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Government Outlines Potential Conflicts in Madoff Case

By LARRY NEUMEISTER and TOM HAYS - Associated Press Writers

NEW YORK -- After nearly a month of seclusion in his luxury Manhattan apartment, disgraced money manager Bernard Madoff emerged Tuesday to confront a potential conflict of interest in his massive fraud case: a \$900,000 investment by his lawyer's sons.

Madoff, who wears a bulletproof vest, was brought to a courthouse in lower Manhattan more than three hours early - a move meant to avoid any confrontations with angry investors who might show up at an afternoon hearing.

The 70-year-old former Nasdaq chairman has been under house arrest since he was charged in December with swindling investors out of billions of dollars. He last appeared in court on Jan. 14.



AP Photo - Bernard Madoff arrives at Manhattan federal court for a hearing to discuss potential conflicts of interest between him and his lawyer, Tuesday, March 10, 2009, in New York.

Prosecutors asked U.S. District Judge Denny Chin to rule on the potential conflict on Tuesday to clear the way for another highly anticipated proceeding Thursday, when Madoff is expected to avoid going to trial by pleading guilty in perhaps the largest securities fraud case in history.

At least 25 Madoff investors have asked to speak Thursday under oft-overlooked provisions allowing victims of crime to appear at a defendant's plea hearing.

Attorney Jerry Reisman, who represents more than a dozen Madoff investors, predicted that Thursday's hearing would be "a zoo."

"I will tell you my clients are outraged by his being able to escape with a guilty plea," he said.

Although Tuesday's hearing was expected to be largely procedural, the courthouse was using it as a dry run for Thursday, showing the proceedings on a large screen in a second courtroom and in the juror assembly room, which can fit hundreds of people.

In papers filed Tuesday, prosecutors for the first time detailed the financial ties between Madoff and defense attorney Ira Sorkin. They said Madoff should be asked to voluntarily waive his right to conflict-free representation.

The investment "could put Mr. Sorkin in a position where his loyalties are divided between Mr. Madoff on the one hand, and his sons and their financial interest on the other," prosecutors wrote. "The government believes, however, that any potential conflict arising out of the financial interests of Mr. Sorkin's sons is waivable."

The papers said Sorkin's parents had invested approximately \$900,000 with Madoff to create trust accounts for Sorkin's two sons. They said Sorkin has told the government that he is a trustee of the sons' trust accounts but has never had a beneficial interest in the money.

Prosecutors also noted that Sorkin once invested \$18,860 with Madoff through a retirement account in the early 1990s. They said, however, that they did not believe this represented a conflict because it was liquidated more than a decade ago.

The government said it also believes Madoff can waive any potential conflict of interest caused by Sorkin's prior representation of two potential witnesses in the case, Frank Avellino and Michael Bienes.

The government said the pair's accounting firm, Avellion & Bienes, was dissolved after it settled accusations in 1993 by the Securities and Exchange Commission that it had sold unregistered securities and operated as an unregistered investment company from 1962 to 1992.

Prosecutors said Madoff has had a long-standing business relationship with Avellino and Bienes and that money Avellino and Bienes raised from their clients was invested with Madoff.