

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

<p>In re:</p> <p>BERNARD L. MADOFF INVESTMENT SECURITIES LLC,</p> <p style="text-align: center;">Debtor,</p> <hr/> <p>IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>SAUL B. KATZ, et al.,</p> <p style="text-align: center;">Defendants.</p>

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

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05287 (BRL)

11 Civ. 03605 (JSR) (HBP)

DECLARATION OF
BRUCE G. DUBINSKY, MST, CPA, CFE, CVA, CFF, CFFA

I, Bruce G. Dubinsky, declare under penalty of perjury:

1. I am Bruce G. Dubinsky, a Managing Director at Duff and Phelps, LLC (“D&P”), and a retained expert in the above-captioned matter. I submit this Declaration in support of the motion for partial summary judgment brought by Irving H. Picard, trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, and the estate of Bernard L. Madoff.

2. Attached as Exhibit 1 is a true and correct copy of my Initial Expert Report dated November 22, 2011, and submitted to Defendants on or about November 22, 2011 (and a corrected version submitted on January 6, 2012) (the “Expert Report”). I hereby incorporate by reference the contents of the Expert Report as my sworn testimony as if fully rewritten herein.

3. A true and correct description of my background and qualifications is set forth in the Expert Report at ¶¶ 2-11 and Appendix A.

4. The opinions rendered in the Expert Report and the bases thereof are detailed in various sections of my Expert Report, including, but not limited to, ¶¶ 12-27 and Appendix B, which identify (a) the methodology that I employed and/or supervised in connection with the analyses performed, and (b) the sources of information and data that form the basis of my findings, conclusions and opinions.

5. The information sources and data that form the factual predicate for my findings, conclusions and opinions, include, among other things, voluminous BLMIS books and records such as customer statements, portfolio management reports, portfolio management transaction reports, as well as bank account statements and wire transfer documents.

6. Because of the voluminous and highly technical nature of these underlying documents (detailed in my Expert Report at ¶¶ 12-27 and Appendix B), BLMIS books and

records along with certain third-party data were loaded by FTI Consulting, Inc. into multiple Microsoft SQL Server Databases (the “SQL Databases”), and provided to D&P for use in connection with the Expert Report. Databases, such as Microsoft SQL, are industry standard tools used to consolidate and perform computations on large data sets, such as those obtained during this investigation.

7. To the extent any such data in the SQL Databases were used to support the analyses or the opinions I rendered in the Expert Report, the accuracy of the data was tested by D&P to ensure reliability.

8. I understand from counsel that these SQL Databases were produced to Defendants in discovery, and are available to the Court upon request.

9. The Defendants have had a full and fair opportunity to question me at my deposition on January 11, 2012 about my qualifications, methodology, and underlying source materials, as well as about the findings, conclusions and opinions I rendered in my Expert Report at my deposition on January 11, 2012. There were a number of exhibits entered at my deposition, many of which are referenced below.

10. Attached as Exhibit 2 is a copy of Form BD for Bernard L. Madoff, dated December 31, 1959, with the Bates numbers PUBLIC0003607-PUBLIC0003614.

11. Attached as Exhibit 3 is a copy of Madoff Holdings Ltd. incorporation documents, with the Bates number PUBLIC0006083.

12. Attached as Exhibit 4 is a copy of Special Resolution of Madoff Holdings Limited, with the Bates number PUBLIC0008959.

13. Attached as Exhibit 5 is a copy of Bernard L. Madoff Lease Summary 885 Third Avenue, with the Bates number CWIE-BR00002468.

14. Attached as Exhibit 6 is a copy of Portfolio Netcap Totals by Group-A&B dated March 31, 1993, with the Bates numbers MADTBB03079814-9910.
15. Attached as Exhibit 7 is a copy of Bernard Madoff, “Letter to Client” dated March 16, 1999, with the Bates number AMF00139075.
16. Attached as Exhibit 8 is a copy of excerpts from Frank J. Fabozzi, *The Handbook of Fixed Income Securities*, 1372 (7th ed. McGraw Hill 2000).
17. Attached as Exhibit 9 is a copy of Arshanapalli, *et al.*, *New Evidence on the Market Impact of Convertible Bond Issues in the U.S.* 17-18 (2005).
18. Attached as Exhibit 10 is a copy of excerpts from Frank Fabozzi, Jinlin Liu, & Lorne N. Switzer, *Market Efficiency and Returns from Convertible Bond Hedging and Arbitrage Strategies* (2009).
19. Attached as Exhibit 11 is a copy of *New York Exchange Bonds Daily Records*, dated January 9, 1985.
20. Attached as Exhibit 12 is a copy of the S&P Bond Guide, dated February 1985.
21. Attached as Exhibit 13 is a copy of *Following a Trade: A Guide to DTCC’s Pivotal Roles in How Securities Change Hands*.
22. Attached as Exhibit 14 is a copy of excerpts from *Moody’s Industrial Manual* (1985).
23. Attached as Exhibit 15 is a copy of excerpts from *Moody’s Industrial Manual*, (1985).
24. Attached as Exhibit 16 is a definition of “Transfer Agent” from the U.S. Securities and Exchange Commission’s website.
25. Attached as Exhibit 17 is a copy of the Securities Exchange Act § 17A(c).

26. Attached as Exhibit 18 is a copy of the 15 U.S.C. § 78 (2010).
27. Attached as Exhibit 19 is a copy of excerpts from *Moody's Bank & Finance Manual* (1980); *Moody's Industrial Manual* (1984); *Moody's Industrial Manual* (1980); *Moody's Industrial Manual* (1978); *Moody's Bank & Finance Manual* (1981); *Moody's Industrial Manual* (1979); *Moody's Public Utility Manual* (1979); and *Moody's Industrial Manual* (1982).
28. Attached as Exhibit 20 is a copy of trading authorization guidelines dated July 3, 1991 at Bates number AMF00139560.
29. Attached as Exhibit 21 is a copy of *Madoff Tops Charts; Skeptics Ask How* by Michael Ocrant (MAR/Hedge, May 2001).
30. Attached as Exhibit 22 is a copy of the S&P Indices.
31. Attached as Exhibit 23 is a copy of *National Securities Clearing Corporation- Rules and Procedures*, page 51 (October 11, 2011), with Bates number MMAD-BR0002 1287.
32. Attached as Exhibit 24 is a copy of *OEX & XEO S&P 100 Index Options, A Discussion on the Benefits and Uses of the First Listed Index Option*.
33. Attached as Exhibit 25 is an excerpt from the New York Stock Exchange website – funerals of U.S. Presidents.
34. Attached as Exhibit 26 is a copy of FINRA Notice 95-26 (April 1995).
35. Attached as Exhibit 27 is a copy of the *Prospectus*, Fidelity Spartan U.S. Treasury Money Market Fund, U.S. Government Money Market Fund, & Money Market Fund (June 29, 2005).
36. Attached as Exhibit 28 is a copy of STMTPro from the AS/400 at BLMIS, with Bates number MDPTSS00001484.

37. Attached as Exhibit 29 is a copy of a document bearing Bates numbers MESTAAF00009202 – MESTAAF00009203.

38. Attached as Exhibit 30 is a copy of a document bearing Bates number MDPTGG00000002.

39. Attached as Exhibit 31 is a copy of a document bearing Bates number KFON-BR00030551

40. Attached as Exhibit 32 is a copy of a document bearing Bates numbers ELIP-BR00004715-4876.

41. Attached as Exhibit 33 is a copy of a document bearing Bates numbers MADTSS00329114-127.

42. Attached as Exhibit 34 are handwritten documents recovered from BLMIS, with Bates numbers MADTSS01124263, MADTSS01124265, MADTSS01124267-8, MADTSS01124272.

43. Attached as Exhibit 35 are handwritten documents recovered from BLMIS, with Bates numbers MADTSS01124091, MADTSS01124093, MADTSS01124089, MADTSS01120262, MADTSS01124092, MADTSS01124095.

44. Attached as Exhibit 36 are excerpts from 17 C.F.R. 279.1 [44 FR 21008, Apr. 9, 1979] from the electronic code of Federal Regulations.

45. Attached as Exhibit 37 is a copy of Investment Advisers Act Rule § 203-1 from the SEC website.

46. Attached as Exhibit 38 is a copy of 15 U.S.C. § 80b-3.

47. Attached as Exhibit 39 is a copy of the Uniform Application for Investment Advisor Registration for BLMIS filed January 7, 2008 from FINRA website, with Bates number PUBLIC0003840.

48. Attached as Exhibit 40 is a copy of SEC Rule 17a-5.

49. Attached as Exhibit 41 is a copy of General Instructions to FORM X-17A-5 PART 11A (FOCUS Report).

50. Attached as Exhibit 42 is a copy of BLMIS December 2006 FOCUS Report, Bates numbers PUBLIC0002663-64.

51. Attached as Exhibit 43 are copies of excerpts from BLMIS FOCUS Reports, Bates numbers PUBLIC0002693, PUBLIC0002664, PUBLIC0002888, PUBLIC0002859, PUBLIC0002801, PUBLIC0002780, PUBLIC0002959, PUBLIC0003022, PUBLIC0003085.

52. Attached as Exhibit 44 are copies of excerpts from JPMC 703 monthly bank statements, Bates numbers JPMSAB0002808-09, JPMSAB0003289-90, JPMSAB0003768, JPMSAB0003703-04, JPMSAB0004355, JPMSAB0004311, JPMSAB0004570, JPMSAB0003948, JPMSAB0003455.

53. Attached as Exhibit 45 are copies of excerpts from BLMIS FOCUS Reports, Bates numbers PUBLIC0000100, PUBLIC0000070, PUBLIC0000040, PUBLIC0000010, PUBLIC0000219, PUBLIC0000189, PUBLIC0000159, PUBLIC0000129, PUBLIC0000338, PUBLIC0000308, PUBLIC0000278, PUBLIC0000248, PUBLIC0000457, PUBLIC0000427, PUBLIC0000397, PUBLIC0000367, PUBLIC0000576, PUBLIC0000546, and PUBLIC0000516.

54. Attached as Exhibit 46 is a copy of AIPCA Professional Standards, Auditing Section 220.03.

55. Attached as Exhibit 47 is a copy of New York State Accountancy Regulations, Title 8, Section 29.10a-5.

56. Attached as Exhibit 48 is a copy of SEC Rule 17a-5.

57. Attached as Exhibit 49 is a copy of one page from the New York State Education Department website.

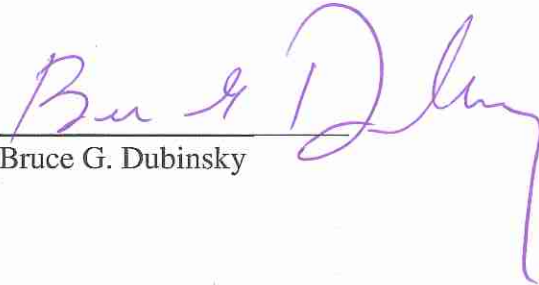
58. The foregoing Exhibits 2 to 49 are excerpts from Exhibits 25-A, 25-B, and 25-C from my deposition in this matter held on January 11, 2012.

59. I affirm that the deposition testimony that I gave was truthful at the time given and continues to be true and accurate.

60. I further affirm that the findings, statements, conclusions and opinions in the Expert Report and in this Declaration are truthful and accurate.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America, to the best of my knowledge, that the foregoing is true and correct.

Dated: New York, New York
January 26, 2012


Bruce G. Dubinsky