



## **A Message from the SIPA Trustee's Chief Counsel, David J. Sheehan**

**March 6, 2017** – Just a few months ago – within days of the eighth anniversary of the revelation that Bernard Madoff's vaunted investment prowess was, in fact, the largest Ponzi scheme in history – we announced our plans for the eighth interim distribution of recovered funds to the victims of the Madoff fraud.

The distribution was approved by the court and commenced in early February. With this distribution, the aggregate amount returned to eligible BLMIS customers now totals approximately \$9.72 billion. When combined with the prior seven distributions, in aggregate, 60.098 percent of each customer's allowed claim amount will be paid, unless that claim has been fully satisfied.

When we first began work on the Madoff Recovery Initiative eight years ago, it was widely expected that we would recover only a few pennies on every lost dollar. I was among those who held that expectation.

I vividly recall our second day on the job, our first visit to the BLMIS headquarters in the Lipstick Building on Third Avenue. Irving and I, and two other BakerHostetler attorneys, entered the chaos that was left behind after Madoff's arrest a week before. We were in a BLMIS conference room on the 17th floor when a FINRA examiner told us that there were virtually no securities holdings matching what the aggregate customer statements reported, that there was only about \$150 million in the cash accounts.

That was when Irving and I had to stop and take a few breaths, realizing that this was going to be a massive Ponzi scheme recovery. It still took a while to really understand the true magnitude, but that was our first horrifying glimpse of what was on the horizon.

We quickly began to assess the situation and then started to understand what type of scenario was playing out at BLMIS. Needless to say, it was shocking.

It took a year just to work through the claims process, to determine that the losses of investors who ultimately filed claims totaled approximately \$17.5 billion, representing the amount of principal lost by the allowed claimants who put more money into BLMIS than they withdrew.

Determining the amount of the actual losses was just the first step. As we continued our work unwinding and reconstructing the fraud, the greater challenge came in identifying the individuals and entities holding other people's money, and moving swiftly and aggressively to recover those funds and return them to their rightful owners. We were operating in uncharted territory; no SIPA trustee had ever undertaken a recovery of this magnitude. Almost a year later, when Irving and I met with Morley Safer of "60 Minutes" in the fall of 2009, we still had a very conservative expectation that we would bring back only pennies on the dollar for victims.

Our teams apparently didn't watch that particular episode of "60 Minutes." In spite of Irving's and my initial conservative views on the potential of the recovery initiative, our teams and their efforts exceeded expectations on every front. From the initial drive to file the essential litigation – within a tight, two-year deadline – that would lead to significant recoveries to highly successful settlement negotiations to the creation of groundbreaking forensic methods, data analysis and evidence management tools, our teams have set new standards for the legal profession in fraud recovery and restitution practice. Our recoveries now total more than \$11.576 billion. We have recovered more than any other similar effort, and we are not done yet.

The result to date is tremendously gratifying to all the members of the recovery team: more than 200 BakerHostetler attorneys, as well as forensic accountants, experts, foreign and special counsel, and other professionals. I would like to take this opportunity to thank each and every member of this team. Yes, this type of work is our chosen career, but I can tell you that among our team members, there is a sense of mission that goes beyond "another day at the office." We know that people were really hurt here.

I'd also like to thank the Securities Investor Protection Corporation. SIPC is the securities industry-funded organization that makes this entire recovery effort possible. Not only has SIPC funded the entire Madoff Recovery Initiative through advances, they have also advanced more than \$839.9 million to BLMIS customers with allowed claims to speed some relief to them while Irving, the team and I do our jobs. Thanks to SIPC's support, every dollar recovered will ultimately be restored to the victims.

Our sense of mission remains strong and compelling. Our ongoing goal is to focus on recoveries and bring back 100 percent of that lost principal.

Will we reach that goal? Our expectations for the ultimate recovery evolve. Even now, eight years later, the landscape continues to change, and as the courts make further determinations on critical issues, the case changes radically from time to time. However, we are gratified that many of Madoff's customers with allowed claims have gotten back far more of their lost principal than they ever expected.

We will continue our efforts to meet our goal, no question. We also hope our work will help others avoid a similar tragedy.

David J. Sheehan  
March 6, 2017