

Exhibit 63



STATE OF NEW YORK)
)
) ss
COUNTY OF NEW YORK)

CERTIFICATION

This is to certify that the attached translation is, to the best of my knowledge and belief, a true and accurate translation from French into English of the attached Hearing of October 18, 2021.



Lynda Green, Senior Managing Editor
Lionbridge

Sworn to and subscribed before me

this 23rd day of DECEMBER, 20 21.



LAURA E MUSICH
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MU6386791
Qualified in Queens County
My Commission Expires 01-28-2023

Case No. 10-04330

JN21.037604

Irving H. Picard

Plaintiff

v.

Square One Fund Ltd.

Defendant

Hearing of October 18, 2021

***Witness hearing in response to a request for mutual assistance from
the United States Bankruptcy Court for the Southern District of New York***

ATTENDANCE LIST

Members of the Court

- Mr. Quentin Vergères Presiding Judge
- Mr. Laurie Gervasi Court Clerk

On behalf of the Plaintiff:

- Mr. Yves Klein Monfrini Bitton Klein
- Mrs. Evin Durmaz Monfrini Bitton Klein
- Mrs. Victoria Stork Baker & Hostetler LLP
- Mr. Ganesh Krishna Baker & Hostetler LLP

On behalf of the Defendant:

- Mr. Louis Burrus Schellenberg Wittmer
- Mr. Alvin Dhowtalut Schellenberg Wittmer

Witnesses

- Mr. Albert Collette
- Mrs. Melissa Alessandra Massetta Hariri

Stenotypists

- Mrs. Christine Rouxel-Merchet
- Mrs. Isabelle Questel

Interpreters

- Mr. Marc Woodward
- Mr. Antony Cru

Engineers

- Mr. Gandi Gouveia
- Mr. Arnaud Della Rosa

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*The hearing opened at 9:07 a.m.,
presided over by Mr. Quentin Vergères
La Côte District Court
Route de Saint-Cergue 38 - Nyon, Switzerland*

Hearing of Mr. Albert Collette

Presiding Judge.- Good morning Sir. Welcome. Please be seated.

Mr. Collette.- Good morning Your Honor.

Presiding Judge.- Right. You may remove your mask.

Mr. Collette.- Thank you.

Presiding Judge.- Right.

You are indeed Mr. Albert Collette?

Mr. Collette.- Yes, I am.

Presiding Judge.- What is your year of birth?

Mr. Collette.- 1969.

Presiding Judge.- Ah. I apologize. Is the microphone switched on? There is a little button, here, there.

Mr. Collette.- It is switched on.

Presiding Judge.- Is it working? Alright. Very well.

1969.

What is your profession?

Mr. Collette.- Engineer.

Presiding Judge.- Engineer. Very well.

And your permanent place of residence is in Chavannes-de-Bogis.

Mr. Collette.- Er ... No, but ... No.

Presiding Judge.- So, where is your permanent place of residence?

Mr. Collette.- In Milan.

Presiding Judge.- In Milan. Your permanent place of residence is in Milan. Very well. Right. Well, Sir, you are being heard within the scope of a request for mutual assistance by a judge in the United States in a lawsuit between the Trustee, Irving H. Picard, and Square One Fund Ltd.

Alright?

The remarks that you are going to make today are being recorded, and so are mine. This is to make it easier for the American attorneys to ... And then so that this is consistent with their code of procedure, so that they can be certain that what was said is properly recorded. Alright?

Mr. Collette.- Alright, thank you.

Presiding Judge.- This is also provided for by the Swiss Civil Procedure Code. So, there is no ... there is nothing to worry about.

Mr. Collette.- OK.

Presiding Judge.- So, I am going to ask you to swear or solemnly promise that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth.

1 **Mr. Collette.-** Yes, yes, OK.

2 **Presiding Judge.-** Say: "I promise."

3 **Mr. Collette.-** I promise to tell the truth, the whole truth and nothing but the truth.

4 **Presiding Judge.-** Very well. Thank you. And that was, rather, the American oath. And under
5 Swiss law, I draw your attention to the fact that perjury is a punishable offence within the
6 meaning of Article 307 of the Swiss Criminal Code. Well there you are.

7 **Mr. Collette.-** Thank you.

8 **Presiding Judge.-** I have a long list of questions to put to you. There are 48, a hefty bunch.
9 But there will also be some additional questions at the end; however, they are fairly specific.
10 So.

11 **Mr. Collette.-** Alright.

12 **Presiding Judge.-** Let's begin.

13 **Mr. Collette.-** OK.

14 **Presiding Judge.-** So.

15 1. Do you recall having a conversation with the Trustee on or around September 24, 2020?

16 **Mr. Collette.-** The Trustee?

17 **Presiding Judge.-** The Trustee is Irving H. Picard or his representatives.

18 **Mr. Collette.-** Yes, I was called by a detective from New York, who told me he had identified
19 three people who had an opinion ...

20 **Presiding Judge.-** Speak closer to the microphone.

21 **Mr. Collette.-** ... A detective from New York called me two or three times. He wanted to ask
22 me some questions of ... about my recollections of the Madoff affair.

23 So, yes.

24 **Presiding Judge.-** Yes?

25 **Mr. Collette.-** So yes, but he had told me that he was not necessarily connected, er ... that he
26 was not directly connected with the Trustee. I hadn't heard of that name before

27 **Presiding Judge.-** 2. And do you recall having a conversation with the Trustee or his
28 representatives on or around January 20, 2021?

29 **Mr. Collette.-** Yes, I spoke with them three or four times. I don't remember the dates. But they
30 called me three or four times, yes.

31 **Presiding Judge.-** 3. Do you recall having a conversation with the Trustee on or around
32 February 16, 2021?

33 **Mr. Collette.-** Yes, yes, that must be it, yes.

34 **Presiding Judge.-** 4. If you recall any of these conversations, do you recall discussing with
35 the Trustee in any of these conversations a conversation you had with Jérôme Müller in or
36 around 2003 at a conference in Miami, Florida in the United States?

37 **Mr. Collette.-** Yes, I remember it well, yes.

38 **Presiding Judge.-** Alright.

39 Sir, come and have a look, come. I am actually going to submit to you definitions, in fact, which
40 you must take. The sheet of paper is for you. Yes.

1 Here it is. If we refer to these words ... There you are, you have these definitions.

2 5. Were you ever employed at Calibria Financial Services ("Calibria")?

3 **Mr. Collette.-** Yes.

4 **Presiding Judge.-** Yes. 6. If so, what were the dates of your employment at Calibria?

5 **Mr. Collette.-** Oh! From 2003 to 2006.

6 **Presiding Judge.-** 7. Did you ever serve as the CEO of Calibria in Geneva?

7 **Mr. Collette.-** Yes.

8 **Presiding Judge.-** 8. If so, what were the dates of your tenure as CEO of Calibria?

9 **Mr. Collette.-** I would say from ... March or April 2003 – something like that – to sometime in
10 2006.

11 **Presiding Judge.-** Alright.

12 9. Did you ever serve as the Chief Information Officer of Calibria in Geneva?

13 **Mr. Collette.-** No. We didn't have a Chief Information Officer, no. It was "Chief Investment
14 Officer."

15 **Presiding Judge.-** Alright.

16 10. If so, what were the dates of your tenure as ... Ah no, it's "Chief Officer.' You say that ...

17 **Mr. Collette.-** They were the same dates.

18 **Presiding Judge.-** Yes, alright. But you, then, what was your job position?

19 **Mr. Collette.-** Chief Investment Officer.

20 **Presiding Judge.-** Alright.

21 11. Did you serve as CEO and Chief Information Officer of Calibria during the period from 2003
22 to 2006?

23 **Mr. Collette.-** No. It was "Chief Investment Officer.'

24 **Presiding Judge.-** Precisely.

25 12. What types of services did Calibria provide during your tenure?

26 **Mr. Collette.-** Well, we selected hedge funds.

27 **Presiding Judge.-** Any other types of services?

28 **Mr. Collette.-** No, it was essentially that, yes.

29 **Presiding Judge.-** 13. Prior to December 2008, were you aware of the firm Partners Advisers?

30 And, there, you have the definition on the sheet of paper.

31 **Mr. Collette.-** Yes, I was aware of them, yes.

32 **Presiding Judge.-** Yes. Alright.

33 14. If so, prior to December 2008, was Partners Advisers regarded as having a high standard
34 for conducting due diligence?

35 **Mr. Collette.-** Yes, it was ... It was ... How should I put it? To my mind it was one of the best
36 firms in Geneva, yes.

1 **Presiding Judge.-** 15. Prior to December 2008, was Luc Estenne regarded as having a high
2 standard for conducting due diligence?

3 **Mr. Collette.-** I don't know. I knew Jérôme, who was the person who conducted the due
4 diligence. But Luc Estenne, I don't know what his role was exactly.

5 **Presiding Judge.-** 16. Prior to December 2008, was Jérôme Müller regarded as having a high
6 standard for conducting due diligence?

7 **Mr. Collette.-** Yes.

8 **Presiding Judge.-** Now we are going to talk about the conversation with Mr. Müller.

9 17. Did you speak with Jérôme Müller in or around 2003 at a conference in Miami, Florida in
10 the United States?

11 **Mr. Collette.-** Yes.

12 **Presiding Judge.-** 18. If so, did you and Mr. Müller discuss BLMIS or BLMIS Feeder Funds
13 at the conference in Miami in or around 2003?

14 **Mr. Collette.-** Look, I think so, but I can't swear to it. That is to say, it was 20 years ago. So, I
15 think so, but I'm not absolutely sure.

16 **Presiding Judge.-** Can you see what BLMIS is? There is a definition.

17 **Mr. Collette.-** Everything to do with Madoff. Yes.

18 **Presiding Judge.-** Yes, alright. Very well.

19 So, 19. Did Mr. Müller express any opinion to you about investing with BLMIS when you spoke
20 with him at the conference in Miami in or around 2003?

21 **Mr. Collette.-** As I remember it, like me, Jérôme thought that there were, er ... that there were
22 reasons to doubt Madoff.

23 **Presiding Judge.-** 20. If so, will you please explain the circumstances and substance of that
24 conversation?

25 "Circumstances," "substance."

26 **Mr. Collette.-** The discussion that everyone was having at that time was ... er ... Madoff's
27 returns were inexplicable. And everyone was looking for ... I don't know. Do I have time to
28 expand, or not?

29 **Presiding Judge.-** Yes. You have time to expand.

30 **Mr. Collette.-** I always said at the time that it was a bit like the Tour de France. There were
31 teams that were doped and teams that weren't. Madoff was the doping. And so, if we [sic]
32 didn't have any Madoff [investments], you didn't have any chance of winning the Tour de
33 France. And so everyone had regular discussions about whether or not they should put some
34 Madoff [investments] in their portfolio. It was ... And the concern, well ... One of the concerns
35 with Madoff is that no one managed to explain his returns. And so I had a discussion with
36 Jérôme about how to explain the returns, since we were all having that discussion and no one
37 had an answer to that question.

38 **Presiding Judge.-** 21. Did Mr. Müller express any opinion to you about investing in a BLMIS
39 Feeder Fund when you spoke with him at the conference in Miami in or around 2003?

40 **Mr. Collette.-** I don't remember, it's ... whether he gave me any opinion, er ... I was aware of
41 his opinion, but did he give it to me clearly? I don't know.

1 **Presiding Judge.-** 22. This was conditional upon an affirmative answer.

2 If so, will you please explain the circumstances and substance of that conversation?

3 **Mr. Collette.-** Well ... As I was saying, er ... as, er ... If you were a fund selector and had
4 decided – like me, for example – not to invest in Madoff, you were putting yourself at a
5 competitive disadvantage. It was, er ... As I was saying, it's as if you weren't doping during the
6 Tour de France.

7 So, everyone, like Jérôme, like me, like others who were not making any Madoff [investments],
8 we were under enormous pressure to say to ourselves: "Well! I must make some." And, and,
9 and ... Everyone was trying to find an angle to say to themselves: "Well! Why wouldn't I make
10 some?" And, and, and, er And it was like that. And many people did ... did not ..., like me,
11 did not find a good angle to invest in Madoff and did not invest in Madoff.

12 **Presiding Judge.-** 23. Did Mr. Müller express any opinion to you about investing with BLMIS
13 at any other time?

14 **Mr. Collette.-** Well, I do not remember if I ... if Jérôme told me clearly. But I know that he
15 spoke about it clearly with my Head of Research and that he had an unfavorable opinion of
16 Madoff.

17 **Presiding Judge.-** 24. If so, will you please explain the circumstances and substance of those
18 conversations?

19 **Mr. Collette.-** As I was saying the ... the competitive advantage ... the competitive
20 disadvantage of not being in Madoff was so strong that everyone, like me, we were obliged to
21 regularly revisit the question of whether, er ... might we not be missing something? And so, I
22 know that, for example, Christophe, who worked with me, who was the Head of Research,
23 spoke with Jérôme regularly, and they were discussions that everyone who was not in Madoff
24 had regularly, about whether we might be able to find a reason to invest? Because there were
25 what in our jargon we called "red flags," which made some people reluctant to invest. The
26 situation was really like that and everyone was talking about it. Well, I mean: it was not a
27 discussion among experts; it was a discussion that everyone was having. You couldn't talk
28 about Madoff without talking about the risks that were associated with Madoff.

29 **Presiding Judge.-** I'd got to question 25, is that right?

30 **Mrs. Rouxel-Merchet.-** 24.

31 **Presiding Judge.-** Because in fact they are very similar.

32 25. Did Mr. Müller express any opinion to you about investing in a BLMIS Feeder Fund at any
33 other time?

34 Isn't this question very similar to question 23?

35 **Mr. Klein (off microphone).-** Yes. There are, on the one hand, ... (*inaudible*).

36 **Presiding Judge.-** Your microphone.

37 **Mr. Klein.-** Sorry! There are, on the one hand, direct investments in BLMIS, i.e. the Madoff
38 firm, and then in the feeder funds. That is why.

39 **Presiding Judge.-** OK.

40 25. Did Mr. Müller express any opinion to you about investing in a BLMIS Feeder Fund at any
41 other time?

1 **Mr. Collette.-** I am going to reply along the same lines. Namely that Jérôme had a weekly
2 dialogue with Christophe, who worked directly with me. And we had discussions with
3 Christophe several times about the fact that Partners doesn't make any Madoff investments,
4 we don't make any Madoff investments ... that's how it was ... but, er ... I can't remember any
5 clear and precise discussion where Jérôme said: "Madoff, he's a fraud," that's about it. He was
6 one of those people who had done their job and who thought that there were very substantial
7 risks of fraud with Bernard Madoff.

8 **Presiding Judge.-** 26. If so, will you please explain the circumstances and substance of those
9 conversations?

10 Do you have something to add or was it covered in the answer?

11 **Mr. Collette.-** It seems to me that I have already answered it.

12 **Presiding Judge.-** 27. Did Mr. Müller tell you that he believed it was not advisable to invest
13 with BLMIS when you spoke with him at the conference in Miami in or around 2003?

14 **Mr. Collette.-** Er, again, I remember that Jérôme thought it was not ... how should I put it?
15 Responsible to invest ... well, responsible, I don't know whether it is ...

16 **Presiding Judge.-** But did he advise you ... did he tell you that he believed it was not
17 advisable?

18 **Mr. Collette.-** Ah, no ...

19 **Presiding Judge.-** If you have to answer by "yes" or "no," what do you say?

20 **Mr. Collette.-** I would say no ... he didn't tell me ... we were big boys: he didn't give me advice;
21 he told me what he was doing and I told him what I was doing, but he was not my adviser and
22 I was not his adviser, so we didn't advise each other: we gave each other ... we shared
23 information.

24 **Presiding Judge.-** So, as you answered "no," question 28 is redundant, since it was: if so, will
25 you please explain the circumstances of that conversation?

26 29. Did Mr. Müller tell you that he believed it was not advisable to invest in a BLMIS Feeder
27 Fund when you spoke with him at the conference in Miami in or around 2003?

28 **Mr. Collette.-** That's all there is to it, we did not give each other advice.

29 **Presiding Judge.-** So, question 30 is redundant, since it was conditional upon an affirmative
30 answer from you.

31 31. Did Mr. Müller tell you that he believed it was not advisable to invest with BLMIS at any
32 other time?

33 **Mr. Collette.-** Not me directly, no.

34 **Presiding Judge.-** So, again, question 32 is redundant, since it was conditional upon an
35 affirmative answer from you.

36 33. Did Mr. Müller tell you that he believed it was not advisable to invest in a BLMIS Feeder
37 Fund at any other time?

38 **Mr. Collette.-** Same answer. I'm sorry, eh.

39 **Presiding Judge.-** So ... the answer is "no," then?

40 **Mr. Collette.-** The answer is that we did not give each other advice, we shared information,
41 we were what is called w ... well, friendly competitors, namely we, when we had ...

1 **Presiding Judge.-** But the question is not really about giving advice, it is: did he tell you that
2 he believed it was not advisable to invest at any other time?

3 **Mr. Collette.-** It's the word "advisable" ...

4 **Presiding Judge.-** It's not something else. It's different than giving advice.

5 **Mr. Collette.-** I remember, I have a recollection, that Jérôme thought it was not sensible to
6 invest in Madoff. You know, again, the context must be borne in mind. It was a question that
7 was on everybody's lips, so once one knew that a person was against Madoff, it was highly
8 unlikely that they would change sides. Well, there were people who did, but it was rather rare,
9 because apart from competitive pressure, the more people there were who invested, the more
10 difficult it was not to invest, but other than that there were no new indications, there was still
11 no way to explain the returns; there was ... well... so, it was ... well ... I apologize, I'm getting
12 carried away again.

13 **Presiding Judge.-** No, no, listen. Question 34 was: if so, will you please explain the
14 circumstances and substance of those conversations? It seems to me that you have already
15 answered ... well, you have answered. If not, the attorneys will ask for clarifications, but given
16 that there is a lot of repetition.

17 35. Did Mr. Müller tell you that he was against investing with BLMIS when you spoke with him
18 at the conference in Miami in or around 2003?

19 **Mr. Collette.-** That's what I remember, but I can't swear to it. It was 20 years ago ... but yes.

20 **Presiding Judge.-** So, you say that he was inclined to be against it.

21 **Mr. Collette.-** He was ... he was against it.

22 **Presiding Judge.-** He was against it?

23 **Mr. Collette.-** Yes.

24 **Presiding Judge.-** Alright.

25 36. If so, will you please explain the circumstances and substance of that conversation?

26 **Mr. Collette.-** Well, it was always the same thing, namely that no one understood what he
27 [Madoff] was doing and no one managed to explain what he was doing and so, if one used the
28 explanation of the returns as a criterion of investment, well, it was not possible to invest in
29 Madoff.

30 **Presiding Judge.-** Alright.

31 ... I'd got to question 37, is that right? 36. And now I have to move on to question 37? 37. Did
32 Mr. Müller tell you that he was against investing in a BLMIS Feeder Fund when you spoke with
33 him at the conference in Miami in or around 2003?

34 **Mr. Collette.-** Yes, it's the same thing: same answer.

35 **Presiding Judge.-** So, 38: If so, will you please explain the circumstances and substance of
36 that conversation?

37 **Mr. Collette.-** Well, pfff ... yes, it's the same thing, namely ...

38 **Presiding Judge.-** But did he distinguish between BLMIS and the feeder funds?

1 **Mr. Collette.-** No, I believe that the difference is a legal one. On a practical level, there is no
2 difference, since you were obliged to go through a feeder fund to invest in Madoff. You could
3 not invest ... It was just another of those red flags: it was, er, you had to go through a feeder
4 fund.

5 **Presiding Judge.-** Alright.

6 39. Did Mr. Müller tell you that he was against investing with BLMIS at any other time?

7 **Mr. Collette.-** Er ... yes ... er ... I mean ..., well, I ...

8 **Presiding Judge.-** So, was it at a different time than the conference in Miami in or around
9 2003?

10 **Mr. Collette.-** Ah, no, no, no, well, no, because I spoke with him only once about ... we spoke
11 about that only once.

12 **Presiding Judge.-** So, question 40 is redundant, since it was conditional upon an affirmative
13 answer from you.

14 41. Did Mr. Müller tell you that he was against investing in a BLMIS Feeder Fund at any other
15 time?

16 **Mr. Collette.-** No, so same answer, no.

17 **Presiding Judge.-** Question 42 is also redundant, since it was conditional upon an affirmative
18 answer.

19 43. Did Mr. Müller share with you at any time any other opinions about BLMIS?

20 **Mr. Collette.-** Not with me directly. Because he spoke ... as I said, he mainly spoke – perhaps
21 he should have come, rather than me –, with Christophe, who worked with me. So, they were
22 very close and they spoke a lot. Er ... I, the ... the ... I did not really speak with Luc; I spoke
23 with Luc Estenne three or four times. Jérôme, I knew him, I knew him well, but we didn't speak
24 with each other often. I, it was Christopher who tended to be the contact with Partners.

25 **Presiding Judge.-** So, question 44 was: if so, will you please explain the circumstances and
26 substance of those conversations?

27 You have answered "no" to that, in fact, Mr. Müller had not shared any other opinions with
28 you?

29 **Mr. Collette.-** On other occasions, do you mean?

30 **Presiding Judge.-** Yes.

31 **Mr. Collette.-** No.

32 **Presiding Judge.-** Alright.

33 45. Did Mr. Müller tell you at any time that Partners Advisers had a policy to never invest with
34 BLMIS?

35 **Mr. Collette.-** Well, I was extremely surprised when I realized that Partners invested in Madoff.
36 They were such conscientious people ... I ...: I was very surprised, yes, I was really very, very
37 surprised.

38 **Presiding Judge.-** But if you had to answer the question by "yes" or "no": did Mr. Müller tell
39 you at any time that Partners Advisers had a policy to never invest with BLMIS?

40 **Mr. Collette.-** Well, no, no, he never told me that, no.

41 **Presiding Judge.-** So, question 46 is redundant in view of the fact that it was conditional upon
42 an affirmative answer from you.

1 47. Did Mr. Müller tell you at any time that Partners Advisers had a policy to never invest in a
2 BLMIS Feeder Fund?

3 **Mr. Collette.-** No.

4 **Presiding Judge.-** 48. If so, will you please explain the circumstances and substance of those
5 conversations?

6 This question is redundant in view of the fact that it was conditional upon an affirmative answer
7 from you.

8 That's all. We have finished the questionnaire. I am now going to give the Plaintiff the
9 opportunity to ask additional questions.

10 **Mr. Klein.-** May we have a five-minute recess?

11 **Presiding Judge.-** The hearing is recessed for a few moments to allow the attorneys to
12 converse and it will resume afterwards. Alright? Thank you. The hearing is recessed.

13 *The hearing, recessed at 9:26 a.m., resumed at 9:38 a.m.*

14 **Presiding Judge.-** So, as the questionnaire has been finished, the Presiding Judge gives the
15 Parties the opportunity to ask additional questions. I give you the floor, Mr. Klein.

16 ➤ **Additional questions by the Plaintiff**

17 **Mr. Klein.-** Thank you.

18 In connection with the first questions that were asked – i.e. questions 1, 2, 3 and 4 – can you
19 say whether the ... your conversations with the Trustee's representatives influenced your
20 testimony in any way?

21 **Mr. Collette.-** Er ... I need to think about that.

22 **Presiding Judge.-** Don't forget to speak a bit more slowly.

23 **Mr. Collette.-** Alright.

24 Er... Listen, I have sworn to tell the truth, so, I am going to tell the truth.

25 I felt that the way in which ...A person called me to ask for information about ... the Madoff
26 fund, the Madoff funds in Geneva, who were the players, etc. I agreed to give them some
27 information and at the outset I had said: "I don't have time to come to, for example, the Court."
28 I said: "I am willing ... what we're given, in the trade, is referred to as "market intelligence."
29 So, to share market intelligence. But I said: "I don't want to have to go to the United States or
30 anywhere else on Earth to go and testify, because I ... well, the fact is, there are other people
31 who are better able to do that than me."

32 And I was very surprised that afterwards the person called me to tell me "well, you will be a
33 witness.' So, I have the impression that this did exert an influence all the same. I felt a bit
34 manipulated by that person.

35 So, that clearly has an impact on how I feel today. I don't feel safe.

36 **Mr. Klein.-** Alright, thank you Sir.

37 In connection with question 22, you stated that there was not a good angle in relation,
38 precisely, to the Madoff investments. Can you provide a little more detail on what you mean
39 by "not a good angle"?

1 **Mr. Collette.-** Well, the pillars of due diligence on an investment fund, there are at least two
2 things that must be, well two elements that must be – how should I put it? – clear.

3 The first is, when you see the returns, to be able to explain them. So, the manager will tell you,
4 “that is my strategy,” and will try to be able to reconstruct it to see if it does or does not make
5 sense compared to what the manager says he is doing.

6 But in the case of Madoff, it was inexplicable. So, no one, with the help of financial assets and
7 explanations by Madoff, could – how should I put it? – produce this track record. So, that, in
8 our trade, is a red flag. One says to oneself, “goodness,” but that is the first point.

9 The second point is: can one trust the figures? So, are the returns audited by an, er ...
10 reputable, well-reputed auditor? Are the assets held by a well-reputed prime broker? Is the
11 custodian well-reputed? Can one access the ... directly access the bank statement? And in
12 the case of Madoff, one couldn't access anything. So, based on those two things, it was er ...
13 It was very, very difficult to justify investing.

14 So I, the only, the only theory that I heard that could, one way or another, justify investing in
15 Madoff, was er ... that Madoff was the largest hedge fund on Earth, that it was in New York
16 and that if it was a fraud, the SEC or the DOJ would have already intervened long ago, since
17 it had been going on for years. And so, one applies absurd reasoning, that meant that it was
18 not a fraud, since it was still there making money. That was the only angle where on that basis
19 I heard people [say], “I am willing to invest.” But if you wanted to do a technician's job and if
20 you wanted to carry out technical due diligence on Madoff, it was not possible. And that is why
21 there was a big divide.

22 I am thinking back to the time when younger people, like me, who were technical wanted to
23 carry out technical due diligence, but did not manage to do so, and people who are my age
24 today said: “Well, if there was fraud, the SEC would know, who are you little fool to say that
25 Madoff is committing fraud?” So, that gives you some idea of how people were split at that
26 time.

27 **Mr. Klein.-** Thank you.

28 You mentioned on several occasions, notably in connection with this question and question
29 38, the “red flag” concept. Could you elaborate a little bit on what these red flags were?

30 **Mr. Collette.-** Well, the, I think that the red flag that was the most ... Well, there were two red
31 flags that were ... So, red flags are when we see something that tells us that there may be
32 suspected fraud.

33 The first one was that it was impossible to explain Bernie Madoff's returns. Impossible. When
34 I mean to say [sic] impossible, it was ... there were a lot of techniques for doing that. At the
35 time there was a software application called RiskMetrics, which helped explain the track
36 records of all the managers, except for Madoff's. In the case of Madoff, the software didn't
37 manage to do so.

38 Madoff was saying that he was making ... that he had a very special strategy in derivatives. If
39 you asked any derivative ... derivatives trader, he would tell you: “This strategy does not work
40 continuously, there are times when it loses money.” And Madoff never lost money. And so,
41 when you see things like that, you say to yourself perhaps those returns don't exist.

42 And so, if you ask that question by saying, “do those returns ... Is there a risk that those returns
43 don't exist?,” that's when you have to fall back on the ... the second stage of the due diligence
44 and check that ...

1 well-reputed persons who you can trust confirm to you that those returns do indeed exist. And
2 then, in that case, if I remember correctly, the auditor audited only the Madoff funds. If I ...
3 Also from memory, perhaps I am mistaken, from memory, Madoff, however, was self-
4 custodied. So, there were all these things that made it very, very difficult for professionals to
5 complete their due diligence grid. They had to say: "Madoff is an exception, I won't complete
6 my due diligence grid, because it is the largest hedge fund in the world, it is in New York, and
7 if it was a fraud, the SEC would have already intervened."

8 That was, I believe that was the only way to ... It was the only way to invest in Madoff. And,
9 pfff, today, many people present themselves as victims, but, I mean, everyone was talking
10 about Madoff's fraud. It was not, er ... I mean that it was not a ... I believe that there are very
11 few people who were surprised. Everyone knew that there was a risk.

12 **Mr. Klein.-** Thank you Sir.

13 What were the other due diligence techniques? What were the technical due diligence tools
14 that you could use? You mentioned this software application, were there others?

15 **Mr. Collette.-** Well, I can speak to you only from my experience, can't I. I don't have ... I don't
16 know what the others were doing, they were competitors after all. But we, for example, spoke
17 with the derivatives desk at SocGen, since it was one of the strongest firms. And we asked
18 them: "What can you do with Madoff's strategy?" And they said to us: "Yeah, for two years,
19 maybe two and a half years out of four, one can make money, but in any event there is one
20 year when one will lose money." So, that was another way of checking. So, there was ... So
21 that was how it was. There was ... But, but, but I believe that what the most difficult thing
22 was ... for a professional, is that at the operational level, it was ... at the operational level,
23 well ... you had to be ... to have low competences so that when ... I don't know, for example,
24 we were under so much pressure to invest in Madoff, that when we redid work on it in 2006,
25 we looked at the level ... We had spoken with Michael of Yugoslavia's team, asking them to
26 give us proof that they did indeed have the assets in custody, and this was in the form of
27 photocopies of faxes. So, we never managed to get documents which we could trust, whereas
28 other people may perhaps have trust. But in our case, things did not reach the level, er ... of
29 requirement that we had for operational due diligence.

30 **Presiding Judge.-** I would just like the questions to remain connected with the conversation
31 with Mr. Müller and then ...

32 **Mr. Klein.-** Yes, absolutely.

33 Indeed, in relation to this, you rightly pointed out that on several occasions, that the people
34 who were doing their job were to come to realize ... So, this type of approach that you had
35 taken in 2006, were you referring to this type of approach?

36 **Presiding Judge.-** Mr. Klein, in connection with which question are you asking this?

37 **Mr. Klein.-** In connection with question 25 and indeed the answer that Mr. Collette had given,
38 precisely by saying that "the people who were doing their job realized the problem."

39 **Mr. Collette.-** What I am saying is that the people who wanted to perform a technical job in
40 relation to Madoff, er ... could not arrive at a satisfactory answer. But what I am saying is that
41 there are also many people in our, in the financial industry, we must not close our eyes to it,
42 who perform a much less technical, much lighter job. And those people relied on the fact that
43 it was the biggest hedge fund

1 in the world, that it had existed for years, that it was in New York, alongside the SEC and so it
2 was not possible that there was fraud. So, there were people who said, and so they arrived at
3 their reasoning by saying that people like me who said "technically, we don't manage to
4 conduct due diligence," they treated us like fools. They said: "The SEC people, they are highly
5 qualified, they speak English, who are you? You don't even speak English well, how can you
6 say that you ... "Madoff is a fraud"? The situation was fairly dichotomous. But that's why, I
7 think that if you look, it is rather significant, but the majority of the young people, if I may say
8 so, did not invest and the majority of the older people, who tend to be more attuned to the big
9 picture, and ... were more easily tempted to invest in Madoff.

10 **Mr. Klein.-** Alright.

11 So, to summarize, you thought, in any case, along with some other people, that Madoff was a
12 fraud?

13 **Mr. Collette.-** Well, I thought that ... I thought that the risk of fraud was very high, yes, yes, I
14 thought that the risk of fraud was very high, very, very high. But I could not have said that it
15 was a Ponzi scheme.

16 You know, I don't know, to us, it's funny because we no longer speak about it today, but people,
17 there are many people who were investors, who told you, "but no, I know that he is cheating,
18 but he is cheating for me." So you see, I was not surprised that it was a fraud, I was surprised
19 that it was a Ponzi scheme.

20 **Mr. Klein.-** Alright.

21 You mentioned Christoph on several occasions, then, who was the Head of Research at your
22 firm Could you say who Christophe was and what discussions you were able to have with him?

23 **Mr. Collette.-** Well, Christophe, he was the Head of Research, he was the equivalent of
24 Jérôme Müller at Partners. And over time Jérôme and Christophe became very close.

25 **Mr. Klein.-** Sorry, [what is] his surname?

26 **Mr. Collette.-** Khaw. K-H-A-W.

27 **Mr. Klein.-** And so, did Christophe Khaw tell you about conversations that he had with Jérôme
28 Müller in particular?

29 **Mr. Collette.-** I remember a conversation with Christophe, but again, it was 20 years ago. So
30 perhaps ... But Christophe had told me that Jérôme had looked at it too and it was not possible
31 to conduct complete due diligence on Madoff.

32 Again, what I mean is that everyone was under enormous competitive pressure and people
33 like us, who had chosen not to invest in Madoff, had virtually chosen to lose. It was very, very
34 hard not to invest in Madoff. So, there are people who did not do any work and who invested
35 in Madoff, who had better performances, who pinched your clients. And people like us, well
36 that's how it was, we were in a very difficult, very, very difficult position. I know that in my team
37 there were one or two people who were pushing to make Madoff investments because they
38 said: "We're going to lose."

39 **Presiding Judge.-** I believe that we have fully understood the ... what happened at ...

40 **Mr. Collette.-** Alright. Sorry.

41 **Presiding Judge.-** No, no, no, it's not a problem, but you have repeated it several times, and
42 this is very much to your credit, but I believe that you have got the message across.

1 **Mr. Klein.-** Thank you.

2 **Presiding Judge.-** Well, I imagine you have.

3 **Mr. Klein.-** Yes, yes. Just another two or three clarifications.

4 You have stated that everyone was talking about fraud at Madoff. So that, that means that you
5 had conversations in Geneva or elsewhere on this issue?

6 **Mr. Collette.-** Of course. Everywhere, Mr. Klein, everywhere! There was not one ... You could
7 not have a conversation of more than one minute on the subject of Madoff without people
8 talking to you about fraud. It was ... Well, I mean ... It's like bitcoins today: you cannot have a
9 five-minute conversation about bitcoins without someone saying to you: "They're worth zilch."
10 Well, Madoff, it was the same thing. There was the ... Yes, everyone ... everyone, and in
11 particular people who, today, say that they were robbed by Madoff. They were people who
12 said: "Madoff, he is cheating for me." So those people were knowingly investing in a swindle.

13 **Presiding Judge.-** Thank you Sir.

14 **Mr. Klein.-** In connection with question 43 you stated that you had spoken with Mr. Luc
15 Estenne three or four times. Could you tell us what the circumstances and content of those
16 conversations were?

17 **Mr. Collette.-** Oh, It was always very general. Er ... How should I put it? It was ... I bumped
18 into him at conferences or events, and then we said "Hello" to one another, because we ...
19 Well, we each had a colleague, who was, in his case, his colleague Jérôme, and in my case,
20 Christophe. We knew that Jérôme and Christophe were very close, and so, in turn, we talked
21 to each other, but we didn't know each other particularly well.

22 **Mr. Klein.-** Did you actually speak with other people, exactly, about the concerns that you had
23 precisely in relation, to the Madoff funds?

24 This relates to the question about "everyone."

25 **Mr. Collette.-** Er... Well, I mean, it was the largest fund ... the largest fund in the industry. It
26 was the fund having the effect that you might succeed or fail. So everyone was talking about
27 it.

28 **Mr. Klein.-** Other people who were themselves investing in Madoff or who had themselves set
29 up Feeder Funds?

30 **Mr. Collette.-** But I ... You know, when you were, like me, a fund buyer, the ... – how should
31 I put it? – Madoff's business introducers, they came to see you regularly. So I met them all.
32 It's just that, very quickly, I said: "For myself, I will never invest in Madoff." So they didn't come
33 to see me anymore, me personally.

34 **Mr. Klein.-** Yes. Do you have some names to give us, some examples of people who
35 approached you to propose investments in Madoff?

36 **Mr. Collette.-** Yes. There were ... There were Fairfield Sentry's people. I have forgotten their
37 names. They came ... There was Michael of Yugoslavia's team. Er ... I have forgotten the
38 others. I don't have a good memory for names, I am sorry, but er ...

39 **Mr. Klein.-** Thank you, Mr. Collette.

40 **Mr. Collette.-** Thank you.

41 **Mr. Klein.-** Last question: when exactly did you find out that Partners Advisers had a Feeder
42 Fund? Were you surprised?

43 **Mr. Collette.-** Ah, there, I must be honest: completely, yes. Completely.

1 **Mr. Klein.-** You have answered the second part of the question, but the first ... When did you
2 find out that they had a Feeder Fund?

3 **Mr. Collette.-** Last week, in, in ... When I received the summons I looked to see what Square
4 One was, and I saw that it was a fund that was linked to Luc Estenne and, er ... I was very
5 surprised, yes.

6 I am wondering, moreover, whether the investigator hadn't spoken to me about that ... but,
7 pfff, I no longer remember. But I think that he had spoken to me about that. I think that he had
8 already spoken to me about that as well.

9 I was ... Yes, I ... You see, even my memory does not want to remember. I was completely
10 surprised. It's ... To me, Partners was truly an example of best practices in Geneva. They were
11 very, very conscientious people. Jérôme, I would entrust my money to him without hesitation.
12 He's, he's, he's a very good professional person.

13 **Mr. Klein.-** Alright. So still in connection with this question 45, it's ... So, your conversations
14 with Jérôme or other representatives of Partners Advisers gave you to understand that they
15 would never have invested in Madoff or any other feeder funds?

16 **Mr. Collette.-** That's ... That's my impression, yes.

17 **Mr. Klein.-** Alright. Thank you Sir. I just wanted to assure you, on behalf of the Trustee, that
18 the idea is not to make you feel uncomfortable or anything like that, but there is obviously a
19 duty to seek the truth in the course of the ongoing proceedings, and this testimony was
20 inevitable.

21 **Mr. Collette.-** Thank you for saying that, but I think it would have been much more honest of
22 you to have informed me at the very outset of the discussions, rather than waiting and letting
23 me know by letter, without even calling me, and then to have that person who doesn't have
24 the courage to call me back, who has his secretary call me back, to tell me: "Did you receive
25 the summons?."

26 **Presiding Judge.-** That, that concerns ...

27 **Mr. Collette.-** I felt it was ... er ...

28 **Presiding Judge.-** ... the relationship between yourselves.

29 **Mr. Collette.-** Yes, sorry. I apologize.

30 **Presiding Judge.-** Yes. I give the floor to Mr. Burrus for additional questions, if he would like
31 to ask any.

32 **Mr. Burrus.-** Yes, I would. Thank you Your Honor.

33 ➤ **Additional questions by the Defendant**

34 **Mr. Burrus.-** I am going to ask you a question in connection with questions 17 et seq. Sir, for
35 your information, this chapter of the questions is titled "Conversations with Mr. Müller", and
36 "Conversations" is in the plural.

37 Is it true to say that in actual fact you had only one single conversation with Mr. Jérôme Müller
38 about BLMIS?

39 **Mr. Collette.-** Er ... Yes, that's right, yes

40 **Mr. Burrus.-** One single conversation?

41 **Mr. Collette.-** Yes.

42 **Mr. Burrus.-** Alright.

1 **Mr. Collette.-** I ... You mean, you mean ... Wait a moment, just to be clear, you mean: a direct
2 conversation with Jérôme?

3 **Mr. Burrus.-** Yes, absolutely.

4 **Mr. Collette.-** Yes, you're right: on one single occasion, yes.

5 **Mr. Burrus.-** OK. Very well.

6 And then I have the impression that the other conversations you had are, in fact, all indirect
7 conversations, where members of Partners Advisers had conversations with some of your
8 colleagues that were recounted to you. Is that correct?

9 **Mr. Collette.-** You're right.

10 **Mr. Burrus.-** So, you didn't have any conversations with any other members of Partners
11 Advisers other than this single conversation with Jérôme Müller?

12 **Mr. Collette.-** That's right.

13 **Mr. Burrus.-** So, you didn't have any conversations with Mr. Luc Estenne about BLMIS either?

14 **Mr. Collette.-** Never.

15 **Presiding Judge.-** More slowly. *(The Presiding Judge asked Mr. Burrus to speak more slowly*
16 *by means of a hand gesture.)*

17 **Mr. Burrus.-** Unfortunately, that was my last question. So I saw your instruction too late! But
18 as it was fairly brief ... It can be deleted from the transcript!

19 **Presiding Judge.-** Any other questions?

20 **Mr. Burrus.-** No, that was my last question.

21 **Presiding Judge.-** Does that give rise to any additional questions on your part?

22 **Mr. Klein.-** No.

23 **Presiding Judge.-** So does that mean we have finished? Alright.

24 Well that's all, your hearing has finished Sir. Thank you for having come and having testified
25 for this Court and its Parties. Enjoy the rest of the day.

26 **Mr. Collette.-** Thank you. Thank you to everyone. Goodbye.

27 **Presiding Judge.-** All right, very well. Well, I think we can recess this hearing, and we will
28 resume it at 2:00 p.m., in the presence of the witness Alessandra Massetta Hariri.

29 OK, very well. The hearing is recessed, unless you have something to say to me. No? Alright,
30 very well.

31 Then the hearing is recessed. It will resume at 2:00 p.m.

32 *The hearing, recessed at 9:58 a.m., resumed at 2:01 p.m.*

33 **Hearing of Mrs. Melissa Alessandra Massetta Hariri**

34 **Presiding Judge.-** The hearing is resumed at 2:01 p.m. I am having the witness shown in.

35 Right. The witness, Mrs. Massetta Hariri may be shown in, with her attorney.

36 Good afternoon, Mr. Righini. Good afternoon, Madam.

37 Right. Mr. Righini, please sit here.

38 Good afternoon, Madam. You may sit here. Right.