PUGATCH: The question -- the question --  
9 the question is whether -- whether -- who will be  
10 participating in the decision, and I thought I said  
11 earlier we're going to submit that for a vote.  
12 We're going to make a recommendation. We'll give  
13 you who we recommend, with appropriate resumé may  
14 qualifications and whatever and ask you to vote on  
15 a person.

16 I'd like to go back to the phone because we  
17 did promise those people we'd give them --

18 UNIDENTIFIED SPEAKER: How many general  
19 partners are there?

20 MR. PUGATCH: I'm sorry?

21 UNIDENTIFIED SPEAKER: How many general  
22 partners are there in P & S?

23 MR. PUGATCH: In P & S? Approximately 200  
24 per --

25 UNIDENTIFIED SPEAKER: No, I meant S & P, S &

1 P.

2 MR. PUGATCH: Hang on one second.

3 (Inaudible) get exact numbers on that.

4 Between the two partnerships, it's about 200 people  
5 in total.

6 UNIDENTIFIED SPEAKER: Thank you.

7 FEMALE SPEAKER: I have a question, please.

8 MR. PUGATCH: Well, SBJ is a partner in S & P.

9 FEMALE SPEAKER: All right. I have a  
10 question.

11 MR. PUGATCH: Yes.

12 MS. O'NEILL: Okay. This is Darlene O'Neill  
13 from Jacksonville, Florida.

14 MR. PUGATCH: I'm sorry. I cannot understand  
15 you.

16 MS. O'NEILL: Okay. My husband received a  
17 traditional IRA fourth quarter statement from  
18 Fiserv, and I called Fiserv to see if that money  
19 was actually there, and if so, could we withdraw  
20 that, the IRA money, and the young woman said yes.  
21 And she's in the process of mailing me forms to  
22 fill out to give that money.

23 Am I to understand that that money is frozen,  
24 or is not there?

25 MR. PUGATCH: You know, I don't know the

1 answer to that.

2 A lady who asked the question earlier said  
3 that she was told that money is frozen.

4 MS. O'NEILL: Okay.

5 MR. PUGATCH: Now, if you're getting different  
6 information --

7 MS. O'NEILL: Yeah.

8 MR. PUGATCH: -- you should certainly, you  
9 know, do whatever you can do to pursue that, and if  
10 they'll give you your money back, then great, but  
11 I'm only answering questions based upon the  
12 information that's being given to me here.

13 MS. O'NEILL: Yeah. Well, I've listened to  
14 all this for a couple of hours now, is why I chimed  
15 in, because it, you know, is contradicting, so  
16 that's why I asked the question, so I'm waiting for  
17 the forms.

18 MR. PUGATCH: Well, I'm glad -- I'm glad you  
19 pointed that out, and I guess anybody who's  
20 involved with Pfizer should make their own  
21 independent inquiry as to whether they can get  
22 their money back.

23 MS. O'NEILL: Yeah.

24 FEMALE SPEAKER: But does that money not have  
25 to come down from --

1 UNIDENTIFIED SPEAKER: Why don't you write  
2 Fiserv a letter, explain to them, say, look,  
3 apparently, you've earmarked it. Yet, you have  
4 custody of at least \$1,000 of mine that was, you  
5 know, that you kept in cash in order to, um, you  
6 know maintain the account for me.

7 MS. O'NEILL: Right.

8 UNIDENTIFIED SPEAKER: I'd like it back. If  
9 you don't want to give it to me back, please, you  
10 know, explain to me in writing why you won't give  
11 it back to me. That's all.

12 I mean hold their feet to the fire and make  
13 them -- pin them down as to their explanation as to  
14 why you're not entitled.

15 Again, that's what I would do if I were you.

16 MS. O'NEILL: Okay. Thank you very much.

17 MR. PUGATCH: Anybody else on the phone before  
18 we go back to the room again?

19 UNIDENTIFIED SPEAKER: This may be too  
20 individual a question, but I asked the IRS about  
21 net operating losses if a fraud was committed. I  
22 mean is it too early to think about something like  
23 that?

24 MR. PUGATCH: No, I don't think it's too  
25 early.



1           The question was in relation to an inquiry of  
2           the IRS as to net operating losses, and what we  
3           said at the very beginning was that it's definitely  
4           an issue, and you should definitely each talk to  
5           your tax adviser to determine whether you have an  
6           opportunity to amend your returns and take  
7           advantage of that.

8           That's not something that we can advise you,  
9           but you definitely should check that out.

10          UNIDENTIFIED SPEAKER: One question.

11          MR. PUGATCH: Yes, this gentleman right here  
12          in the middle.

13          (Inaudible input from audience.)

14          It would probably be dependent on whether the  
15          partnership does or doesn't get pursued for that.

16          UNIDENTIFIED SPEAKER: What was the question,  
17          please?

18          MR. PUGATCH: The question was whether there  
19          is some reckoning that occurs between the  
20          individual partners if somebody is net up and  
21          somebody else is net down during that six-year  
22          period, and I would think that the answer is  
23          dependent on whether the partnership itself gets  
24          sued for that money.

25          If the partnership itself gets sued for that

1 money and the exposure is caused by certain people  
2 and not by others, then that would certainly have  
3 to be evaluated as to whether the partnership has  
4 claims against any of its partners.

5 (Inaudible input from audience.)

6 MR. PUGATCH: The answer is yes, and I don't  
7 say that by saying that that's a determination as  
8 to whether that -- that point of law would prevail  
9 or not, but it would certainly be one of the things  
10 that the partnership would have an obligation to  
11 look at since it involves its partners.

12 UNIDENTIFIED SPEAKER: The question?

13 MR. PUGATCH: It's almost like part of the  
14 adjustment of people's capital accounts up and down  
15 as general partners under the general partnership  
16 laws.

17 FEMALE SPEAKER: What was the question?

18 UNIDENTIFIED SPEAKER: What was the question?

19 MR. PUGATCH: We would be looking at that  
20 issue at the appropriate time.

21 The question was would we be handling that?

22 We as lawyers would certainly be looking at  
23 that issue at the appropriate time, yes.

24 Yes, in the corner.

25 (Inaudible input from audience.)

1 MR. PUGATCH: The answer, to my knowledge, is  
2 no and no.

3 UNIDENTIFIED SPEAKER: What was the question?

4 MR. PUGATCH: Oh, the question was whether  
5 there are any lawsuits pending against either of  
6 these partnerships and whether there are  
7 investigative agencies looking at these  
8 partnerships, and I said to my knowledge, and I  
9 think to the knowledge of the managing partner, the  
10 answer would be no on both counts.

11 Anybody else?

12 UNIDENTIFIED SPEAKER: I have a question.

13 MR. PUGATCH: Yes, sir.

14 UNIDENTIFIED SPEAKER: Going back to the net  
15 operating loss question, the IRS said I had to  
16 demonstrate that fraud had been committed and I had  
17 to provide proof of that.

18 What proof do I have to show them?

19 MR. PUGATCH: Well, the question was based  
20 upon a comment from the IRS that they had to  
21 demonstrate that fraud had been committed, and the  
22 answer is that is it may be premature to really be  
23 in a position to have that proof, but one of two  
24 things is going to happen.

25 Either you'll get that proof individually, or

1 as I've been advised, the IRS will probably assign  
2 an individual or a unit from each district to these  
3 issues from this case because it's a broad enough  
4 nationwide or international issue, and so it may  
5 come that the IRS at some point will have a policy  
6 as a given that it is or it isn't.

7 (Inaudible input from audience.)

8 UNIDENTIFIED SPEAKER: Another question. Can  
9 you recommend more than one outside firm to make  
10 the decisions or make the recommendations that  
11 you've discussed? And also, has there been any  
12 communication with Avellino or Bienes since all  
13 this news broke?

14 MR. PUGATCH: The first part of that question,  
15 I didn't hear. Something about an outside firm.

16 UNIDENTIFIED SPEAKER: Right. Will you  
17 recommend -- give a choice, more than one outside  
18 firm so that people can make a decision?

19 MR. PUGATCH: Okay. I think I understand the  
20 question.

21 The question is in terms of finding this  
22 independent person who will take over management --

23 UNIDENTIFIED SPEAKER: Right.

24 MR. PUGATCH: -- will we provide a choice?  
25 You know, there's two schools of thought on

1 that.

2 One would be to provide choices. The other  
3 would be for us to go through the interview process  
4 and simply put somebody out there, and if you  
5 approve them, fine. If you don't, then go to the  
6 next level.

7 My view, and this is just my opinion, is if,  
8 given the number of people, you put too many  
9 choices out there, it's going to be almost a  
10 meaningless exercise, and what I would personally  
11 prefer to see is that we make the evaluation with  
12 the input of the lawyers and then put somebody out  
13 there for approval, tell you why we think they  
14 should be approved, give you their qualifications  
15 and credentials to look at and that the vote simply  
16 be yes or no.

17 If the vote carries, great. If the vote  
18 doesn't carry, then we'll do the same thing with  
19 the next person, but we're certainly interviewing  
20 and looking at more than one firm.

21 There are several -- several firms, several  
22 individuals that I think could fulfill that role  
23 that are local here, and we're certainly looking at  
24 at least three in terms of being fair and doing due  
25 diligence.

1 UNIDENTIFIED SPEAKER: And then has there been  
2 any communication with Avellino or Bienes from the  
3 partnership since all this news broke?

4 MR. PUGATCH: No. To my knowledge, there's  
5 been no partnership communication with either of  
6 them. I certainly have not had any communication  
7 with either of them.

8 Anyone else in the room here with a question?

9 Yes, ma'am?

10 (Inaudible audience input)

11 MR. PUGATCH: Excellent question. I apologize  
12 because it's one that I was asked to include and  
13 cover, and it just got lost in the shuffle there.

14 The question really is in terms of getting  
15 SPIC to open up the governmental pocketbook and  
16 increase both the size of the pot for all of you  
17 and also expand the level of creditors that will be  
18 entitled to participate, who do you write to, and  
19 how do you expedite that process?

20 And I think the answer is you write to your  
21 Congressman, you write to anybody in power you  
22 know, and you get as many other people as you know  
23 that are affected or care to do the same thing.

24 I mean that's one -- one good thing about our  
25 government is that we do as citizens have that

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 been  
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

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



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 sensationalism,  
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

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

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.

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,

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.

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 exculpates 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.

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1 David?

2 (Inaudible input from audience.)

3 Well, and I agree with you, and that's why I'm  
4 saying I'm not here on behalf of the partnership to  
5 provide that opinion.

6 I'm simply saying that certainly, anybody has  
7 a right to resign, and they should check with their  
8 own legal advisers before they make this decision.

9 UNIDENTIFIED SPEAKER: What was the question?

10 MR. PUGATCH: I'm not advocating that  
11 decision.

12 The question -- it wasn't a question. It was  
13 a comment by one of the attorneys here that there  
14 may be issues with simply resigning by virtue of  
15 the provisions of the agreement that deal with how  
16 you get paid out and what you get paid out when  
17 you -- when you leave the partnership and that the  
18 partnership obviously may not be in a position to  
19 fulfill that, and you want a lawyer to look at how  
20 that affects your legal rights before you do it  
21 because, you know, there's very little liability  
22 going forward here.

23 The liability, to the extent there is any is  
24 pretty much for what's already happened anyway.

25 The gentleman in the front.

1 (Inaudible input from audience.)

2 MR. PUGATCH: That sounds logical. The  
3 comment that was made was if both the partnership  
4 and the individual are down, it would seem safe to  
5 file for the March 4th, and all I'll say is, and I  
6 think Jim's echoing this, that sounds logical, but  
7 again, we're not here to give you that advice. You  
8 have to make your own evaluation of that, but I  
9 think you need to wait.

10 I mean we're not for sure that the  
11 partnerships are up and down until we evaluate the  
12 time frames that are applicable, so within a week  
13 or so, you should have that information. There's  
14 plenty of time for you to make those decisions.

15 Anyone else?

16 UNIDENTIFIED SPEAKER: Yes.

17 MR. PUGATCH: On the phone.

18 UNIDENTIFIED SPEAKER: Yes. You mentioned  
19 about for a legislative tactic, writing a sample  
20 letter for Congress people, and I'd also like, if  
21 possible, bullet points, so if people are going to  
22 go individually talk to their legislators that  
23 they'd have really clear, distinct ideas about what  
24 would be, you know, what would be preferable for  
25 us.



1 MR. PUGATCH: I'm not sure I got all or  
2 understood the question. I know it had to do with  
3 the request in my agreement that we put a form  
4 together for the letter to your Congressman.

5 UNIDENTIFIED SPEAKER: Right and bullet points  
6 in.

7 MR. PUGATCH: And bullet points in.

8 UNIDENTIFIED SPEAKER: Yeah, really, specific,  
9 clear, so they're absolutely sure about what would  
10 be best for -- for us, what we're asking for.

11 MR. PUGATCH: Now, again, what the request  
12 was, and what I'd be doing is putting a letter that  
13 basically says, you know, we've been seriously hurt  
14 by all this, and you can help by passing laws or  
15 getting rules changed to allow claims to be made by  
16 the individual end parties that were hurt, rather  
17 than through the entities. And we'll put something  
18 more legally specific, but that's what we're  
19 talking about. I don't know what other bullet  
20 points we'd be talking about, but...

21 UNIDENTIFIED SPEAKER: If that's sufficient,  
22 that's great.

23 MR. PUGATCH: I'm going to do a form that's  
24 going to be along those lines.

25 You all are entitled to use it, not use it,

1 add to it or do whatever you want in terms of  
2 increasing or decreasing the scope of what you ask  
3 for.

4 Anybody else?

5 UNIDENTIFIED SPEAKER: Can I just clarify  
6 something? Can I just clarify something you just  
7 said about the partnership?

8 You're going to let us know whether the  
9 partnership is up or down within the next week or  
10 two before the filing?

11 MR. PUGATCH: Yes. What I said is that we are  
12 going to send out records, from which you'll be  
13 able to determine both the partnership you're in  
14 and your individual account, whether you're net up  
15 and down within the time frame that is applicable.

16 UNIDENTIFIED SPEAKER: Oh, okay.

17 MR. PUGATCH: And you'll have plenty of time  
18 at that point to make the decision.

19 UNIDENTIFIED SPEAKER: And -- and if I was  
20 down and the partnership was down, then your  
21 feeling, there would be probably nothing to lose to  
22 file?

23 MR. PUGATCH: I'm not giving you my --

24 UNIDENTIFIED SPEAKER: Yeah, I understand.  
25 Okay.

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

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?

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.

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?

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

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



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.

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

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.

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

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...

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

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

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.



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.

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

1 sum in the IRA.

2 UNIDENTIFIED SPEAKER: Well, the only thing  
3 you're going to roll over is the cash anyhow, but,  
4 you know...

5 FEMALE SPEAKER: Okay. Well, if I -- I'm  
6 waiting on the form. When I got that form, I'm  
7 taking it to a (inaudible.)

8 UNIDENTIFIED SPEAKER: I think you can  
9 download the form on the Internet.

10 FEMALE SPEAKER: Yeah, I probably could, but  
11 it's kind of late to be calling them.

12 UNIDENTIFIED SPEAKER: Well, they're in  
13 Denver, so it actually isn't that late.

14 FEMALE SPEAKER: Okay. Oh, okay.

15 UNIDENTIFIED SPEAKER: Yeah. Yeah.

16 FEMALE SPEAKER: Well, that's -- you know,  
17 when I called on Monday, she said she was in  
18 Denver, and she gave me her name and all that, and  
19 I was quite relieved because I said that's where  
20 the majority of our money is invested in the IRA,  
21 so if we can get that or roll that over into a  
22 different one in our bank, that's what we're going  
23 to do. You know, I'll just find out, you know, but  
24 I don't think Fiserv would have said, sure, that's  
25 the value of your account, if there was nothing

1     there.

2           UNIDENTIFIED SPEAKER: Well, I got -- I got a  
3     statement that said this is the value of my account  
4     too, but when I called, I got different information  
5     than you did.

6           FEMALE SPEAKER: Did you?

7           UNIDENTIFIED SPEAKER: They told me that the  
8     part of my account that was in cash, I could take  
9     out, but the part that was, you know, invested  
10    through S & P --

11          FEMALE SPEAKER: Yeah.

12          UNIDENTIFIED SPEAKER: -- because it was  
13    related to the Madoff investigation --

14          FEMALE SPEAKER: Yeah.

15          UNIDENTIFIED SPEAKER: -- that that part was  
16    frozen.

17          Now, if they go ahead and let you file the  
18    firm, and they let you take it out, well, great.

19          FEMALE SPEAKER: Yeah.

20          UNIDENTIFIED SPEAKER: You know, that's  
21    fantastic.

22          FEMALE SPEAKER: Yeah.

23          UNIDENTIFIED SPEAKER: Even if it's a  
24    bookkeeping error on their part.

25          FEMALE SPEAKER: Yeah.

1 UNIDENTIFIED SPEAKER: Yeah.

2 FEMALE SPEAKER: I wish I'd recorded that  
3 conversation.

4 Well, it's been very interesting today, and  
5 I'm glad we didn't make the drive down from  
6 Jacksonville to Fort Lauderdale.

7 UNIDENTIFIED SPEAKER: Well, I'm glad I didn't  
8 drive from West Virginia.

9 FEMALE SPEAKER: Yeah, I am too.

10 UNIDENTIFIED SPEAKER: I'm in -- I'm in the  
11 Tampa area, so I'm glad -- I decided not to go, and  
12 I'm glad I didn't go.

13 FEMALE SPEAKER: No, I'm glad we didn't go  
14 because it's too far to drive, and it would have  
15 been, you know -- I don't think they accomplished  
16 anything.

17 It's just -- I think to me, it was more  
18 depressing to hear what they said today, so -- and  
19 if everybody's expected to get their own lawyer for  
20 legal counsel, I mean that's more money that, you  
21 know, you're going to put out, so...

22 UNIDENTIFIED SPEAKER: Well, he has to say  
23 that, whether or not you do it.

24 FEMALE SPEAKER: Yeah.

25 UNIDENTIFIED SPEAKER: You just have to

1 determine whether -- how complicated your situation  
2 is.

3 FEMALE SPEAKER: Yeah.

4 UNIDENTIFIED SPEAKER: And, you know, and then  
5 go from there. I mean, you know, after I find out  
6 whether I'm up and down, and I presume that I'm  
7 down --

8 FEMALE SPEAKER: Yeah.

9 UNIDENTIFIED SPEAKER: -- then I'll go ahead  
10 and file my individual claim next week after, you  
11 know, I see that.

12 FEMALE SPEAKER: Yeah.

13 UNIDENTIFIED SPEAKER: And then -- then it'll  
14 just be in process like -- like you said.

15 FEMALE SPEAKER: Yeah.

16 UNIDENTIFIED SPEAKER: And then I had read the  
17 article too about the lady in New York that filed  
18 suit against the SEC.

19 FEMALE SPEAKER: Yeah.

20 UNIDENTIFIED SPEAKER: And the value of that  
21 was that it put her in position anyhow of in case  
22 they changed the rules about suing, you know,  
23 government agencies. She went ahead and filed a  
24 claim, so at least, it's in process in case they  
25 make an arrangement because --

1 FEMALE SPEAKER: Yeah.

2 UNIDENTIFIED SPEAKER: -- they screwed up.

3 FEMALE SPEAKER: Well, I even talk of it was  
4 possible to file a lawsuit against Sullivan and  
5 Associates for like negligence of duty to monitor  
6 the money.

7 UNIDENTIFIED SPEAKER: I wouldn't be surprised  
8 if people did that.

9 UNIDENTIFIED SPEAKER: Well, it's possible to  
10 sue anybody for any reason.

11 UNIDENTIFIED SPEAKER: Yeah.

12 UNIDENTIFIED SPEAKER: You don't need a  
13 reason.

14 FEMALE SPEAKER: Yeah, but even if that was  
15 done, it's going to come back on the partners.

16 UNIDENTIFIED SPEAKER: Not necessarily, no.

17 FEMALE SPEAKER: No?

18 UNIDENTIFIED SPEAKER: I wouldn't think so,  
19 no. You can sue the general partner or managing  
20 partner for, you know (inaudible).

21 UNIDENTIFIED SPEAKER: Well, I'm pretty sure  
22 Michael's probably already been sued.

23 UNIDENTIFIED SPEAKER: Yeah.

24 UNIDENTIFIED SPEAKER: No, no. I'm serious.  
25 I called -- I talked to him on the phone, and he

1 said -- you know, he mentioned, so I'm mean that  
2 I'm sure that -- the point of that matter would be  
3 then how far down the ladder would you be?

4 FEMALE SPEAKER: Yeah, right.

5 UNIDENTIFIED SPEAKER: You know, and if the  
6 first 20 people already sued --

7 FEMALE SPEAKER: Yeah.

8 UNIDENTIFIED SPEAKER: -- for X amount, you  
9 know, of whatever, you know, and I mean, I know  
10 anybody can be -- can be crooked, but I mean...

11 FEMALE SPEAKER: Yeah.

12 UNIDENTIFIED SPEAKER: I don't -- I don't  
13 think Michael was crooked.

14 FEMALE SPEAKER: I don't either.

15 UNIDENTIFIED SPEAKER: No, I don't either.

16 FEMALE SPEAKER: I don't either.

17 UNIDENTIFIED SPEAKER: You know, and not to  
18 say that, you know, there still wouldn't be some  
19 fiduciary responsibility.

20 FEMALE SPEAKER: Right.

21 UNIDENTIFIED SPEAKER: But, you know, I think  
22 that he'll do the best job he can for everybody  
23 involved because I just think that's the kind of  
24 person he is.

25 FEMALE SPEAKER: Yeah, I think so too.



1 He's -- I've talked with him a couple of times on  
2 the phone since then, but we were good friends with  
3 his -- Greg Powell, his partner that -- he died a  
4 few years ago, but...

5 UNIDENTIFIED SPEAKER: He was real good  
6 friends with my dad, so -- and my dad was in, you  
7 know...

8 FEMALE SPEAKER: Yeah.

9 UNIDENTIFIED SPEAKER: He thought really  
10 highly of him. I talked to him a couple of times,  
11 and they were very --

12 FEMALE SPEAKER: Yeah.

13 UNIDENTIFIED SPEAKER: You know, they knew my  
14 dad, and my dad didn't have that much skin in this  
15 game.

16 FEMALE SPEAKER: Yeah.

17 UNIDENTIFIED SPEAKER: And still it was -- you  
18 know, they were very concerned when I told him he  
19 had passed and all that stuff, so...

20 FEMALE SPEAKER: Yeah, it was very sad, but  
21 anyway -- well, I'm getting off the phone.

22 UNIDENTIFIED SPEAKER: Yeah.

23 UNIDENTIFIED SPEAKER: Go enjoy the weather in  
24 Jacksonville. It's 20 degrees in West Virginia.

25 FEMALE SPEAKER: Well, it's going to go down

1 to 25 tonight, so...

2 UNIDENTIFIED SPEAKER: What is it here? 65 in  
3 Tampa? Yeah.

4 FEMALE SPEAKER: 60? I've got a brother that  
5 lives in Tampa.

6 UNIDENTIFIED SPEAKER: Since you guys are on,  
7 can I ask one more quick question?

8 UNIDENTIFIED SPEAKER: Sure.

9 UNIDENTIFIED SPEAKER: Did the Frank Avellino  
10 or whatever that guy's name, did he and that --  
11 remember there was two accountants.

12 UNIDENTIFIED SPEAKER: Avellino and Bienes.

13 UNIDENTIFIED SPEAKER: Yeah, those two guys.  
14 Where do they sit in this thing at all?

15 UNIDENTIFIED SPEAKER: I'll tell you if you  
16 want. The Jacksonville lady, if you want to go,  
17 that's fine, but my understanding of it is that  
18 back when -- Bienes, if I'm not mistaken is related  
19 to Madoff.

20 UNIDENTIFIED SPEAKER: Oh.

21 UNIDENTIFIED SPEAKER: He's the son-in-law,  
22 and he was on the Board of Directors of the church  
23 that Mike goes to that I used to work at.

24 UNIDENTIFIED SPEAKER: Is that Christ church?

25 UNIDENTIFIED SPEAKER: Yeah, right.

1 UNIDENTIFIED SPEAKER: Oh, my God. That was  
2 my church I went to. That's how dad knew him.

3 UNIDENTIFIED SPEAKER: Okay. Well, that's  
4 what happened, and so Bienes was on the board, and  
5 then Mike, his wife got killed. I don't know if  
6 you guys knew that.

7 UNIDENTIFIED SPEAKER: Yeah.

8 UNIDENTIFIED SPEAKER: His wife got killed in  
9 a bank robbery, and he was, you know, bereft for,  
10 you know, a period of time, so he kind of suspended  
11 his accounting business and just started doing  
12 volunteer work at the church because he felt like  
13 he needed to find some spiritual center. I mean he  
14 had a new baby. He was like eight months old or  
15 something and, you know, and his wife gets shot in  
16 the face, and everything was horrible.

17 So he went and then got involved in church  
18 activity, and then Bienes was on the Board, and  
19 then after a period of time -- you probably saw the  
20 SEC filings that were in the Wall Street Journal,  
21 you know, in the 80's.

22 UNIDENTIFIED SPEAKER: Yeah.

23 UNIDENTIFIED SPEAKER: And -- but Bienes had  
24 asked Mike if he wanted to administer this charity  
25 fund, and that's how it was presented to us.

1 I mean the church was invested. I mean a lot  
2 of charities were invested, and the idea was that  
3 Madoff, being a good Jew, was going to do Mitzvah  
4 and do, you know, good works for the community, and  
5 so he was being --

6 UNIDENTIFIED SPEAKER: This is starting to  
7 sound familiar. Okay.

8 UNIDENTIFIED SPEAKER: Since -- since he was  
9 the Chairman of the NASDAQ at the time, that he  
10 could time-trade it in a way that would produce,  
11 you know, a positive result.

12 UNIDENTIFIED SPEAKER: Right, right.

13 UNIDENTIFIED SPEAKER: (Inaudible) speaking,  
14 so -- and then there would be no reason for him not  
15 to, "A," because he understood the market, and "B,"  
16 because he was doing this primarily to provide good  
17 works for people, for institutions.

18 UNIDENTIFIED SPEAKER: Okay.

19 UNIDENTIFIED SPEAKER: And then the  
20 partnership ended up just being kind of a codo  
21 (phonetic) to the institutional investment and that  
22 we were considered, you know, just like you read in  
23 the papers, that we were the lucky few that  
24 happened to fall into this, you know, thing.

25 UNIDENTIFIED SPEAKER: Uh-huh.

1 UNIDENTIFIED SPEAKER: And that -- because  
2 actually, the money was being made for the  
3 charities, not for us, but we just happened to be  
4 on this general partnership on the back end of it,  
5 so we got, you know, X amount of percentage.

6 Now, like, my percentage has always been  
7 between 6 and 7 percent since I've been in it, so I  
8 never got higher or lower than that.

9 UNIDENTIFIED SPEAKER: Okay, so there are  
10 different people with different -- because I was  
11 going to say, I've seen these reports of  
12 percentages. I'm looking at Dad's bank statements.  
13 I'm like, well, you didn't get anything near -- I  
14 mean some years, they were really good, but there  
15 wasn't that consistency that I was seeing  
16 elsewhere.

17 UNIDENTIFIED SPEAKER: Well, what happened,  
18 what happened was prior to Bienes being disbarred  
19 by the SEC, the returns were higher. I wasn't  
20 involved at point, but the returns were higher. He  
21 was -- he was doing handshake deals with people  
22 saying, you know, my father-in-law is doing this,  
23 and this is -- you know, I can get you, I can get  
24 you 10, 15 percent, you know. And that's what  
25 people were investing at initially.

1           Then after the SEC got involved, and then the  
2 whole Wall Street Journal, you know, article came  
3 out, then the percentage of return dropped to  
4 between 6 and 7 and has remained that way since,  
5 so -- but, you know, the issue was always just, you  
6 thought like, you know, you thought that it was a  
7 consistent return because of the skill of the  
8 person who was doing the investment.

9           UNIDENTIFIED SPEAKER: Right.

10          UNIDENTIFIED SPEAKER: And also, because you  
11 had the personal relationship, which now, in  
12 retrospect, we see, you know, how wrong that was.

13          UNIDENTIFIED SPEAKER: Yeah.

14          UNIDENTIFIED SPEAKER: So you had a personal  
15 relationship with someone that you liked, like  
16 Mike, and so because of that, you didn't worry.

17          UNIDENTIFIED SPEAKER: Yeah.

18          UNIDENTIFIED SPEAKER: I just never worried  
19 about it and never even thought -- what I liked  
20 about it was I didn't have to think about it.

21          UNIDENTIFIED SPEAKER: Yeah.

22          UNIDENTIFIED SPEAKER: You know, I stayed in  
23 because it was conservative.

24          UNIDENTIFIED SPEAKER: It was conservative,  
25 and it was -- it was dealt right and, you know, I

1 could take care of other issues.

2 UNIDENTIFIED SPEAKER: Yeah.

3 UNIDENTIFIED SPEAKER: You know, so it was  
4 just exactly the right thing.

5 UNIDENTIFIED SPEAKER: That was the thing,  
6 when I looked at it, what little I looked at it, I  
7 said, well, the strategy made sense.

8 The only thing that made me suspicious was how  
9 come nobody else was onto that? But, you know, it  
10 wasn't anything I was paying too close attention to  
11 because it wasn't --

12 UNIDENTIFIED SPEAKER: As to what?

13 UNIDENTIFIED SPEAKER: Well, just onto the  
14 strategy and all that. You know, I mean I'm not  
15 totally into the understandings of the puts and  
16 calls and stuff, but, you know, I was looking at  
17 it.

18 I'm like, well, God, that's -- they're  
19 doing -- I understand how it's working, but I just  
20 thought surely, over time, doesn't -- wouldn't -- I  
21 don't know, the market start to react to that?

22 But, you know, I'm talking in real  
23 generalities, but that was the only -- you know,  
24 I'm figuring, hey, Dad knew these guys, and they  
25 seemed to know -- seemed to have a lot of, you

1 know, faith in Mike, and, you know, he seemed like  
2 a good guy when I talked to him.

3 UNIDENTIFIED SPEAKER: Well, then he is.

4 UNIDENTIFIED SPEAKER: Yeah.

5 UNIDENTIFIED SPEAKER: I mean I don't doubt  
6 that he is. It's just that, you know, I mean...

7 UNIDENTIFIED SPEAKER: Yeah.

8 UNIDENTIFIED SPEAKER: Well, he got burned  
9 badly too.

10 UNIDENTIFIED SPEAKER: Oh, I'm sure. He's  
11 been burned real badly. I can't -- I'd just hate  
12 to be in his shoes. It could happen to a lot of  
13 people.

14 UNIDENTIFIED SPEAKER: Well, not just -- yeah,  
15 not just the money, but the stress.

16 UNIDENTIFIED SPEAKER: Yeah, yeah, definitely.

17 UNIDENTIFIED SPEAKER: Hundreds of people  
18 angry.

19 UNIDENTIFIED SPEAKER: Oh, yeah. If you're a  
20 decent person, that's going to drive you crazy. I  
21 mean, you know.

22 UNIDENTIFIED SPEAKER: If you have any kind of  
23 conscience at all, it's even more horrible.

24 UNIDENTIFIED SPEAKER: Oh, yeah. You'll  
25 suffer more than any of these other people



1 involved, any of the real SOB's, and you know,  
2 people are mad at him and, you know, on the one  
3 hand, you can't blame him. On the other hand,  
4 yeah, you can, because, you know, we all still have  
5 to be responsible for ourselves one way or the  
6 other, but -- yeah, it's just ugly. It's a  
7 horrible mess.

8 UNIDENTIFIED SPEAKER: Yes, it is. It's  
9 incredible that I could be involved in it, you  
10 know.

11 UNIDENTIFIED SPEAKER: Yeah, I know. It's  
12 just -- I kind of wish we just cashed out of it  
13 when Dad passed on, but, you know, hindsight is  
14 20/20, so...

15 UNIDENTIFIED SPEAKER: Well, even then, I mean  
16 I don't know how long your dad's been gone, but I  
17 mean, you'd still be liable.

18 UNIDENTIFIED SPEAKER: Yeah.

19 UNIDENTIFIED SPEAKER: If it was within the  
20 last six years.

21 UNIDENTIFIED SPEAKER: Yeah.

22 UNIDENTIFIED SPEAKER: The clawback period.  
23 You know, I mean, for whatever I've withdrawn from  
24 the fund, I know that I'm still a net loss from my  
25 personal finances, and it's hard to feel glad about

1 that.

2 UNIDENTIFIED SPEAKER: Yeah. Yeah. I know.

3 I know. Well, that's the thing that worries me.

4 It's like -- it's like Dad's -- I don't know. His  
5 estate is just -- is still technically active as of

6 last year, so I just dispensed everything last

7 year, so I don't know if that's going to come to

8 bite us in the ass somehow or other or not, but I

9 mean it's such a small amount of money, it's

10 ridiculous, but -- I don't know. It's only like

11 five figures, so...

12 UNIDENTIFIED SPEAKER: Well, I wouldn't worry  
13 about it.

14 UNIDENTIFIED SPEAKER: Yeah, I'm not going to  
15 worry too much about it, but I still --

16 UNIDENTIFIED SPEAKER: You just got to pay  
17 attention. That's all.

18 UNIDENTIFIED SPEAKER: Yeah.

19 UNIDENTIFIED SPEAKER: You know, personally, I  
20 mean my Mom's terminally ill right now, so to me,  
21 this is B.S. I mean I'll just do what I'm supposed  
22 to do, and I'll go on.

23 UNIDENTIFIED SPEAKER: Yeah.

24 UNIDENTIFIED SPEAKER: Everything -- my whole  
25 life has changed since she got sick because --

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

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.

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

C E R T I F I C A T E

STATE OF FLORIDA

COUNTY OF BROWARD

I, Katherine Milam, Notary Public, Registered Professional Reporter do hereby certify that I was authorized to and did listen to the recorded meeting provided to me via the Internet and stenographically transcribed from said recording the foregoing proceedings and that the transcript is a true and accurate record to the best of my ability.

*Katherine W. Milam*

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KATHERINE MILAM, RPR  
Notary Public-State of Florida  
My Commission Expires: 7-10-2017  
My Commission No. FF 10078