

Exhibit 1

Part 1 of 10

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

In re:
BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor,

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

SAUL B. KATZ, et al.,

Defendants.

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

SIPA LIQUIDATION

(Substantively Consolidated)

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

11 Civ. 03605 (JSR) (HBP)

EXPERT REPORT OF
LISA M. COLLURA

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I. PROFESSIONAL BACKGROUND

1. I am a Managing Director in the Forensic and Litigation Consulting practice of FTI Consulting, Inc. ("FTI"), with more than 17 years of experience in accounting, auditing and litigation consulting services. I specialize in providing forensic accounting and financial fraud investigative services in connection with internal investigations on behalf of trustees, boards of directors, audit committees and creditors of companies.

2. I have extensive experience in conducting large-scale, fact-finding investigations into fraudulent financial transactions, including tracing significant flows of funds between accounts and entities. During my career at FTI, I have assisted in the investigation of several of the largest fraud cases in the United States.

3. I am a Certified Public Accountant (CPA), a Certified Fraud Examiner (CFE), a member of the American Institute of Certified Public Accountants (AICPA) and am Certified in Financial Forensics (CFF) by the AICPA. My curriculum vitae, attached as **Exhibit 1** to this report, further describes my professional credentials, experience and qualifications, including my testimony in the last four years.

II. SCOPE OF ASSIGNMENT

4. Bernard L. Madoff Investment Securities LLC ("BLMIS") was an investment firm owned and operated by Bernard L. Madoff ("Madoff"). On December 11, 2008, Madoff was arrested for violating multiple securities laws in connection with running a Ponzi scheme. On December 15, 2008, Irving H. Picard was appointed as the Trustee for the liquidation of the business of BLMIS and Baker & Hostetler LLP was appointed as his counsel. Shortly thereafter, FTI was retained by the Trustee to analyze, among other things, the financial affairs of BLMIS and to assist the Trustee with the liquidation of BLMIS. As part of our engagement, the Trustee

tasked FTI with the exercise of reconstructing the books and records of BLMIS, including all records of the “cash in/cash out” transactions related to the BLMIS customer accounts as far back as the records allow.

5. Matthew B. Greenblatt, also with FTI, and a team of professionals working under his supervision, were specifically tasked with creating chronological listings of all cash deposit and withdrawal transactions for every BLMIS customer account, as set more fully in the Expert Report of Matthew B. Greenblatt (the “Greenblatt Report”).

6. My staff working under my supervision and I were specifically tasked with performing forensic analyses to determine the following:

- Whether the cash deposit and withdrawal transactions as reflected in the customer statements¹ of *all* BLMIS customers reconciled to available BLMIS bank records;
- Whether the cash deposit and withdrawal transactions reflected in the customer statements of the Defendants’ 185 customer accounts at BLMIS that are at issue in this matter (the “Defendants’ Accounts”) reconcile to available documentation and/or data; and,
- Based on my review of bank account records available to me at this time, whether the cash withdrawals (i.e., transfers from BLMIS) reflected in the customer statements of the 185 Defendants’ Accounts could be traced to bank accounts held by or for the benefit of the Defendants.

¹ The sources of cash deposit and withdrawal transactions related to BLMIS customer accounts include customer statements and other relevant information available within BLMIS’s records, including a data table from BLMIS’s computer system referred to as the “Checkbook File,” which is the only available BLMIS record of cash transactions for the time period from December 1, 2008 through December 11, 2008. See Greenblatt Report for further discussion regarding these sources. For purposes of my report, I use the term “customer statements” to refer to these sources collectively.

7. FTI is being compensated at a rate of \$486 per hour for my professional time incurred in performing the work necessary to prepare this report and at hourly rates ranging from \$67 to \$666 for the time incurred by my colleagues. FTI's fees are not contingent on the conclusions reached in this report.

8. This report has been prepared in connection with the above-referenced matter and is to be used only for the specific purposes of this lawsuit and is not to be used for any other purpose without the express written consent of FTI. If called upon to testify in this matter, I intend to provide testimony regarding my analyses and conclusions consistent with this report.

III. METHODOLOGY

9. To determine whether the cash deposit and withdrawal transactions reflected in the customer statements of *all* BLMIS customers reconciled to available BLMIS bank records, my staff and I, using our experience as forensic accountants and investigators, first identified and gathered the relevant and available records related to the BLMIS bank accounts. We then performed the following:

- Reviewed hundreds of thousands of pages of records related to BLMIS bank accounts, including monthly bank statements, cancelled checks and deposit slips, obtained from BLMIS's files and/or produced by third party financial institutions, which cover a ten year period from December 1998 to December 2008;
- Analyzed close to 150,000 transactions reflected within these bank records; and
- Reconciled the cash deposit and withdrawal transactions reported in the available BLMIS bank records to the cash transactions reflected in the customer statements related to *all* BLMIS customer accounts.

10. Next, to determine specifically whether the cash deposit and withdrawal transactions reflected in the customer statements of the 185 Defendants' Accounts reconciled to

available documentation and/or data, we used the results of the forensic analysis of the available BLMIS bank records as described above. In addition, we reviewed and analyzed other documents and records maintained at BLMIS, as well as documents and data received from the Defendants and other third parties, including the following:

- Thousands of pages of customer files related to the 185 Defendants' Accounts that were maintained in BLMIS records;
- Close to 2 million records of data from a Quicken financial program produced by the Defendants in close to 100 electronic files; and
- Thousands of pages of documents produced to date by the Defendants.

11. Based on our review and analysis of these materials, we identified the cash deposit and withdrawals transactions related to the 185 Defendants' Accounts that reconciled to these documents and data.

12. Finally, to determine whether the cash withdrawals (i.e., transfers from BLMIS) reflected in the customer statements of the 185 Defendants' Accounts could be traced to bank accounts held by or for the benefit of the Defendants, we again used the available information from the BLMIS bank records as described above. In addition, we reviewed records produced by third party financial institutions related to bank accounts held by or for the benefit of the Defendants. Using these available bank records, we identified, wherever possible, the recipient of the transfers from BLMIS.

13. The documents and data I considered in connection with this report are listed in **Exhibit 2** to this report. I understand that discovery in this case is ongoing and that additional documents and information is expected to be produced in this matter. I reserve the right to supplement my report based on any additional documents or information received.

IV. SUMMARY OF FINDINGS

14. Based on the forensic analyses performed, as described above and throughout this report, as well as my skills, knowledge, experience, education and training that I applied to the documents and information available to me as of the date of this report, my findings are summarized as follows:

- i. For the time period for which BLMIS bank records were available to FTI (from December 1998 to December 2008), my team and I were able to reconcile 99% of the approximately 225,000 cash deposit and withdrawal transactions which were reflected in *all* BLMIS customer statements during the same time period. The remaining 1% is primarily due to check transactions for which a copy of the related cancelled check was not available. Only 13 transactions of this remaining 1% (representing less than 0.006% of the approximately 225,000 cash transactions) were reflected on the customer statements, but for which we could not reconcile to available BLMIS bank records.
- ii. From October 1, 1985 to December 11, 2008, the customer statements for the Defendants' Accounts reflected a total of 5,246 cash deposit and withdrawal transactions. My team and I were able to reconcile 5,147, representing approximately 98%, of the cash transactions reflected in the customer statements of the 185 Defendants' Accounts to BLMIS bank records, customer files, and/or documents or data produced by the Defendants themselves. We were unable to complete our reconciliation for the remaining 99 cash transactions reflected in the customer statements of the Defendants' Accounts due to the unavailability of records, primarily related to cash transactions which were dated in the late 1980s/early 1990s.

In addition, we have not found any instance of the Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash deposit or withdrawal

transactions reflected in their customer statements, based on our review of thousands of pages of documents contained in the Defendants' customer files maintained at BLMIS.

- iii. Based on bank records available to us at the present time, my team and I were able to trace to bank accounts held by or for the benefit of the Defendants, approximately 80% of the total cash withdrawals reflected on the customer statements for the 185 Defendants' Accounts. We were not able to complete this tracing analysis for the remaining 20% of the cash withdrawals related to the Defendants' Accounts solely because the relevant bank records for periods prior to December 1998 were not available. In addition, the tracing of the withdrawals from BLMIS to Defendants' bank accounts was further supported by the Defendants' own bank statements and other related records that were produced to date by third party financial institutions.

To the extent that additional bank records of the Defendants are made available to us, I anticipate that my team and I would be able to trace additional cash withdrawals from BLMIS to Defendants' bank accounts. I understand from counsel to the Trustee that the Defendants are in the process of producing their own bank account records and I reserve the right to supplement my analyses and findings described herein based on the information contained in these additional records.

V. RECONCILIATION OF CASH TRANSACTIONS FOR ALL BLMIS CUSTOMERS

OVERVIEW

15. As set forth in the Greenblatt Report, a team from FTI working under Mr. Greenblatt's supervision, created chronological listings of all cash deposit and withdrawal transactions for every BLMIS customer account. My team and I were tasked with reconciling the customer cash deposit and withdrawal transactions to the BLMIS bank records available to FTI.

BLMIS BANK ACCOUNTS

16. My team and I reviewed available bank account records for more than 80 bank and brokerage accounts in the name of either BLMIS or Bernard L. Madoff,² and found that only the following three bank accounts were used by BLMIS for customer deposits and withdrawals during at least the ten-year period from December 1998 to December 2008:³

- JPMorgan Chase account #xxx-xxx703 (the “703 Account”)
- JPMorgan Chase account #xxxx-xxxxxx-509 (the “509 Account”)
- Bankers Trust account #xx-xxx-599 (the “BT Account”)

17. Records for these three accounts were obtained from BLMIS files as well as documents produced by JPMorgan Chase & Co. (“JPMC”). These records consist of monthly bank statements, copies of deposited checks, deposit slips and cancelled checks. Records related to the 703 Account and the 509 Account were available from December 1998 to December 2008.⁴ In addition to hard copy documents, JPMC produced an electronic file that provides details of wire transfers in and out of the 703 Account from January 1, 2000 to December 11, 2008 (the “JPMC Wire File”).⁵ Records related to the BT Account were available

² See **Exhibit 3** for a listing of known bank accounts held by BLMIS and/or Bernard L. Madoff.

³ Between January 2006 and April 2006, there were four customer withdrawal transactions totaling \$262,000,000 that were paid from account #xxx-xxxx-621 held at the Bank of New York (the “BONY 621 Account”). These withdrawals did not relate to any of the 185 Defendants’ Accounts. The BONY 621 Account was the primary operating account used by BLMIS’s proprietary trading and market making businesses. In June 2006, there were two transfers totaling \$261,816,950 from the 703 Account to the BONY 621 Account presumably to reimburse the BONY 621 Account for funding the withdrawals to customers.

⁴ The October 1999 bank statement for the 509 Account could not be located. In addition, there is activity reflected in the monthly bank statements for the 703 Account and 509 Account for which corresponding copies of deposited checks, deposit slips and/or cancelled checks were missing from the documents produced by JPMC and/or could not be located in BLMIS records.

⁵ This file was missing data for transactions dated 12/11/2004 to 12/31/2004.

in BLMIS records from December 1998 to May 1999.⁶

18. Therefore, combined, FTI had available bank records related to the BLMIS bank accounts used for customer deposits and withdrawals for a ten-year period from December 1998 to December 2008. These bank records were converted to electronic data through the use of Optical Character Recognition (OCR) software for the monthly statements and manual coding of information on the cancelled checks. This electronic data became the basis for our reconciliation of the cash transactions reported in the BLMIS bank records to the cash deposits and withdrawals reflected on BLMIS customer statements.

703 Account

19. Based on my review of the available BLMIS bank records, I determined that the 703 Account was the primary bank account used for BLMIS customer deposits and withdrawals. My team and I reviewed and analyzed every one of the transactions reported in the available monthly bank statements for the 703 Account from December 1998 to December 2008 to determine, among other things, whether the transactions were related to a BLMIS customer deposit or withdrawal.

20. The results of our analysis of the activity in the 703 Account from the available bank records for December 1998 to December 2008 are set forth in an excel spreadsheet titled "JPMC 703 Account Activity – Dec 1998 to Dec 2008" which is attached as **Exhibit 4**.

⁶ Statements for June through August 1999, October 1999, December 1999 and July 2000 for the BT Account were also found in BLMIS records. However, May 1999 appears to be the last month of significant activity in the account. There was no activity in the account during the months of June through August 1999 and the statements for these months show an ending balance of \$26,523. In October 1999, the only transaction in the account was to transfer the \$26,523 remaining balance to the 703 Account and zero out the BT Account. The December 1999 and July 2000 statements for the BT Account both show a zero balance.

21. In conducting our reconciliation of the cash transactions reported in the 703 Account bank records to the cash transactions reflected in the BLMIS customer statements, we first matched transactions based on date and amount of transactions, but also manually reviewed thousands of transactions to confirm our results. In addition, there were instances when we reconciled multiple transactions on the BLMIS customer statements to a single transaction on the BLMIS bank statements. For example, a deposit into the 703 Account that related to multiple BLMIS customers appeared as one transaction on the monthly bank statement for the 703 Account. In this case, we combined the multiple BLMIS customer transactions and reconciled the total amount to the amount of the transactions reported on the monthly bank statement for the 703 Account.⁷

22. FTI assigned a unique identification number to each of the transactions reported on the available 703 Account bank statements. See “703 ID” in the first column of the detail tab of excel spreadsheet “JPMC 703 Account Activity – Dec 1998 to Dec 2008” (attached as **Exhibit 4**). FTI also assigned a unique identification number to each one of the customer deposit and withdrawal transactions for every BLMIS customer account. Once a specific transaction reported in a 703 Account statement was matched to a specific customer deposit or withdrawal transaction reflected in the customer statements, we recorded the corresponding unique customer transaction identification number in the column labeled “CM ID” in detail tab of the excel spreadsheet “JPMC 703 Account Activity – Dec 1998 to Dec 2008” (attached as **Exhibit 4**). This matching formed a link between the cash transactions per the bank records and the cash transactions per the customer statements. This link ensured that no two customer cash transactions were incorrectly matched to the same cash transaction per the bank records or vice versa.

⁷ As another example, BLMIS withheld certain amounts from foreign account holders and made payments to the Internal Revenue Service on behalf of these customers. In these cases, we reconciled one payment from the 703 Account to multiple related transactions per the BLMIS customer statements.

23. Based on our analysis of all the activity in the 703 Account from December 1998 to December 2008, we determined that approximately 97% of the inflows into the account during this period related to customer deposits and approximately 98% of the outflows from this account during this period related to customer withdrawals.

509 Account

24. Based on the available bank records, my team and I determined that BLMIS's 509 Account was a checking account funded by the 703 Account. From December 1998 to December 2008, the inflows into the 509 Account consisted solely of transfers from the 703 Account and the outflows from the 509 Account were solely in the form of checks.

25. My team and I performed a reconciliation analysis of the activity in the 509 Account, similar to the analysis we performed on the 703 Account, to determine whether the outflows from the 509 Account were related to BLMIS customer withdrawals, except in this case, our analysis relied more heavily on our review of the cancelled checks because the statements themselves did not contain the necessary detail. The results of our analysis of the activity in the 509 Account from the available bank records for December 1998 to December 2008 are set forth in an excel spreadsheet titled "JPMC 509 Account Activity – Dec 1998 to Dec 2008" which is attached as **Exhibit 5**.

26. Based on my analysis of the activity in the 509 Account, approximately 99% of the checks written from the 509 Account from December 1998 to December 2008 were related to customer withdrawals.

BT Account

27. Based on our review of the available bank records related to the BT Account, from at least December 1998 through May 1999, the BT Account was also funded by transfers from the

703 Account. However, outflows from the BT Account were in the form of both checks and wire transfers.

28. My team and I performed a reconciliation analysis of the activity in the BT Account, similar to those described above, to determine whether the outflows from the BT Account were related to a BLMIS customer withdrawals. The results of our analysis of the activity in the BT Account from the available bank records for December 1998 to December 2008 are set forth in an excel spreadsheet titled "Bankers Trust 599 Detail and Summary" which is attached as **Exhibit 6**.

29. Based on my review of the activity in the BT Account during this period, over 97% of the outflows from the BT Account were related to customer withdrawals.

RESULTS OF RECONCILIATION

30. For the time period for which BLMIS bank records were available to FTI (from December 1998 to December 2008), my team and I were able to reconcile 99% of the approximately 225,000 cash deposit and/or withdrawal transactions that were reflected in *all* BLMIS customer statements during the same time period. The majority of the remaining 1%, or approximately 2,200 transactions, consist primarily of check transactions for which a copy of the related cancelled check was not available. Had these cancelled checks been available to us, I anticipate that my team and I would have been able to reconcile these transactions to the customer withdrawal transactions. Only 13 transactions of this remaining 1% (representing less than 0.006% of the approximately 225,000 cash transactions) were reflected on the customer statements, but for which we could not reconcile to available BLMIS bank records.

VI. RECONCILIATION OF CASH TRANSACTIONS FOR 185 DEFENDANTS' ACCOUNTS

OVERVIEW

31. The chronological listing of all cash deposit and withdrawal transactions for every BLMIS customer account compiled by FTI included the cash deposit and withdrawal transactions for the 185 Defendants' Accounts. Between October 1, 1985 and December 11, 2008, the customer statements of the 185 Defendants' Accounts reflected a total of 5,246 cash transactions, which consisted of 1,347 deposits⁸ into the Defendants' Accounts totaling \$1,575,252,382 and 3,899 withdrawals from the Defendants' Accounts totaling \$1,757,223,415. My team and I were tasked with reconciling these 5,246 cash transactions to BLMIS bank records, BLMIS customer files, and/or documents or data produced by the Defendants themselves. See **Exhibit 7** for a list of these 5,246 cash deposit and withdrawal transactions.

BLMIS BANK ACCOUNTS

32. Of the 5,246 cash transactions reflected on the customer statements for the 185 Defendants' Accounts, 3,972 occurred in the ten-year period for which we had available bank records for the three BLMIS accounts described above. We have reconciled 3,947, or 99.4%, of these 3,972 cash deposit and withdrawal transactions reflected on the customer statements during the period December 1998 to December 2008 to available BLMIS bank records, including monthly bank statements, copies of deposited checks, deposit slips and cancelled checks.

33. The 3,947 cash transactions were reconciled to the three BLMIS bank accounts as follows:

⁸ Of the 1,347 deposit transactions, 24 transactions totaling \$602,800 are related to deposits made by certain Defendants in the form of eight different real securities in lieu of cash deposits. We have identified documents within BLMIS records to support the deposit of each of these eight securities. For purposes of my report, I have considered these 24 transactions as part of the population of cash transactions addressed herein.

- 703 Account – 1,169 transactions (167 deposits via wire transfers, 794 deposits via check⁹ and 208 withdrawals via wire transfers)
- 509 Account – 2,768 transactions (all withdrawals via check)
- BT Account – 10 transactions (all withdrawals via wire transfer)

34. The remaining 0.6% of the transactions, which occurred during the time period for which BLMIS bank records were available, could not be reconciled, but only because cancelled checks related to 25 withdrawals from the 185 Defendants' Accounts could not be located. Had copies of these 25 cancelled checks been available, I believe that we could have completed our reconciliation of the related withdrawals recorded in the Defendants' Accounts, bringing the reconciliation rate of the cash transactions in the ten-year period from December 1998 to December 2008 to 100%.

BLMIS CUSTOMER FILES

35. In addition to reconciling the cash deposit and withdrawal transactions for the 185 Defendants' Accounts to the available BLMIS bank records as described above, we also reviewed customer files from BLMIS records to identify correspondence related to the Defendants' cash deposit and withdrawal transactions.

36. Customer files related to customer accounts were maintained in BLMIS records and were generally organized by BLMIS account number. These customer files contain documents

⁹ Copies of the related deposit slips and/or deposited checks for 276 of the 794 deposit transactions that were tied to the 703 Account were not produced by JPMC and/or could not be located in BLMIS records. However, in the case of each of these 276 deposits, we reconciled the total amount deposited into the 703 Account on the respective day to a group of customer transactions, including the ones related to the 185 Defendants' Accounts. For example, on 11/27/2001, there was one deposit of \$10,344,720 into the 703 Account. This deposit was comprised of deposits related to nine different BLMIS customer accounts, including four of the Defendants' Accounts: \$347,000 for 1KW024, \$200,000 for 1KW076, \$3,600,000 for 1KW242 and \$5,300,000 for 1KW260. The remaining \$897,720 was tied to deposit transactions related to five other BLMIS customers.

including, but not limited to, correspondence between the customer and BLMIS employees regarding incoming deposits and/or requests for withdrawals, customer contact information, and customer, trust and other agreements. We identified a customer file for each of the 185 Defendants' Accounts within BLMIS's records.

37. My team and I reviewed thousands of pages contained in the customer files related to the 185 Defendants' Accounts to identify correspondence that related to the 5,246 cash transactions reflected in the customer statements of the Defendants' Accounts. We identified letters or other correspondence in these customer files to support 3,710 of the 5,246 cash transactions, which represents over 70% of the total cash transactions in the 185 Defendants' Accounts.

38. The correspondence that we identified in the customer files for the Defendants' 185 Accounts which supported the Defendants' cash deposits and withdrawals included, among other things, cover letters related to checks being sent to BLMIS and/or letters requesting withdrawals from Defendants' Accounts. Examples of these letters are attached as **Exhibit 8**, and are described further below:

- Letter, on Sterling Equities letterhead, dated April 30, 2002 addressed to Mr. Frank DiPascali from Corine M. Maucher, Assistant to Arthur Friedman, which states, "Enclosed you will five [sic] separate checks totaling \$1,068,269.90. Kindly deposit these checks as follows:" and then five of the Defendants' Accounts are listed along with the corresponding cash deposit amount, each of which reconcile to the cash deposits reflected in the customer statements for these five Defendants' Accounts.
- Letter, on Sterling Equities letterhead, dated March 10, 2008, addressed to Mr. Frank DiPascali from Arthur Friedman, Senior Vice President, which states, "As soon as you are 'out of the market', kindly make the following withdrawals from the indicated accounts:" and then five of the Defendants' Accounts are listed along with the

corresponding cash withdrawal amount, each of which reconcile to the cash withdrawals reflected in the customer statements for these five Defendants' Accounts.

39. Based on our review of the customer files related to the 185 Defendants' Accounts, we noted that letters signed by Arthur Friedman supported close to 2,400 cash transactions and letters signed by Corine Maucher, supported close to 1,200 cash transactions. Therefore, of the 3,710 letters found in the BLMIS customer files related to the Defendants' cash transactions, approximately 95% were signed by either Arthur Friedman or Corine Maucher.

40. In addition, we noted that, based on the correspondence identified in the customer files for the Defendants' Accounts, over 1,700 cash withdrawals were set up as recurring withdrawals, meaning that the Defendants requested withdrawals to occur in the same amount at the same time of each month. For example, a letter on Sterling Equities letterhead, dated December 7, 2004, addressed to Mr. Frank DiPascali from Michael Katz, Senior Executive Vice President, states "Effective January 1, 2005, please change the monthly withdrawal of \$120,000 to \$90,000, and every month thereafter" and references "Sterling Thirty Acct # 1KW314." See **Exhibit 9** for a copy of this letter. We reconciled monthly withdrawals of \$90,000 to cash withdrawals reflected on the customer statements for 1KW314 dated in the first few days of each month between January 2005 and September 2006.

41. Finally, based on our review of the thousands of pages of documents contained in the customer files for the Defendants' Accounts, we have not found any instance of the Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash deposit or withdrawal transactions reflected in their customer statements.

DEFENDANTS' QUICKEN DATA

42. The Defendants in this case have produced close to 100 files containing electronic data that appears to have been generated from Quicken, a program used to track cash inflows

and outflows, among other things. Quicken was the software program used by the Defendants to track money in and out of BLMIS customer accounts.¹⁰ The data provided by the Defendants spans the period from January 1993 to December 2008.¹¹ We reconciled this data to the cash transactions recorded in the BLMIS customer statements for the Defendants' Accounts.

43. The Defendants' Quicken data contains transactions by "account"- most of which are three numbers in length. Each of the accounts appears to correspond with a BLMIS customer account. For example, the Quicken data refers to "024" which corresponds with the BLMIS customer account 1KW024 with the name Saul B Katz. Transactions for five of the 185 Defendants' Accounts are not included in the Quicken data as the related cash transactions were dated prior to January 1993, the first month of available data from the Quicken files produced by the Defendants.¹²

44. In addition, the Defendants' Quicken data includes transactions related to BLMIS customer accounts outside of the 185 Defendants' Accounts. We did not attempt to reconcile the related cash transactions for these additional accounts for purposes of this report.

45. The Defendants' Quicken data consists of various transaction categories, including, among others, "Additions", "Withdrawals", "Xfers", "Income: Realized" and "Income: Unrealized." After reviewing all of the data contained in Quicken files produced by the Defendants, my team and I assumed, for purposes of our reconciliation, that cash deposits and

¹⁰ Cynthia Rongione deposition, page 48.

¹¹ We noted that, included in the Defendants' Quicken data, were transactions dated in December 1992 that appear to be cumulative amounts representing transactions occurring up to and through December 1992. We did not attempt to reconcile to these transactions for purposes of this report. In addition, we identified transactions in the Defendants' Quicken data that were dated in 2010, which we also excluded from our reconciliation analysis.

¹² These five accounts include: 101149 Saul B Katz Michael Katz L Thomas Osterman, Arthur Friedman & Jeffrey S Wilpon TIC, 102343 Fred Wilpon Richard A Wilpon & Leonard Schreir TIC, 100625 Arthur Friedman TIC, 102352 Robin Wachtler & Philip Wachtler JT TEN WROS and 102352 Robin Wachtler & Philip Wachtler JT TEN WROS.

withdrawals related to the Defendants' Accounts were represented by "Additions" and "Withdrawals" transaction categories, respectively, within the Quicken data. Amounts related to "Additions" transactions that were included in Defendants' Quicken data were recorded in a column labeled "Increase" and amounts related to "Withdrawals" transactions were recorded in a column labeled "Decrease." The Defendants' Quicken data also included "Split" transactions that consisted of both "Additions" and "Withdrawals," which we considered cash transactions for purposes of our reconciliation.

46. In addition, based on our review of the Defendants' Quicken data, it appears that the "XFERS" transaction category represents inter-account transfers, and the "Income: Realized" and "Income: Unrealized" categories appear to represent the amounts needed for the running balance in Quicken to reconcile to the purported value as shown on the BLMIS customer statement as of the end of a period (i.e. month-end, quarter-end, year-end). Based on my forensic accounting experience, these three transaction categories included in the Defendants' Quicken data do not represent actual cash transactions and therefore were not used for purposes of our reconciliation to BLMIS cash transactions.

47. **Exhibit 10** is an example of a screenshot from the Quicken data containing the transaction categories described above for account "044," which corresponds to BLMIS account 1KW044 with the name L Thomas Osterman. We reconciled each of the "Withdrawals", "Additions" and "Split" transactions shown on **Exhibit 10** to cash deposit and withdrawal transactions reflected in the customer statements for 1KW044, which is one of the Defendants' Accounts.

48. The Quicken data also includes a memo field that often provided additional information about a specific transaction. This memo field assisted in our reconciliation to the cash transactions per the BLMIS customer statements. For example, one memo field included "Monthly Withdrawals Jan-June" indicating that we needed to aggregate the withdrawals for 6

months per the BLMIS customer statements in order to reconcile to the one transaction included in the Defendants' Quicken data.

49. The results of our reconciliation of close to 2 million records from the Defendants' Quicken data to cash deposit and withdrawal transactions reflected in the customer statements of the Defendants' Accounts are included in an electronic database compiled by FTI, which will be produced upon request. This database includes transactions that were exported from the files produced by the Defendants containing the Quicken data and were identified as being related to the 185 Defendants' Accounts. For each transaction from the Defendants' Quicken data that we matched to one of the cash deposit and/or withdrawal transactions reflected in the customer statements of the 185 Defendants' Accounts, we used the corresponding unique identification number that was assigned by FTI to each of the BLMIS customer cash transactions to link these transactions in the database.

50. Based on the Quicken data produced by the Defendants, which covers the period from January 1993 to December 2008, we reconciled 4,911, or approximately 94% of the total 5,246 cash transactions reflected in the customer statements for the 185 Defendants' Accounts. Of the remaining 6% that we did not reconcile, the majority, or 253 transactions, represents transactions dated prior to January 1993. The remaining 82 transactions are reflected on the BLMIS customer statements for the Defendants' Accounts, but we were unable to reconcile to the Defendants' Quicken data.¹³

DOCUMENTS PRODUCED BY THE DEFENDANTS

51. To the extent that my team and I were unable to reconcile cash deposit and

¹³ We also identified approximately 200 transactions that were included in the Defendants' Quicken data, but were not reflected in the customer statements of the 185 Defendants Accounts.

withdrawal transactions reflected on the customer statements of the Defendants' Accounts as part of the steps described in the above sections of this report, my team and I reviewed documents produced by the Defendants in this case. We conducted a targeted search to locate documentation regarding 246 transactions that were not otherwise reconciled by the other procedures and analyses described throughout this report.

52. An example of a document produced by the Defendants that was used to reconcile to cash transactions reflected in the customer statements of the Defendants' Accounts is attached as **Exhibit 11**. This document appears to be from a document used internally by the Defendants to track cash deposits into their BLMIS customer accounts. We reconciled each of the "Dollar Amounts" listed on **Exhibit 11** (which are shown in thousands) to cash deposits reflected in the customer statements of the Defendants' Accounts.

53. Based on our review of these documents produced by the Defendants, we reconciled an additional 147 cash deposit and withdrawal transactions reflected on the BLMIS customer statements for the 185 Defendants' Accounts.

RESULTS OF RECONCILIATION

54. In total, my team and I reconciled 5,147, representing approximately 98%, of the 5,246 cash transactions reflected in the customer statements of the 185 Defendants' Accounts to available BLMIS bank records, documentation contained in BLMIS customer files, Quicken data and/or other documents produced by the Defendants themselves. **Exhibit 7**, which is the chart that lists each of 5,246 cash transactions for the Defendants' Accounts, contains four columns that indicate the results of our reconciliation to each of these sources of information. See also **Exhibit 12** for a chart summarizing the results of our reconciliation.

55. We were unable to complete our reconciliation for the remaining 99 cash transactions reflected in the customer statements of the Defendants' Accounts due to the

unavailability of records, primarily related to cash transactions which were dated in the late 1980s/early 1990s.

56. In addition, as reflected in the Greenblatt Report, FTI has identified customer statements produced by the Defendants' themselves that correspond to over 4,000 transactions¹⁴ reflected on the BLMIS customer statements for the 185 Defendants' Accounts, and in all cases, the transactions have reconciled. Further, after reviewing thousands of pages of documents contained in the customer files for the Defendants' Accounts, we have not found any instance of the Defendants communicating to BLMIS any disagreement with respect to the accuracy of any cash deposit or withdrawal transactions reflected in their customer statements.

VII. TRACING CASH TRANSACTIONS FROM 185 DEFENDANTS' ACCOUNTS

OVERVIEW

57. The available BLMIS bank records, as described above, were also used to determine whether we could trace the funds that left BLMIS's bank accounts to accounts held by or for the benefit of the Defendants. To determine this, my team and I performed a "Receiving Bank" analysis, which traces transfers from BLMIS's bank accounts to identify the bank account that was in receipt of BLMIS funds.

58. As noted above, wire transfers occurred in both the BLMIS 703 Account and the BLMIS BT Account. Our tracing of withdrawals from BLMIS bank accounts via wire transfers is based on the transaction description contained on the monthly bank statements for the 703 Account or BT Account. Often, the description on BLMIS's bank statements includes the identification of both the banking institution that received the cash transfer as well as the

¹⁴ These transactions consist of both cash deposit and withdrawals transactions and inter-account transfers.

beneficiary of the transfer. In some cases, the description also includes the corresponding bank account number. The Wire File produced by JPMC concerning the activity in BLMIS 703 Account contained the same, and in some cases, additional, detail related to the transactions via wire transfers, which we also relied on to identify information regarding the flow of funds related to wire transfers in and out of BLMIS.

59. Tracing withdrawals via check requires a legible copy of a cancelled check. For cancelled checks written from the 509 Account, the necessary information to trace the amount to a receiving bank account, including signor, banking institution and bank account number, is typically included on the back of the cancelled check. Often times, however, not all of this information is available on the copy of the cancelled check and the limited available information is often times illegible. In any event, we identified and captured all available and legible information from the cancelled checks.

60. To trace the cash withdrawals as reflected on the customer statements of the 185 Defendants' Accounts, my team and I also reviewed documents related to Defendants' bank accounts that were produced by third parties. See **Exhibit 13** for a list of bank records related to Defendants' bank accounts that have been produced by third party financial institutions. We traced cash withdrawals over \$1 million to Defendants' bank accounts using available bank records.¹⁵

RESULTS OF TRACING

61. **Exhibit 14** contains the results of our Receiving Bank analysis and lists the bank accounts identified by tracing cash withdrawals from BLMIS. The results of the Receiving Bank analysis support that approximately 80% of the total withdrawals reflected on the customer

¹⁵ We traced cash withdrawals less than \$1 million to JPMC Account #xxxxxx076 held by Sterling Equities Funding Co.

statements for the 185 Defendants' Accounts went to bank accounts related to the Defendants.¹⁶ In addition, the tracing of the withdrawals from BLMIS to Defendants' bank accounts was further supported by the Defendants' own bank statements and other related records that were produced to date by third party financial institutions.

62. We were not able to complete this tracing analysis for the remaining 20% of the cash withdrawals related to the Defendants' Accounts solely because the relevant bank records for periods prior to December 1998 were not available.

63. To the extent that additional bank records of the Defendants are made available to us, I anticipate that my team and I would be able to trace additional cash withdrawals from BLMIS to Defendants' bank accounts. I understand from counsel to the Trustee that the Defendants are in the process of producing their own bank account records and I reserve the right to supplement my analyses and findings described herein based on the information contained in these additional records.

¹⁶ I also noted that over 50% of the withdrawals traced to bank accounts related to the Defendants went to the following two bank accounts: JPMC Account #xxx313 held by Sterling Doubleday Enterprises, L.P / Sterling Mets L.P. and JPMC Account #xxxxxx076 held by Sterling Equities Funding Co.

VIII. SIGNATURE AND RIGHT TO MODIFY

64. My report, with exhibits and supporting schedules, is contained herein, and presents my findings and the bases thereof. To the extent that any additional information is produced by any party, I reserve the right to incorporate such additional information into my report or to modify my report as necessary. Moreover, I anticipate that I may be called upon to respond to issues raised by the Defendants at a later date or a trial. This report was prepared solely for the above-captioned matter and should not be used for any other purpose without my prior written authorization.

By:



Lisa M. Collura

Dated: November 22, 2011

IX. LIST OF EXHIBITS

- Exhibit 1: Curriculum Vitae
- Exhibit 2: Documents Considered
- Exhibit 3: Listing of Known BLMIS/Bernard L. Madoff Bank and Brokerage Accounts
- Exhibit 4: Excel Spreadsheet "JPMC 703 Account Activity – Dec 1998 to Dec 2008"
- Exhibit 5: Excel Spreadsheet "JPMC 509 Account Activity – Dec 1998 to Dec 2008"
- Exhibit 6: Excel Spreadsheet "Bankers Trust 599 Detail and Summary"
- Exhibit 7: List of All Cash Transactions in 185 Defendants' Accounts
- Exhibit 8: Examples of Letters from BLMIS Customer Files for Defendants' Accounts
- Exhibit 9: Example Letter Related to Defendants' Recurring Withdrawals
- Exhibit 10: Example Screenshot from Defendants' Quicken Data
- Exhibit 11: Example Document Produced by Defendants
- Exhibit 12: Chart of Reconciliation Results - 185 Defendants' Accounts
- Exhibit 13: List of Available Bank Records for Defendants
- Exhibit 14: Results of Receiving Bank Analysis
- Exhibit 15: Excel Spreadsheet "Reconciliation and Tracing Results - 185 Defendants Accounts"
- Exhibit 16: Excel Spreadsheet "Results of Reconciliation to BLMIS Customer Files and Defendants Documents"