

**EXHIBIT 39**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,  
Debtor.

Adv.Pro.No.  
08-01789 (BRL)

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IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff  
Investment Securities LLC,  
Plaintiff,

Adv.Pro.No.  
09-1182 (BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,  
L.P., ARIEL FUND LTD., ASCOT  
PARTNERS, L.P., GABRIEL CAPITAL  
CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION of JASON L. ORCHARD, as  
reported by NANCY C. BENDISH, Certified Court  
Reporter, RMR, CRR and Notary Public of the States  
of New York and New Jersey, at the offices of BAKER  
HOSTETLER, 45 Rockefeller Plaza, New York, New York  
on Tuesday, October 8, 2013, commencing at 10 a.m.

10:19:04 1 quantitative analysis that you conducted?

10:19:07 2 A. Examining monthly returns,  
10:19:09 3 determining how they -- the correlation of these  
10:19:12 4 returns to different markets and benchmarks, what  
10:19:16 5 the Sharpe Ratio of the fund may be, the volatility  
10:19:20 6 of the fund, and examining that relative to other  
10:19:24 7 funds and opportunities. Those types of  
10:19:27 8 quantitative analysis.

10:19:30 9 Q. After you left Rutherford, what did  
10:19:32 10 you do next?

10:19:33 11 A. I joined Spring Mountain Capital.

10:19:36 12 Q. And what is Spring Mountain Capital?

10:19:40 13 A. Spring Mountain Capital is an  
10:19:42 14 alternative investment firm. At the time I joined,  
10:19:45 15 its primary business was investing in hedge funds  
10:19:49 16 and private equity funds.

10:19:50 17 Q. And are you still there today?

10:19:52 18 A. I am.

10:19:53 19 Q. Has Spring Mountain Capital's primary  
10:19:56 20 business changed since the time you joined?

10:19:58 21 MR. KREISSMAN: Object to form. You  
10:19:59 22 can answer.

10:20:01 23 A. It's evolved. We have three lines of  
10:20:04 24 business today: Hedge funds -- hedge fund  
10:20:06 25 investing, private equity investing, and municipal

10:26:13 1 you started at Spring Mountain Capital?

10:26:17 2 A. Investment analyst.

10:26:19 3 Q. And what were your roles and  
10:26:20 4 responsibilities at the time?

10:26:25 5 A. I was brought in to help perform due  
10:26:31 6 diligence on hedge fund managers.

10:26:40 7 Q. Specifically what type of due  
10:26:46 8 diligence were you asked to conduct on hedge fund  
10:26:48 9 managers?

10:26:48 10 MR. KREISSMAN: Object to form,  
10:26:50 11 vague.

10:26:52 12 A. I was asked to help perform both  
10:26:57 13 qualitative and quantitative due diligence  
10:27:01 14 functions.

10:27:08 15 Q. Did there come a time when your  
10:27:10 16 position changed at Spring Mountain Capital?

10:27:13 17 A. Over time it has changed. I was  
10:27:18 18 promoted first to an investment associate, I believe  
10:27:21 19 it was. Then a principal. And today I'm the  
10:27:27 20 managing -- a managing director in charge of the  
10:27:30 21 hedge fund group. I also am the CFO of the firm.

10:27:43 22 Q. Do you recall when you were promoted  
10:27:45 23 to investment associate?

10:27:50 24 A. 2006.

10:27:52 25 Q. And what were your responsibilities

11:39:22 1  
11:39:23 2  
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11:40:04 17  
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11:40:09 20  
11:40:10 21  
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11:40:23 25

by its customers?

MS. PRINC: Object to form.

Q. Let me rephrase.

Do you know how BLMIS was compensated  
by its investment advisory customers?

A. No.

Q. Were you aware that Mr. Madoff did  
not charge a management or performance fee to its  
investment advisory customers?

MS. PRINC: Object to form.

A. Yes.

Q. How were you made aware of that?

A. Well, I understood that to be the  
case for Ascot. Again, as my understanding.

Q. So you understood that BLMIS did not  
charge Ascot a management or performance fee?

MS. PRINC: Object to form.

A. I understood that, yes.

Q. How did you come about that  
understanding?

A. I believe Ezra mentioned that to me.

Q. Do you recall when Mr. Merkin  
mentioned that to you for the first time?

A. I suppose it was in our diligence  
meeting in November of 2005 with him.

11:40:27 1 Q. Did Mr. Merkin explain to you how  
11:40:31 2 Ascot compensated BLMIS?

11:40:38 3 A. The understanding was that the assets  
11:40:42 4 invested within that strategy helped the market  
11:40:46 5 making business, and so that was how -- why  
11:40:52 6 Mr. Madoff was willing to do this.

11:41:03 7 Q. And that's something Mr. Merkin  
11:41:07 8 explained to you?

11:41:10 9 A. I believe that to be the case.

11:41:16 10 Q. Do you recall the first time you met  
11:41:18 11 with Mr. Merkin?

11:41:24 12 A. The first time I met with Mr. Merkin  
11:41:26 13 was probably not long after I started at Spring  
11:41:32 14 Mountain Capital.

11:41:34 15 Q. And what were the circumstances of  
11:41:35 16 that meeting?

11:41:38 17 A. An introduction, as I had just joined  
11:41:43 18 Spring Mountain Capital and I think I was with  
11:41:49 19 Launny and Greg and there was no specific agenda.

11:41:55 20 Q. And where was Spring Mountain  
11:41:57 21 Capital's offices at the time?

11:41:59 22 A. At that time we were at 450 Park  
11:42:03 23 Avenue on the 23rd floor.

11:42:05 24 Q. And do you know if Mr. Merkin had  
11:42:06 25 offices in that same building?

11:44:53 1 MR. KREISSMAN: Object to form.

11:44:55 2 MS. PRINC: Objection.

11:44:56 3 A. No, I don't believe he had any  
11:44:57 4 reviews -- or any input in any of that.

11:45:10 5 Q. Do you know whether Spring Mountain  
11:45:11 6 Capital had any investments with any funds  
11:45:14 7 associated with Mr. Merkin?

11:45:17 8 A. Yes.

11:45:20 9 Q. This is between 2004 and 2008.

11:45:23 10 A. Okay.

11:45:23 11 Q. What funds did Spring Mountain  
11:45:26 12 Capital have investments with Mr. Merkin?

11:45:32 13 A. We had both onshore and offshore  
11:45:35 14 funds, so all the four fund of fund products that  
11:45:39 15 Ezra offered, Ascot LP, Ascot Limited, Gabriel and  
11:45:43 16 Ariel.

11:45:51 17 Q. Which of those funds are the onshore  
11:45:54 18 funds?

11:45:54 19 A. Ascot Fund LP and Gabriel.

11:45:57 20 Q. And which are the offshores?

11:46:01 21 A. Ascot Fund Limited and Ariel Fund,  
11:46:04 22 Ltd.

11:46:06 23 Q. Was there any difference between the  
11:46:09 24 investment strategies of Ariel and Gabriel?

11:46:14 25 MR. KREISSMAN: Object to form.

12:06:28 1 Q. And what is it?

12:06:32 2 A. It is an email from Takahashi-san, a  
12:06:39 3 member of the fund investment group at Aozora Bank,  
12:06:45 4 requesting or mentioning the results of an internal  
12:06:48 5 audit they had and some recommendations that were  
12:06:53 6 made. And then asking for -- asking for help in  
12:07:01 7 setting up a meeting with Bernie Madoff.

12:07:04 8 Q. Do you see that the date is October  
12:07:05 9 30th, 2005, correct?

12:07:07 10 A. Yes.

12:07:08 11 Q. Do you know whether or not this email  
12:07:11 12 predated the investment advisory agreement between  
12:07:15 13 Spring Mountain Capital and the Aozora Bank?

12:07:23 14 A. This email I believe --  
12:07:29 15 MR. KREISSMAN: Just tell him what  
12:07:30 16 you know.

12:07:31 17 A. No, I don't remember, no.

12:07:33 18 Q. Do you know if Aozora Bank had  
12:07:36 19 started a client relationship with Spring Mountain  
12:07:39 20 Capital before finalizing an investment advisory  
12:07:43 21 agreement?

12:07:44 22 A. Can you repeat the question?

12:07:45 23 Q. Sure. Do you know whether Aozora  
12:07:48 24 Bank started a client relationship with Spring  
12:07:51 25 Mountain Capital before formalizing the investment



12:15:35 1 A. He was going to speak to Mr. Merkin.

12:15:40 2 Q. And then the last page of this  
12:15:41 3 document, 893 is Mr. Saitou's response. The first  
12:15:48 4 line says: "Peter and Launny had a conversation  
12:15:50 5 about Ascot. Maybe you have already heard the story  
12:15:55 6 from Launny."

12:15:56 7 Do you have any recollection of a  
12:15:59 8 conversation that Mr. Steffens had with you about  
12:16:04 9 his conversation with Mr. Hagan?

12:16:07 10 MS. PRINC: Object to form.

12:16:08 11 MR. KREISSMAN: Same objection. I  
12:16:09 12 assume you mean in or around the time of this email?

12:16:11 13 MR. SONG: As referenced in this  
12:16:13 14 email.

12:16:13 15 MS. PRINC: Object to form.

12:16:15 16 A. I don't have any specific  
12:16:16 17 recollection.

12:16:19 18 Q. Okay. Do you know whether or not  
12:16:30 19 Aozora Bank ever got to -- ever had a meeting with  
12:16:33 20 Mr. Madoff?

12:16:34 21 MS. PRINC: Object to form.

12:16:36 22 A. I don't believe a meeting with  
12:16:37 23 Mr. Madoff ever happened.

12:16:50 24 MR. SONG: Okay. We can take a  
12:16:51 25 break.

01:31:15 1

to mind at this point.

01:31:35 2

Q. At this point in November of 2005,

01:31:37 3

what did you understand Mr. Madoff's business to be?

01:31:46 4

We had previously talked about to your understanding

01:31:48 5

it was a market maker and an investment advisor.

01:31:53 6

Did you have the same understanding in 2005?

01:31:56 7

MS. PRINC: Objection to form.

01:31:57 8

MR. BARRACK: Objection.

01:31:59 9

A. Mr. Madoff's business?

01:32:00 10

Q. Yes.

01:32:01 11

A. Yes.

01:32:07 12

Q. Do you see in the line where it says,

01:32:09 13

"For the most part, the fund trades stocks in the

01:32:12 14

S & P 100"?

01:32:14 15

A. Which paragraph? Oh, yes, I see it.

01:32:19 16

Q. Okay. What did you understand "for

01:32:22 17

the most part" to mean?

01:32:24 18

MR. KREISSMAN: Well, I object to

01:32:26 19

form. Do you mean what did he mean when he wrote

01:32:30 20

"for the most part"?

01:32:33 21

Q. Well, where did you get -- who

01:32:35 22

provided the information to you that for the most

01:32:37 23

part the fund trades stocks in the S & P 100?

01:32:42 24

MS. PRINC: Object to form.

01:32:42 25

A. I believe this report reflects my

01:32:44 1 conversation with Ezra Merkin. It was notes taken  
01:32:47 2 from my conversation with him.

01:32:49 3 Q. And what did you understand  
01:32:53 4 Mr. Merkin to mean by "for the most part"?

01:32:57 5 MS. PRINC: Object to form.

01:32:58 6 A. That most of the time the trades  
01:33:01 7 employed would be around stocks in the S & P 100.

01:33:09 8 Q. And did Mr. Merkin explain to you  
01:33:11 9 what the other times, what other investments Ascot  
01:33:15 10 would be in?

01:33:16 11 MS. PRINC: Object to form.

01:33:18 12 A. No. The other times they may trade  
01:33:21 13 stocks that were outside of the S & P 100, but it  
01:33:24 14 was -- the focus of the fund and the strategy  
01:33:26 15 because of the liquidity was on those larger stocks.

01:33:33 16 Q. In that same paragraph, sentence that  
01:33:37 17 begins, "Positions are typically held for three to  
01:33:39 18 six months and can be taken off in a variety of  
01:33:43 19 ways." Did Mr. Merkin explain to you that Ascot's  
01:33:48 20 positions were typically held for three to six  
01:33:50 21 months?

01:33:54 22 MS. PRINC: Object to form.

01:33:55 23 A. He did.

01:33:55 24 Q. And did you have an understanding  
01:33:57 25 that those positions were held for less than three

01:35:21 1 MS. PRINC: Object to form.

01:35:23 2 MR. KREISSMAN: Join.

01:35:24 3 A. I believe it does.

01:35:26 4 Q. Where it says, "Cash balances are

01:35:28 5 held at Morgan Stanley and are not aggressively

01:35:31 6 managed," do you have an understanding as to what

01:35:35 7 that means?

01:35:35 8 A. I do.

01:35:36 9 Q. What does that mean?

01:35:37 10 A. When the fund is not invested, it

01:35:41 11 would be in cash and we understood that those

01:35:43 12 balances were held at a Morgan Stanley account.

01:35:49 13 Q. Did Mr. Merkin explain to you that he

01:35:51 14 would withdraw cash from BLMIS and place it in

01:35:55 15 Morgan Stanley?

01:35:57 16 MS. PRINC: Object to form.

01:35:58 17 A. It was understood or it was explained

01:35:59 18 to me that when the funds were not invested, they

01:36:05 19 were in cash at Morgan Stanley and the cash would be

01:36:08 20 held there.

01:36:22 21 Q. Over the next three pages from 01

01:36:26 22 through 03 there are four numbered paragraphs.

01:36:34 23 Number 1 is a bull spread trade; number 2 is a bear

01:36:40 24 spread trade; number 3 starts with a third strategy;

01:36:42 25 and number 4 is the fourth strategy. Do you see

01:36:45 1  
01:36:47 2  
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01:37:07 9  
01:37:12 10  
01:37:15 11  
01:37:19 12  
01:37:23 13  
01:37:27 14  
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01:37:31 16  
01:37:34 17  
01:37:35 18  
01:37:37 19  
01:38:05 20  
01:38:06 21  
01:38:10 22  
01:38:13 23  
01:38:17 24  
25

those paragraphs?

A. I do.

Q. Can you tell me what those paragraphs describe?

A. They are descriptions of trade strategies that Merkin and Madoff would employ to take advantage of arbitrage opportunities in the marketplace.

Q. What is the bull spread trade?

A. It is a strategy that one employs with a typically longer stock, longer put option and shorter call option to take advantage of some skew and mispricing in the marketplace, primarily around options, while limiting your risk.

Q. And the description of the bull spread trade as listed here, was that provided to you by Mr. Merkin?

MS. PRINC: Object to form.

A. It was.

Q. The paragraph that starts with, "Ultimately, although the trade is termed a bull spread trade," do you see where the next sentence says, "As Ezra described it, essentially Ascot is no different than flipping a coin, but trades are structured so that Ascot can be right only 25

01:38:21 1 percent of the time and still be able to break  
01:38:23 2 even."

01:38:24 3 A. I see it, yes.

01:38:26 4 Q. Do you recall whether or not  
01:38:28 5 Mr. Merkin provided a flipping of a coin analogy?

01:38:34 6 A. He did.

01:38:40 7 Q. And when it references, in the  
01:38:54 8 sentence prior to that, when it references that,  
01:38:58 9 "the fund is not establishing a position based on  
01:39:00 10 the manager's market sentiment," do you understand  
01:39:06 11 what market sentiment means?

01:39:09 12 A. I do.

01:39:09 13 Q. And what is that?

01:39:12 14 A. That was meant to refer to the  
01:39:16 15 manager's position of whether the market would go up  
01:39:18 16 or down.

01:39:31 17 Q. When references are made to the  
01:39:33 18 manager in this document, who is that referring to?

01:39:35 19 MS. PRINC: Object to form.

01:39:40 20 A. It's referring to Mr. Merkin and  
01:39:44 21 ultimately the guidelines he established for  
01:39:49 22 Mr. Madoff.

01:39:56 23 Q. Did Mr. Merkin indicate how often he  
01:39:58 24 put on a bull spread trade for Ascot?

01:40:01 25 MS. PRINC: Object to form.

01:40:03 1 MR. KREISSMAN: Again, at this  
01:40:04 2 meeting you're asking about?

01:40:06 3 MR. SONG: At this meeting.

01:40:11 4 A. He didn't specifically say how often  
01:40:13 5 that trade was employed, but it was implied that  
01:40:16 6 that trade was the most commonly used trade of the  
01:40:23 7 four strategies he described.

01:40:31 8 Q. And the second trade strategy, the  
01:40:34 9 bear spread trade, could you explain what that means  
01:40:37 10 in this context.

01:40:39 11 A. It's a trade that's constructed in  
01:40:42 12 the exact opposite fashion as the bull spread trade  
01:40:45 13 and it's meant to take advantage of mispricings when  
01:40:50 14 the market oversells or panics.

01:40:53 15 Q. And did Mr. Merkin indicate to you  
01:40:55 16 that Ascot had used bear spread trades in the past?

01:41:01 17 MS. PRINC: Object to form.

01:41:03 18 A. He suggested that they had.

01:41:04 19 Q. Did Mr. Merkin provide any specific  
01:41:05 20 examples of the times that he used a bear spread  
01:41:10 21 trade?

01:41:11 22 A. Did not give examples of the times he  
01:41:14 23 used it, no.

01:41:20 24 Q. And the third strategy that's  
01:41:27 25 mentioned here in paragraph number 3, can you

01:47:49 1 you can clarify for the witness.

01:47:50 2 MR. SONG: Well, I'm correcting my  
01:47:51 3 earlier question between Merkin and BLMIS.

01:47:54 4 Q. I'm saying the fund. Whether the  
01:47:55 5 fund had a trading directive with BLMIS.

01:47:58 6 A. Yes, I understood that the fund had a  
01:48:00 7 trading directive with BLMIS.

01:48:02 8 Q. Did you ever see the trading  
01:48:03 9 directive between Ascot and BLMIS?

01:48:05 10 A. No.

01:48:05 11 Q. Did you ever ask to review it?

01:48:07 12 A. No.

01:48:11 13 Q. Did Mr. Merkin ever tell you that he  
01:48:15 14 told Mr. Madoff when to be invested?

01:48:18 15 MS. PRINC: Object to form.

01:48:23 16 A. No. Mr. Merkin told us that he  
01:48:29 17 established guidelines in which Mr. Madoff could  
01:48:33 18 then -- could then invest, as long as the  
01:48:39 19 opportunities fell within those guidelines or  
01:48:41 20 parameters.

01:48:42 21 Q. But you don't have an  
01:48:44 22 understanding -- strike that.

01:48:46 23 Do you know what those guidelines  
01:48:47 24 were as far as when to invest in the market?

01:48:51 25 A. Specifically, no.



01:50:51 1 Q. Did Mr. Merkin ever explain to you  
01:50:53 2 why Mr. Madoff was better at executing trades?

01:50:58 3 MS. PRINC: Object to form.

01:51:06 4 A. He suggested that because he was --  
01:51:08 5 Mr. Madoff was trading options regularly, he had  
01:51:14 6 better execution in saleabilities.

01:51:24 7 Q. The next line says: "In executing  
01:51:27 8 any one particular trade, the fund has a 12-minute  
01:51:30 9 rule --" I'm sorry, 12 m-i-n, which I understand is  
01:51:33 10 minute, "in which Ezra or Bernie have to establish  
01:51:36 11 all three legs of the typical trade within 12  
01:51:39 12 minutes, otherwise the trade legs established are  
01:51:43 13 sold."

01:51:44 14 Is that information something you got  
01:51:46 15 from Mr. Merkin?

01:51:48 16 A. It is.

01:51:48 17 Q. And did Mr. Merkin elaborate on why  
01:51:53 18 he established a 12-minute rule?

01:51:56 19 MS. PRINC: Object to form.

01:51:58 20 A. The trades were generally meant to be  
01:52:00 21 as low risk as possible. By establishing all three  
01:52:06 22 legs, you've essentially created an arbitrage  
01:52:12 23 position without taking much risk or having a  
01:52:15 24 defined risk level. If you're unable to execute one  
01:52:18 25 particular part of the leg, you have exposure, which

01:52:25 1 could ultimately put your position at risk to go  
01:52:29 2 outside of those risk parameters you've established.

01:52:32 3 So, if the position was not able to  
01:52:34 4 be fully constructed within 12 minutes, it was  
01:52:39 5 understood or explained to me that the trade -- the  
01:52:44 6 legs of the trade that were put on were unwound to  
01:52:47 7 reduce risk potential.

01:52:50 8 Q. Was this one of the parameters or  
01:52:52 9 guidelines that Mr. Merkin gave to Mr. Madoff?

01:52:57 10 MS. PRINC: Object to form.

01:53:00 11 A. It wasn't specifically explained to  
01:53:02 12 me that way, but it was a parameter that was  
01:53:05 13 explained to me that the fund had established or a  
01:53:09 14 guideline that was established by the fund.

01:53:20 15 Q. Under the Return Comments and Outlook  
01:53:25 16 section, first sentence says: "Ezra told us that  
01:53:27 17 the Ascot strategy has always benchmarked and  
01:53:30 18 attempted to achieve a return greater than twice the  
01:53:33 19 30-year Treasury."

01:53:36 20 Do you know why Mr. Merkin is using  
01:53:38 21 the 30-year Treasury as a benchmark?

01:53:41 22 MS. PRINC: Object to form.

01:53:42 23 MR. KREISSMAN: Object to form, calls  
01:53:44 24 for speculation.

01:53:46 25 A. I don't know why.

01:54:00 1 Q. Next paragraph starts with, "Ezra did  
01:54:02 2 say that he believes the Ascot strategy will stop  
01:54:05 3 working one day."

01:54:07 4 Do you have -- do you recall  
01:54:09 5 conversation with Mr. Merkin regarding Ascot -- the  
01:54:12 6 Ascot strategy stopping working one day?

01:54:15 7 A. Yes.

01:54:16 8 Q. And what did Mr. Merkin tell you?

01:54:19 9 A. As with most arbitrage strategies,  
01:54:24 10 they're generally -- a true arbitrage strategy is a  
01:54:28 11 strategy in which risk is limited or where there's  
01:54:30 12 very little risk at all. As more and more capital  
01:54:35 13 is employed to exploit that arbitrage, it eventually  
01:54:40 14 goes away.

01:54:43 15 Q. And did Mr. Merkin have a time  
01:54:47 16 horizon in mind for which Ascot might stop working?

01:54:50 17 MR. KREISSMAN: Objection to form.

01:54:51 18 MS. PRINC: Objection.

01:54:52 19 MR. KREISSMAN: Calls for  
01:54:55 20 speculation.

01:54:56 21 A. I don't recall.

01:55:13 22 Q. In that same paragraph where it says,  
01:55:15 23 "The manager will either have to conceive of new  
01:55:18 24 trading strategies or wind down as investment  
01:55:21 25 opportunities become rarer and returns retreat to

02:04:21 1 Q. Did you have any concerns regarding  
02:04:24 2 the -- regarding BLMIS self-clearing?

02:04:28 3 MR. KREISSMAN: At what time frame?

02:04:30 4 MR. SONG: Between 2004 and 2008.

02:04:35 5 A. It was, no. No, it wasn't a concern.

02:04:43 6 Q. Next sentence says, or two sentences  
02:04:46 7 down says: "We know that they are audited."

02:04:49 8 Do you remember having any  
02:04:51 9 discussions with anyone at Aozora Bank regarding the  
02:04:53 10 auditors for BLMIS?

02:04:55 11 MS. PRINC: Object to form.

02:04:56 12 A. No.

02:05:15 13 Q. Back on 305, you forwarded this email  
02:05:18 14 to Mr. Merkin on November 30th, 2005; is that  
02:05:22 15 correct?

02:05:22 16 A. Correct.

02:05:23 17 Q. Why did you forward it to Mr. Merkin?

02:05:28 18 A. Because I -- the bank wanted to --  
02:05:34 19 had further follow-up questions and Launny and Greg  
02:05:38 20 were traveling and so it was discussed that I would  
02:05:42 21 just forward this to Ezra to let them -- to give  
02:05:44 22 them a preview of what those questions or follow-ups  
02:05:49 23 may be.

02:05:49 24 Q. And did Mr. Merkin ever reply to you?

02:05:52 25 A. I don't recall that he did.

02:05:52 1 Q. Do you recall having any  
02:05:54 2 conversations with Mr. Merkin regarding following  
02:05:58 3 this email with regards to setting up a due  
02:06:01 4 diligence meeting with Mr. Madoff?

02:06:04 5 MS. PRINC: Object to form.

02:06:05 6 A. I don't recall having a conversation  
02:06:06 7 with Mr. Merkin, no.

02:06:07 8 Q. Do you know why Aozora Bank --  
02:06:10 9 withdrawn.

02:06:11 10 Did Aozora Bank ever get a due  
02:06:14 11 diligence meeting with Mr. Madoff?

02:06:16 12 MS. PRINC: Object to form.

02:06:17 13 A. No.

02:06:18 14 Q. Do you know why they never got that  
02:06:19 15 meeting?

02:06:19 16 MR. KREISSMAN: Object to form, calls  
02:06:21 17 for speculation.

02:06:22 18 A. I don't know specifically, no.

02:06:24 19 Q. Do you know why generally?

02:06:26 20 A. No, I don't know why.

02:06:31 21 Q. Did you have any conversations with  
02:06:33 22 Mr. Ho or Mr. Steffens regarding a due diligence  
02:06:39 23 meeting Aozora Bank requested after November 30th,  
02:06:43 24 2005?

02:06:44 25 A. Yes.

03:47:07 1  
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Do you see that?

A. I do.

Q. Were you previously aware that  
Mr. Autera had told representatives of Aozora that  
Ariel had accounts with Madoff?

A. No.

MS. PRINC: Okay. Thank you. I have  
no further questions.

MR. SONG: Nothing.

MR. KREISSMAN: Nothing from us. We  
are concluded -- anyone else? Last chance.

We are concluded. Thank you  
everybody.

THE VIDEOGRAPHER: Off at 3:47.

(Deposition concluded.)

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