

# BakerHostetler

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April 12, 2019

### VIA ECF

Honorable Analisa Torres  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007-1312

Re: *Picard v. ABN AMRO Bank N.V. (presently known as The Royal Bank of Scotland, N.V.)*,  
Case No. 1:17-CV-07476 (AT) – *Revision to Joint Sixth 90-day Status Update*

Dear Judge Torres:

We are counsel to Irving H. Picard, as trustee (“Trustee”) for the liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa et seq., and the substantively consolidated chapter 7 estate of Bernard L. Madoff. In staying the above-referenced action, the Court requested that the Trustee and defendant ABN AMRO Bank N.V. (presently known as The Royal Bank of Scotland, N.V., “Defendant”) submit a joint letter every 90 days on the status of the Trustee’s appeal to the United States Court of Appeals for the Second Circuit.<sup>1</sup> We write to revise the parties’ joint sixth 90-day status update we submitted to the Court on April 4, 2019, ECF No. 14.

On February 25, 2019, the Second Circuit vacated the judgment of the United States Bankruptcy Court for the Southern District of New York, and remanded.<sup>2</sup> On March 11, 2019, the defendants-appellees petitioned the Second Circuit for a rehearing and a rehearing *en banc*.<sup>3</sup> On April 3, 2019, the Second Circuit denied the defendants-appellees’ petition.<sup>4</sup> On April 8, 2019, the defendants-appellees moved the Second Circuit to stay the issuance of the mandate,

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<sup>1</sup> Order, *Picard v. ABN AMRO Bank N.V. (presently known as The Royal Bank of Scotland, N.V.)*, No. 17-cv-07476 (S.D.N.Y. Oct. 10, 2017), ECF No. 8.

<sup>2</sup> Opinion, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L Madoff Investment Securities, LLC*, No. 17-2992 (2d Cir. Feb. 25, 2019), ECF No. 1311-1.

<sup>3</sup> Petition for Panel Rehearing and Rehearing *En Banc*, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L Madoff Investment Securities, LLC*, No. 17-2992 (2d Cir. Mar. 11, 2019), ECF No. 1320.

<sup>4</sup> Order, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L Madoff Investment Securities, LLC*, No. 17-2992 (2d Cir. Apr. 3, 2019), ECF No. 1408.

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pending their petition for a writ of certiorari in the Supreme Court of the United States by July 2, 2019.<sup>5</sup> Defendant filed a letter joining the motion<sup>6</sup> and the motion currently is under consideration.

Please advise if Your Honor has any questions or wishes to hear further from the parties on this matter.

Sincerely,

/s/ David J. Sheehan

David J. Sheehan  
Partner

cc: Counsel for ABN AMRO Bank N.V. (via ECF)

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<sup>5</sup> Motion to Stay the Issuance of the Mandate Pending the Filing of a Petition for a Writ of Certiorari, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L Madoff Investment Securities, LLC*, No. 17-2992 (2d Cir. Apr. 8, 2019), ECF No. 1413.

<sup>6</sup> Letter, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L Madoff Investment Securities, LLC*, No. 17-2992 (2d Cir. Apr. 8, 2019), ECF No. 1418.