

Memorandum

To: H. David Kotz
CC: Personal Privacy
From: Personal Privacy
Date: 8/28/09
Re: OIEA Senior Counsel Interview (8/13/2009)

On August 13, 2009, Personal Privacy interviewed OIEA Senior Counsel about a complaint received while working in the Office of Investor Education and Advocacy ("OIEA") in November 2006.

Because OIEA Senior Counsel has been assisting the OIG in the internal investigation of the SEC's investigations and examinations of Bernard L. Madoff and his firm, OIEA Senior Counsel was not allowed to participate in any way in the investigation of the handling of complaint, except for to provide an interview. The investigation of the handling of the complaint was performed primarily by taking the testimony of OIEA Senior Counsel supervisor, former OIEA Branch Chief who approved OIEA Senior Counsel handling of the complaint and by taking the testimony of OIEA branch chief OIEA Branch Chief who provided testimony about OIEA tip and complaint handling procedures.

In the interview, OIEA Senior Counsel stated that it was difficult to recall the details of the handling the complaint because it occurred almost three years ago. did not recall whether or not checked the NRSI System. speculated that if there are no records of checking the system, it may have been because the system was down that day, but just could not recall.

did recall that because the allegations involved hedge funds or hedge fund returns, checked to see if Madoff Securities was registered as an investment adviser, and it was not.

Although did not have a specific recollection of doing so, stated that according to practice, probably would have checked to see if Madoff's firm was a registered broker-dealer and it was, but did not believe the broker-dealer registration was relevant because the complaint was about hedge fund activity.

August 31, 2009

OIEA Senior
Counsel

stated the reasons why [redacted] believes [redacted] did not refer the complaint were The following: (1) there were no specific allegations in the complaint; (2) the complaint was anonymous; and (3) Madoff was not registered with the Commission as an investment adviser. In general, in [redacted] OIEA Senior Counsel experience, the Enforcement Division was not going to pursue complaints that consisted of general allegations and Enforcement would not pursue complaints that were anonymous.

OIEA Senior
Counsel

When asked if [redacted] OIEA Senior Counsel recalled anything else about the handling of the complaint, [redacted] OIEA Senior Counsel stated that [redacted] did not.