

Irving H. Picard v. Saul B. Katz et al

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IRVING H. PICARD, :  
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 Plaintiff, :  
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 -v- :  
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 SAUL B. KATZ et al., :  
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 Defendants. :  
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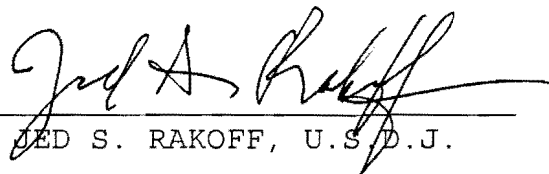
11 Civ. 3605 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

In connection with today's in court conference at 3:00 P.M., the parties should be prepared to set a briefing schedule on the unresolved issue referred to in footnote six at page eleven of yesterday's Opinion and Order. As a result of that Opinion and Order, the most that the Trustee can recover from the defendants is the total of all transfers made during two-year period prior to the filing of the bankruptcy petition, which, according to the Amended Complaint, appears to be approximately \$386 million. See Amended Complaint ¶ 1108. However, it remains an open question whether, in determining what portion of that sum should be considered principal and what portion profits, reference should be made only to that period or should be made to earlier transfers as well. See In re Bernard L. Madoff Inv. Sec. LLC, - F.3d -, 2011 WL 3568936 at \*12 n.10 (2d Cir. Aug. 16, 2011). The Court wishes to resolve this issue promptly after briefing by the parties.

SO ORDERED.

  
JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
September 28, 2011