

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. OIG-509
OIG-509)
) **ORIGINAL**
WITNESS: Number 71
PAGES: 1 through 14
PLACE: Securities and Exchange Commission
 100 F Street, N.E., Room 6735
 Washington, D.C.
DATE: Thursday, July 9, 2009

The above-entitled matter came on for hearing, pursuant to notice, at 11:03 a.m.

Diversified Reporting Services, Inc.

(202) 467-9200

1 APPEARANCES:

2

3 On behalf of the Securities and Exchange Commission:

4 H. DAVID KOTZ, ESQ.

5 Inspector General

6 Securities and Exchange Commission

7 100 F Street, NE

8 Washington, DC 20549

9 (202) 551-6061

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C O N T E N T S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS:

EXAMINATION

William Henry Donaldson

6

EXHIBITS: DESCRIPTION

IDENTIFIED

(None)

P R O C E E D I N G S

1
2 MR. KOTZ: We are on the record at 11:03 a.m. on
3 July 9, 2009, at the United States Securities and Exchange
4 Commission, Office of the Inspector General. We are doing
5 this telephonically.

6 I am going to swear you in, Mr. Donaldson, if
7 that's all right?

8 MR. DONALDSON: I'm sorry. I didn't hear you.

9 MR. KOTZ: I am going to swear you in. Will you
10 please raise your right hand?

11 MR. DONALDSON: Okay.

12 Whereupon,

WILLIAM HENRY DONALDSON

13
14 was called as a witness and, having been first duly sworn,
15 was examined and testified as follows:

16 MR. KOTZ: Can you state and spell your full name
17 for the record please?

18 THE WITNESS: William Henry Donaldson.

19 MR. KOTZ: Okay. Mr. Donaldson, my name is David
20 Kotz, and I am the Inspector General of the United States
21 Securities and Exchange Commission. This is an investigation
22 by the Office of Inspector General, case number OIG-509.

23 I'm going to ask you certain questions, and you'll
24 provide answers under oath. A court reporter will record and
25 later transcribe everything that is said. Therefore, please

1 provide verbal answers to the questions as a nod of the head
2 or other non-verbal response won't be picked up by the court
3 reporter, particularly since we are doing this
4 telephonically.

5 Also, so the record will be clear, please let me
6 finish my question before you provide your response and I'll
7 try to let you finish your response before I ask the next
8 question.

9 In addition, it is important that you understand
10 the questions and give accurate answers. If there is
11 anything that you do not understand or anything that you do
12 not know or are not sure about, please let me know.
13 Otherwise, I will assume that you heard and understood the
14 question. Do you understand those instructions?

15 THE WITNESS: Yes.

16 MR. KOTZ: Okay. This is an official U.S.
17 government law enforcement investigation. The claims
18 asserted in this case are serious ones. It is very important
19 that you tell me everything you know about the matter at hand
20 and are completely forthcoming and truthful with me.

21 I am formally advising you that your testimony
22 today is subject to the laws of perjury. Providing false or
23 misleading testimony under oath is a serious offense. If the
24 evidence shows your testimony you have given is false we will
25 refer it as appropriate. Do you understand those

1 instructions?

2 THE WITNESS: Yes.

3 MR. KOTZ: Okay, I'm going to ask you some
4 background questions initially.

5 EXAMINATION

6 BY MR. KOTZ:

7 Q Can you tell me in what year did you begin working
8 at the Securities and Exchange Commission?

9 A February 2003.

10 Q And in what position?

11 A Chairman of the Commission.

12 Q And how long did you serve as chairman?

13 A Until the 30th of June 2005.

14 Q Did you ever serve at any point in time in any
15 other position with the SEC?

16 A No.

17 Q Who did you report to as chairman?

18 A Well, that's a good question. I guess to the
19 Congress of the United States.

20 Q Because you were an independent agency, you didn't
21 have a direct reporting relationship to the President; is
22 that right?

23 A Exactly.

24 Q And what were you doing in the period prior to
25 February 2003 when you became chairman of the SEC?

1 A I am in Donaldson Enterprises. I'm the chairman of
2 Donaldson Enterprises, an independent investment firm.

3 **Q Okay. And when did you start with Donaldson**
4 **Enterprises?**

5 A It's a personal investment firm, and I've had it
6 for 20 years.

7 **Q And then, after June 30, 2005, did you go back to**
8 **that investment firm, as well?**

9 A Yeah.

10 **Q Okay. When did you first meet Bernard Madoff?**

11 A I guess I met him back during a period of time that
12 I was chairman of the New York Stock Exchange, which would
13 have been between 1991 and '95.

14 **Q And how did you meet him at that point?**

15 A He was head of Madoff and Company, and I was
16 chairman and chief executive of the New York Stock Exchange.
17 I went up to visit with him at his headquarters along with
18 the president of the New York Stock Exchange.

19 **Q And when did that occur; do you know?**

20 A I don't have a specific date, but it would have
21 been probably midway through that period, '91 through '95.

22 **Q And did you have any interaction with him after**
23 **that, prior to coming to the SEC?**

24 A No.

25 **Q What was his reputation generally in the securities**

1 industry?

2 A Well, at that time he was running what appeared to
3 be a very successful over-the-counter trading firm that
4 traded and listed companies on the New York Stock Exchange.

5 Q That was a broker/dealer firm?

6 A Yes.

7 Q Were you aware that he also had an investment
8 advisory firm?

9 A No.

10 Q Okay. Now, when you began as chairman of the SEC,
11 did you see Mr. Madoff from time to time on various panels or
12 other things? I have in front of me, for example, "SEC
13 announces agenda for public hearing on proposed regulation
14 MNS, April 21, 2004."

15 You gave opening remarks, according to this
16 document, and Bernard Madoff sat on a couple of panels. Do
17 you recall that there were time periods where Bernard Madoff
18 was on panels or other events -- work-related -- that you
19 were involved with?

20 A No, I really don't. You know, there were a lot of
21 panels and hearings and so forth that -- again, I don't
22 remember that specific one. I was in and out of the panels.
23 I think I did give introductory remarks.

24 Q Do you remember specifically any particular panels
25 or other kind of work-related events -- after you became

1 chairman of the SEC -- that Bernard Madoff was at?

2 A No.

3 Q Do you remember any other meetings you had with
4 Bernard Madoff while you were chairman of the SEC?

5 A No, I don't. Way back in -- I believe that
6 somebody may have brought him into my office when he was in
7 the building, just to say hello, at his request.

8 Q Do you remember what time period that was?

9 A I really don't because I don't know when he was in
10 and out of the building. But somebody said Madoff would like
11 to stop by and say hello. He stopped by and said hello and
12 that was it.

13 Q But that was while you were chairman; right?

14 A Yes.

15 Q Do you remember who that was that brought him?

16 A I don't.

17 Q Any other times that you can remember, other than
18 that where you kind of met along with Bernard Madoff or with
19 only a couple of other people?

20 A No. I never met with him long.

21 Q Okay. Did you ever have lunch with Bernard Madoff?

22 A No.

23 Q Did you ever have dinner with him or other social
24 occasions?

25 A No.

1 Q Have you ever invested with Bernard Madoff?

2 A No.

3 Q Have you ever met any other member of the Madoff
4 family?

5 A No.

6 Q Did, at any time, Bernard Madoff ask you to help
7 him out personally with any matter relating to him or his
8 firm?

9 A No.

10 Q Prior to December 2008, were you aware the
11 Enforcement Division had received numerous referrals
12 questioning the legitimacy of Madoff's claimed returns?

13 A Can you repeat that question?

14 Q Sure. Prior to December 2008, were you aware that
15 the Enforcement Division had received numerous referrals
16 questioning the legitimacy of Madoff's claimed returns?

17 A No.

18 Q Okay. Prior to December 2008, were you aware that
19 Harry Markopolos had brought an allegation to the SEC
20 claiming that Madoff was running a Ponzi scheme?

21 A No.

22 Q Were you even aware of the name Harry Markopolos
23 prior to December 2008?

24 A No.

25 Q Was that a no?

1 A That's a no.

2 Q Just want to make sure we got that. Prior to
3 December 2008, were you aware that the OC office at the SEC
4 had performed examinations of Madoff?

5 A No.

6 Q And just for the record, did you play any role in
7 the Enforcement investigations or any OC examinations of
8 Madoff while chairman?

9 A No.

10 Q Were you aware of any congressional interest in
11 Madoff or Madoff investigations or examinations while you
12 were chairman?

13 A No.

14 Q How did you become aware in December of 2008 that
15 Madoff had confessed to running a Ponzi scheme?

16 A When I read it in the newspaper.

17 Q And what was your reaction to that?

18 A I was surprised and startled.

19 Q How come you were surprised?

20 A Well, I had no idea that such a scheme was under
21 way. I had no idea that Madoff had a separate
22 business -- investment management business. All I knew
23 Madoff for was as head of the trading firm and as a
24 competitor in the New York Stock Exchange.

25 Q And is it fair to say you were also surprised

1 because he was very well-known and respected in the
2 securities industry?

3 A I really can't comment on how well-known or
4 respected he was. I simply knew him as a broker/dealer that
5 ran an over-the-counter operation that bought and sold via
6 the stock exchange, stock.

7 Q Okay. Do you talk to any current or former SEC
8 staffers about what went wrong in the examinations or
9 investigations of Madoff?

10 A No, I haven't.

11 Q Any other info about this matter, either your
12 relationship with Bernard Madoff or the Madoff family or what
13 went wrong in the investigation that we haven't covered?

14 A No.

15 MR. KOTZ: I don't have anything more. I would
16 just ask you, to preserve the integrity of the investigation,
17 not to discuss your testimony with anyone else.

18 MR. DONALDSON: Oh, fine, will not do.

19 MR. KOTZ: Thank you very much, Chairman Donaldson.
20 I really appreciate your time. We are off the record.

21 (Whereupon, at 11:13 a.m. the examination was
22 concluded.)

23 * * * * *

24

25