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June 11, 2010

**VIA ECF & REGULAR MAIL**

The Honorable Stanley R. Chesler, U.S.D.J.  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101-0999

**Re: The Lautenberg Foundation v. Madoff**  
**Civil Action No.: 09-00816 (SRC)(MCA)**

Dear Judge Chesler:

This Firm represents Plaintiffs The Lautenberg Foundation, Joshua Lautenberg and Ellen Lautenberg (collectively, "Plaintiffs") in the above-referenced matter and write in response to Defendants' correspondence dated June 8, 2010.

As the Court is aware, Plaintiffs have diligently proceeded in litigating this matter, and Plaintiffs' partial summary judgment motion has now been fully briefed by the parties. As detailed in Plaintiffs' opposition to Defendants' cross-motion, Defendant has not provided any reason for the Court to delay consideration of this motion. Nor does the SIPC Trustee's<sup>1</sup> recent attempt to frustrate Plaintiffs' efforts in this action alter that conclusion.

Plaintiffs intend to vigorously oppose the SIPC Trustee's application in the United States Bankruptcy Court for the Southern District of New York seeking an order staying this action. We are confident that the Bankruptcy Court will agree that Plaintiffs' Complaint is not subject to the automatic stay<sup>2</sup> or any other extant stay order and that there is no cause to otherwise stay this proceeding.

The timing of SIPC Trustee's attempt to derail this action is also suspect. Though the SIPC Trustee now claims some priority over Plaintiffs, the SIPC Trustee did not file an action against Peter Madoff until October 2, 2009 -- over seven months after Plaintiffs initiated this action in February 2009. Moreover, despite having knowledge of this action since it was commenced over a year and a half ago and of the Plaintiffs' position that the SIPC Trustee had no greater rights to pursue a judgment against Peter Madoff since April 2009, the SIPC Trustee

<sup>1</sup> The "SIPC Trustee" refers to Irving Picard, the Trustee appointed to liquidate Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act.

<sup>2</sup> It bears noting that although the SIPC Trustee contends in its stay application before the Bankruptcy Court that this action is *void ab initio*, the SIPC Trustee has relied upon this Court's opinion dated September 9, 2009, for purposes of attempting to defeat Peter Madoff's motion to dismiss its Adversary Proceeding Complaint.

The Honorable Stanley R. Chesler, U.S.D.J.

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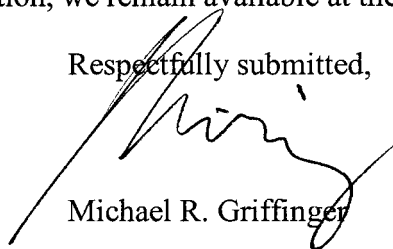
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has only now sought to preclude this action from proceeding. The SIPC Trustee has also secured a Consent Order from Peter Madoff regarding his assets without notice to his creditors and without a hearing, both of which may subject that Order to challenge. The SIPC Trustee's belated objection to this action -- now that Plaintiffs may be on the precipice of a judgment from this Court -- is suspect at a minimum.

Logic dictates that if Defendant believed this action was subject to the automatic stay or any other stay order of the Bankruptcy Court, Defendant surely would have affirmatively acted to enforce any such stay before he broadly invoked his Fifth Amendment privilege and risked the sweeping negative inferences that would flow therefrom. It bears noting that Defendant has made no such application either here or in the Bankruptcy Court.

Plaintiffs respectfully request that the Court proceed to a prompt adjudication of the pending summary judgment motion, which is fully briefed and ripe for determination, prior to the return date of the SIPC Trustee's application in the Bankruptcy Court. Should the Court desire to hear oral argument on that motion, we remain available at the Court's convenience.

Respectfully submitted,



Michael R. Griffinger

MRG:ad

cc: Honorable Madeline Cox Arleo, U.S.M.J. (Via ECF & Regular Mail)  
Charles T. Spada, Esq. (Via ECF & Regular Mail)  
William F. Maderer, Esq. (Via ECF & Regular Mail)