

(ii) plaintiffs' claims for unjust enrichment and negligence have been dismissed; and
(iii) plaintiffs have struck any allegations of misrepresentations made in the context of their breach of fiduciary duty claim. (Dkt. No. 936.¹)

2. SCBI admits the allegations of paragraph 2.

3. SCBI admits that the Complaint purports to characterize the allegations in the complaint filed by the Securities and Exchange Commission captioned *SEC v. Madoff*, No. 08-CV-10791 (S.D.N.Y. Dec. 11, 2008), and respectfully refers the Court to the SEC complaint for a complete and accurate description of its contents.

4. SCBI denies the allegations of paragraph 4.

5. SCBI denies the allegations of paragraph 5, except admits that Sentry was generally regarded as a sought-after fund.

6. SCBI denies the allegations of paragraph 6.

7. SCBI denies the allegations of paragraph 7, except admits: (i) plaintiffs invested approximately \$1,090,070 in Sentry through their accounts at SCBI; and (ii) Sentry invested substantially all of its assets in BLMIS.

8. The allegations of paragraph 8 assert legal conclusions to which no response is required. To the extent any response is deemed required, SCBI denies the allegations of paragraph 8.

9. SCBI denies the allegations of paragraph 9.

10. SCBI denies the allegations of paragraph 10.

11. SCBI denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

¹ All citations to docket entries refer to the master docket, No. 09-118, unless otherwise noted.

Jurisdiction and Venue

12. SCBI admits the allegations of paragraph 12.

13. SCBI admits that plaintiffs also purport to base jurisdiction of this action on 28 U.S.C. §§ 1331, 1337, and 1367.

14. SCBI admits: (i) the amount in controversy in this action exceeds \$75,000; (ii) SCBI is a corporation organized under the laws of the United States; and (iii) plaintiffs are corporations organized under the laws of a foreign state.

15. SCBI denies the allegations of paragraph 15, except admits: (i) plaintiffs purport to base venue for this action on 28 U.S.C. § 1391(a)(2); and (ii) SCBI conducts business within the Southern District of Florida.

16. SCBI denies the allegations of paragraph 16, except admits that it conducts business within the Southern District of Florida.

Parties

17. SCBI admits that: (i) plaintiff Archangel Resources Ltd. (“Archangel”) is organized and exists under the laws of the British Virgin Islands; and (ii) plaintiff Archangel held an account at SCBI.

18. SCBI admits that: (i) plaintiff Apple Trading Ltd. (“Apple”) is organized and exists under the laws of the British Virgin Islands; and (ii) plaintiff Apple held an account at SCBI.

19. SCBI lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 and therefore denies them.

20. SCBI admits: (i) Standard Chartered PLC is organized under the laws of the United Kingdom, with a place of business at 1 Aldermanbury Square, London, EC2V 7SB,

United Kingdom; (ii) Standard Chartered PLC is the ultimate parent corporation of Standard Chartered Bank; and (iii) Standard Chartered Bank is the direct parent corporation of SCBI.

21. SCBI admits: (i) Standard Chartered PLC is the direct parent of Standard Chartered Holdings Limited; (ii) Standard Chartered Holdings Limited is the direct parent of Standard Chartered Bank; and (iii) Standard Chartered Bank is the direct parent of SCBI.

22. SCBI denies the allegations of paragraph 22, except admits: (i) SCBI is authorized to do business in Florida, with a place of business at 1111 Brickell Avenue, Miami, Florida 33131; (ii) American Express Bank International (“AEBI”) was renamed SCBI; and (iii) plaintiffs’ accounts were serviced through the Miami office of SCBI.

23. SCBI denies the allegations of paragraph 23, except admits: (i) AEBI was an Edge Act corporation that offered private banking services to individuals outside of the United States; and (ii) AEBI had its headquarters in Miami.

Factual Allegations

24. SCBI denies the allegations of paragraph 24, except admits that plaintiffs opened accounts with AEBI in or around 2001.

25. SCBI denies the allegations of paragraph 25.

26. SCBI denies the allegations of paragraph 26, except admits that William Solorzano was a relationship manager at AEBI.

27. SCBI denies the allegations of paragraph 27, except admits that Sentry had a history of stable and steady returns.

28. SCBI denies the allegations of paragraph 28, except admits that Sentry had consistent returns.

29. SCBI denies the allegations of paragraph 29.

30. SCBI denies the allegations of paragraph 30.

31. SCBI denies the allegations of paragraph 31, except admits that plaintiff Archangel authorized a \$100,000 investment in Sentry.

32. SCBI denies the allegations of paragraph 32, except admits that in or around November 2003, plaintiff Archangel purchased approximately 104.05 shares of Sentry for approximately \$100,000.

33. SCBI denies the allegations of paragraph 33.

34. SCBI denies the allegations of paragraph 34, except admits: (i) in or around February 2008, plaintiff Apple authorized a \$400,000 investment in Sentry; and (ii) in or around March 2008, plaintiff Apple authorized a \$285,000 investment in Sentry.

35. SCBI denies the allegations of paragraph 35, except admits that plaintiff Apple purchased shares of Sentry for approximately \$990,000.

36. SCBI denies the allegations of paragraph 36, except admits that plaintiffs were charged standard fees.

37. SCBI denies the allegations of paragraph 37, except admits that plaintiffs were charged standard fees.

38. SCBI denies the allegations of paragraph 38, except admits: (i) on or about September 18, 2007, Standard Chartered PLC announced that it had reached an agreement to acquire American Express Bank Ltd. ("AEBL") from the American Express Company; and (ii) Standard Chartered PLC acquired AEBL from the American Express Company in or around February 2008.

39. SCBI admits: (i) in or around February 2008, Standard Chartered PLC acquired AEBL from the American Express Company; (ii) AEBL was renamed Standard Chartered International (USA) Ltd.; and (iii) AEBI was renamed SCBI.

40. SCBI denies the allegations of paragraph 40, except admits that Standard Chartered PLC acquired AEBL, which was the direct corporate parent of AEBI, which in turn serviced plaintiffs' accounts.

41. SCBI denies the allegations of paragraph 41.

42. SCBI denies the allegations of paragraph 42, except admits that plaintiffs remained invested in Sentry after Standard Chartered PLC's February 2008 acquisition of AEBL.

43. SCBI denies the allegations of paragraph 43.

44. SCBI denies the allegations of paragraph 44.

45. SCBI denies the allegations of paragraph 45.

46. SCBI denies the allegations of paragraph 46, except admits: (i) SCBI conducted due diligence on Sentry; and (ii) Sentry had consistent returns.

47. SCBI denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47, and therefore denies them.

48. SCBI denies the allegations of paragraph 48.

49. SCBI denies the allegations of paragraph 49.

50. SCBI denies the allegations of paragraph 50.

51. SCBI denies the allegations of paragraph 51, except admits that plaintiffs invested in Sentry.

52. SCBI denies the allegations of paragraph 52.

53. SCBI denies the allegations of paragraph 53, except admits: (i) plaintiffs purport to describe events occurring in December 2008; (ii) Madoff was arrested on criminal charges of

securities fraud; and (iii) investments in Sentry substantially declined in value as a result of the fraud perpetrated by Madoff and BLMIS.

AS AND FOR A FIRST CLAIM
(Breach of Fiduciary Duty Against All Defendants)

54. SCBI repeats and realleges its responses to paragraphs 1 through 53 as if fully set forth herein, except to the extent that the allegations in these paragraphs allege misrepresentations made in breach of an alleged fiduciary duty, to which no response is required because plaintiffs have stipulated to strike those allegations (Dkt. No. 936).

55. SCBI denies the allegations of paragraph 55.

56. The allegations of paragraph 56 contain legal conclusions to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 56.

57. The allegations of paragraph 57 contain legal conclusions to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 57.

58. The allegations of paragraph 58, including paragraphs 58(a)-(h), contain legal conclusions to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 58, including paragraphs 58(a)-(h).

59. SCBI denies the allegations of paragraph 59.

60. SCBI denies the allegations of paragraph 60.

61. SCBI denies the allegations of paragraph 61, including by denying that plaintiffs suffered any damages as a result of conduct by SCBI.

AS AND FOR A SECOND CLAIM
(Negligence Against All Defendants)

62. SCBI repeats and realleges its responses to paragraphs 1 through 61 as if fully set forth herein.

63. The allegations of paragraph 63 contain a legal conclusion and relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 63.

64. The allegations of paragraph 64 contain a legal conclusion and relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 64.

65. The allegations of paragraph 65, including paragraphs 65(a)-(i), contain a legal conclusion and relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 65, including paragraphs 65(a)-(i).

66. The allegations of paragraph 66 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies that skepticism about BLMIS was widespread among those who looked closely at its operations, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 66, and therefore denies them. SCBI respectfully refers the Court to the unidentified article in PENSION & INVESTMENTS referenced by plaintiffs in paragraph 66 of the Complaint for a complete and accurate description of its contents.

67. The allegations of paragraph 67 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 67, except admits that materials, including the

May 2001 MAR/HEDGE and BARRON's articles referenced in paragraph 67 of the Complaint, were publicly available, and respectfully refers the Court to those documents for a complete and accurate description of their contents.

68. The allegations of paragraph 68 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 68 and avers that certain of its affiliates offered Sentry and/or Fairfield Sigma, among other investments, to customers.

69. The allegations of paragraph 69 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 69.

70. The allegations of paragraph 70 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 70.

71. The allegations of paragraph 71 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 71.

72. The allegations of paragraph 72 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 72.

73. The allegations of paragraph 73 relate to plaintiffs' claim for negligence, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies that plaintiffs suffered any damages as a result of conduct by SCBI and therefore denies the allegations of paragraph 73.

AS AND FOR A THIRD CLAIM
(Negligent Misrepresentation Against All Defendants)

74. SCBI repeats and realleges its responses to paragraphs 1 through 73 as if fully set forth herein.

75. The allegations of paragraph 75 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 75.

76. SCBI denies the allegations of paragraph 76.

77. SCBI denies the allegations of paragraph 77.

78. SCBI denies the allegations of paragraph 78.

79. SCBI denies the allegations of paragraph 79.

80. SCBI denies the allegations of paragraph 80.

81. SCBI denies the allegations of paragraph 81.

82. SCBI denies the allegations of paragraph 82, including by denying that plaintiffs suffered any damages as a result of conduct by SCBI.

AS AND FOR A FOURTH CLAIM
(Common Law Fraud Against All Defendants)

83. SCBI repeats and realleges its responses to paragraphs 1 through 82 as if fully set forth herein.

84. SCBI denies the allegations of paragraph 84.

85. SCBI denies the allegations of paragraph 85.

86. SCBI denies the allegations of paragraph 86.

87. SCBI denies the allegations of paragraph 87, including by denying that plaintiffs suffered any damages as a result of conduct by SCBI.

AS AND FOR A FIFTH CLAIM
(Gross Negligence Against the Standard Chartered Defendants)

88. SCBI repeats and realleges its responses to paragraphs 1 through 87 as if fully set forth herein.

89. The allegations of paragraph 89 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 89.

90. The allegations of paragraph 90 contain a legal conclusion to which no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 90.

91. SCBI denies the allegations of paragraph 91, including paragraphs 91(a)-(d).

92. SCBI denies the allegations of paragraph 92.

93. SCBI denies the allegations of paragraph 93, including by denying that plaintiffs suffered any damages as a result of conduct by SCBI.

AS AND FOR A SIXTH CLAIM
(Unjust Enrichment and Constructive Trust Against All Defendants)

94. SCBI repeats and realleges its responses to paragraphs 1 through 93 as if fully set forth herein.

95. The allegations of paragraph 95 relate to plaintiffs' claim for unjust enrichment and constructive trust, which has been dismissed (Dkt. No. 936); therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 95.

96. The allegations of paragraph 96 relate to plaintiffs' claim for unjust enrichment and constructive trust, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 96.

97. The allegations of paragraph 97 relate to plaintiffs' claim for unjust enrichment and constructive trust, which has been dismissed; therefore, no response is required. To the extent a response is deemed required, SCBI denies the allegations of paragraph 97.

Denial of Prayer for Relief

SCBI denies that plaintiffs are entitled to any of the relief prayed for on page 23 of the Complaint.

Jury Trial Demand

Plaintiffs' demand for a trial by jury is subject to their account agreement(s) with SCBI.

II. DEFENSES

First Defense

Plaintiffs fail to state a claim upon which relief can be granted.

Second Defense

Any damages allegedly suffered by plaintiffs were caused by the intervening act(s) or omission(s) of persons or entities other than SCBI, and said act(s) or omission(s) superseded any act or omission by SCBI for which it might be considered liable.

Third Defense

Plaintiffs' claims are barred, in whole or in part, because SCBI's alleged conduct was not the cause of plaintiffs' injuries.

Fourth Defense

The claims asserted in the Complaint are barred by the equitable doctrines of laches, waiver, estoppel, unclean hands, and other equitable defenses that may appear upon further discovery and investigation.

Fifth Defense

SCBI has not engaged in any conduct that would entitle plaintiffs to an award of punitive damages.

Sixth Defense

Plaintiffs' claims are barred, in whole or in part, because plaintiffs knowingly and voluntarily assumed the risks inherent in the investments at issue.

Seventh Defense

Plaintiffs were contributorily and/or comparatively negligent.

Eighth Defense

Plaintiffs' claims are barred, in whole or in part, by the economic loss doctrine.

Ninth Defense

Plaintiffs' claims are barred, in whole or in part, because they are preempted by the Securities Litigation Uniform Standards Act, 15 U.S.C. § 78bb(f)(1).

Tenth Defense

Plaintiffs did not justifiably or reasonably rely on any alleged representations, acts or omissions by SCBI.

Eleventh Defense

Plaintiffs' claims are barred, in whole or in part, because SCBI, or any person or entity acting or purporting to act on SCBI's behalf, acted in good faith and with due care and diligence.

Twelfth Defense

Plaintiffs' claims are barred, in whole or in part, by virtue of their account agreement(s) with SCBI.

Thirteenth Defense

Plaintiffs' claims are barred, in whole or in part, by virtue of disclosures in the subscription agreements and the private placement memoranda applicable to plaintiffs' purchases of shares in Sentry.

Fourteenth Defense

SCBI was entitled to and did, reasonably and in good faith, rely on the acts and representations of other third parties with respect to the transactions and events that are the subject of plaintiffs' claims.

Fifteenth Defense

Any damages recoverable by plaintiffs from SCBI are limited to the percentage of fault attributable to SCBI, and thus would not include the percentage of fault attributable to at-fault third parties, including but not limited to the defendants named in the Second Consolidated Amended Complaint in *Anwar v. Fairfield Greenwich Limited*, No. 09-CV-0118.

Sixteenth Defense

Any recovery by plaintiffs against SCBI is to be offset, in whole or in part, by any and all other recoveries (including, where applicable, redemptions) by plaintiffs with respect to their investments in Sentry.

Seventeenth Defense

SCBI is entitled to recover indemnity and/or contribution from others for any liability they incur to plaintiffs.

Eighteenth Defense

Any recovery by plaintiffs against SCBI is to be offset by any and all debts, liabilities or obligations owed by plaintiffs to SCBI.

WHEREFORE, SCBI respectfully demands judgment dismissing this action with prejudice together with its costs and disbursements.

Respectfully submitted,

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