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Matter No. OIG-509

Telephone Interview with David Marder, former Assistant District Administrator, Boston District Office/current Partner, Robbins & Kaplan, Boston, MA

Thursday, April 30, 2009

David Fielder and David Witherspoon:

On Thursday April 30, 2009, David Fielder and David Witherspoon called David Marder, a Partner at Robbins & Kaplan in Boston, MA. Marder worked in the SEC's Boston District Office ("BDO"), first as Senior Trial Counsel, then as Assistant District Administrator until his departure in late 2001/early 2002.

The purpose of the call was to determine whether Marder had any knowledge of an April 2001 referral of Harry Markopolos's complaint from BDO to NERO. BDO employee Silvestre Fontes overnighted Harry's Madoff submission to Mark Schonfeld in New York, stating in an April 3, 2001 e-mail to Schonfeld entitled "Madoff" that, "I overnighted to you some documents on the case you, Marder and I discussed over the phone yesterday."

Marder did not recall the referral to NERO, and did not recall participating on a phone call with either Fontes or Schonfeld. He did not recall discussing either Madoff or Harry's complaint with either Fontes or Schonfeld at any time. Marder stated, however, that had he referred the matter to NERO, he first would have discussed the matter with Personal Privacy his immediate supervisor and Associate District Administrator, or with Juan Marcelino, who headed the office. Marder did not recall discussing the matter with either Personal Privacy or Juan. Finally, Marder recalled that Schonfeld spent some time in BDO before moving on to NERO, but did not state when he was in Boston or how long he worked there before moving to NERO.