

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

<p>In re:</p> <p>BERNARD L. MADOFF INVESTMENT SECURITIES LLC,  <p style="text-align: center;">Debtor,</p> </p>	<p>Adv. Pro. No. 08-01789 (BRL)</p> <p>SIPA LIQUIDATION  <p style="text-align: center;">(Substantively Consolidated)</p> </p>
<p>IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,  <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>SAUL B. KATZ, et al.,  <p style="text-align: center;">Defendants.</p> </p></p>	<p>Adv. Pro. No. 10-05287 (BRL)</p> <p>11 Civ. 03605 (JSR) (HBP)</p>

**DECLARATION OF DAVID J. SHEEHAN IN SUPPORT OF TRUSTEE'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

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*Attorneys for Irving H. Picard, Trustee  
 for the Substantively Consolidated SIPA  
 Liquidation of Bernard L. Madoff  
 Investment Securities LLC and Bernard L.  
 Madoff*

I, David J. Sheehan, declare pursuant to 28 U.S.C. § 1746, that the following is true:

1. I am an attorney at the firm of Baker & Hostetler LLP and counsel to Irving H. Picard, Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa *et seq.*, and the estate of Bernard L. Madoff (“Madoff”).

2. I submit this Declaration in support of the Trustee’s motion for partial summary judgment under Rule 56 of the Federal Rules of Civil Procedure.

3. Attached hereto as Ex. 1 is a true and correct copy of the defendants’ Answer, dated October 11, 2011. Answer, *Picard v. Katz, et al.*, No. 11 Civ. 3605 (S.D.N.Y. Oct. 11, 2011) (JSR), ECF No. 48.

4. Attached hereto as Ex. 2 is a true and correct copy of the Plea Hearing Transcript of Bernard L. Madoff, dated March 12, 2009. Plea Hr’g Tr. (“Madoff Plea”), *United States v. Madoff*, No. 09 Cr. 213 (S.D.N.Y. Mar. 12, 2009) (DC), ECF No. 57.

5. Attached hereto as Ex. 3 is a true and correct copy of the Sentencing Transcript of Bernard L. Madoff, dated June 29, 2009. Sentencing Tr., *United States v. Madoff*, No. 09 Cr. 213 (S.D.N.Y. June 29, 2009) (DC), ECF No. 103.

6. Attached hereto as Ex. 4 is a true and correct copy of the Plea Hearing Transcript of Frank DiPascali, Jr., dated August 11, 2009. Plea Hr’g Tr. (“DiPascali Plea”), *United States v. DiPascali*, No. 09 Cr. 764 (S.D.N.Y. Aug. 11, 2009) (RJS), ECF No. 11.

7. Attached hereto as Ex. 5 is a true and correct copy of the Plea Hearing Transcript of David G. Friehling, dated November 3, 2009. Plea Hr’g Tr. (“Friehling Plea”), *United States v. Friehling*, No. 09 Cr. 700 (S.D.N.Y. Nov. 3, 2009) (AKH).

8. Attached hereto as Ex. 6 is a true and correct copy of the Plea Hearing Transcript of Eric S. Lipkin, dated June 6, 2011. Plea Hr'g Tr. ("Lipkin Plea"), *United States v. Lipkin*, No. 10 Cr. 228 (S.D.N.Y. June 6, 2011) (LTS), ECF No. 148.

9. Attached hereto as Ex. 7 is a true and correct copy of the Plea Hearing Transcript of David Kugel, dated November 21, 2011. Plea Hr'g Tr. ("Kugel Plea"), *United States v. Kugel*, No. 10 Cr. 228 (S.D.N.Y. Nov. 21, 2011) (LTS), ECF No. 188.

10. Attached hereto as Ex. 8 is a true and correct copy of the Plea Hearing Transcript of Enrica Cotellessa-Pitz, dated December 19, 2011. Plea Hr'g Tr. ("Cotellessa-Pitz Plea"), *United States v. Cotellessa-Pitz*, No. 10 Cr. 228 (S.D.N.Y. Dec. 19, 2011) (LTS).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
January 26, 2012

/s/ David J. Sheehan  
David. J. Sheehan