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January 21, 2015

VIA ECF

Honorable Colleen McMahon, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Picard v. UBS AG*, 11 Civ. 4212 (CM) (the "Luxalpha Action")
Picard v. UBS AG, 11 Civ. 4213 (CM) (the "LIF Action")

Dear Judge McMahon:

We represent Irving H. Picard (the "Trustee"), the Trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS"), and the substantively consolidated estate of Bernard L. Madoff ("Madoff") individually, plaintiff in the two above-referenced actions. We write with the consent of the Defendants in both actions, who join this letter,[1] as directed by the order entered in each action on January 13, 2015 to report on the status of litigation.

The Trustee commenced the Luxalpha Action and the LIF Action in 2010 in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). In each action, the Trustee asserted both claims arising under provisions of the Bankruptcy Code (the "Bankruptcy Claims") and claims premised on state common-law theories (the "Common-Law Claims"). Certain defendants in each action moved to withdraw the bankruptcy court reference

[1] One Defendant in the LIF Action, Reliance Management (Gibraltar) Limited ("Reliance Gibraltar"), has not joined this letter. By Order entered on December 1, 2014, the Bankruptcy Court granted a motion by then-counsel for Reliance Gibraltar to withdraw as counsel of record, which motion included representations that Reliance Gibraltar has ceased operations, has no assets, and is essentially defunct. [ECF Nos. 184, 185, 196.] No replacement counsel has entered an appearance for Reliance Gibraltar.

so that the District Court could consider the defendants' challenge to the Trustee's standing to assert the Common-Law Claims.

In the Luxalpha Action, the Trustee stipulated to the withdrawal of the reference, and the defendants moved to dismiss the Trustee's Common-Law Claims. On November 1, 2011, this Court granted the defendants' motion to dismiss, and returned the remaining Bankruptcy Claims to the Bankruptcy Court for further adjudication. [ECF No. 36.] The United States Court of Appeals for the Second Circuit (the "Second Circuit") subsequently affirmed this Court's November 1, 2011 order, and the Supreme Court of the United States later denied the Trustee's petition for a writ of certiorari seeking review of the Second Circuit's decision.

In the LIF Action, the Trustee voluntarily dismissed his Common-Law Claims. The Court deemed the voluntary dismissal to be an amendment as of right pursuant to Fed. R. Civ. P. 15, rather than a withdrawal pursuant to Fed. R. Civ. P. 41. [ECF No. 10.] The Court then withdrew the reference of the Trustee's Bankruptcy Claims in the LIF Action as to the UBS Defendants only[2]—finding the issues raised by those claims to be "closely related" to the issues raised by the Trustee's claims against the UBS Defendants in the Luxalpha Action—but denied the remaining Defendants' motions to withdraw the reference. [ECF No. 12.] The Court subsequently returned the Trustee's Bankruptcy Claims against the UBS Defendants in the LIF Action to the Bankruptcy Court on March 12, 2012. [ECF No. 18.]

Both the Luxalpha Action and LIF Action are currently proceeding in the Bankruptcy Court, before the Honorable Stuart M. Bernstein, under Docket Nos. 10-4285 and 10-5311, respectively. Both actions are subject to the Bankruptcy Court's omnibus Order Concerning Further Proceedings on Extraterritoriality Motions and Trustee's Omnibus Motion for Leave to Replead and for Limited Discovery. [*Sec. Investor Prot. Corp.* v. *BLMIS*, No. 08-1789 (SMB), December 17, 2014, ECF No. 8800.] No portion of either action is presently before this Court.

We are available to provide any further information that Your Honor requires.

Respectfully submitted,

s/ Oren J. Warshavsky

Oren J. Warshavsky

cc: Counsel for Defendants
(via ECF)

[2] The UBS Defendants are UBS AG, UBS (Luxembourg) S.A., UBS Fund Services (Luxembourg) S.A., and UBS Third Party Management Company S.A.