

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

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Chapter 7 Estate of Bernard L.
Madoff,

Plaintiff,

v.

NATIONAL BANK OF KUWAIT S.A.K. and
NBK BANQUE PRIVÉE (SUISSE) S.A.,

Defendants.

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

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 11-02554 (LGB)

STIPULATION AND ORDER CONCERNING MEDIATION

Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III (“SIPA”), and the chapter 7 estate of Bernard L. Madoff (“Madoff”), and the defendants in this action National Bank of Kuwait S.A.K. (“NBK Kuwait”) and NBK Banque Privée (Suisse) S.A., (“NBK Suisse”) (collectively the “Defendants,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, on July 11, 2022, the Trustee filed the Amended Complaint against Defendants [ECF No. 105]; and

WHEREAS, on April 14, 2022, Defendants filed their Answer to the Amended Complaint [ECF Nos. 126 and 127], asserting 12 defenses, including that: (i) Defendants acted in good faith and took all alleged transfers for value under 11 U.S.C. § 550(b); and (ii) Defendants received all alleged transfers as mere conduits; and

WHEREAS, the Parties entered into an Amended Case Management Plan dated March 28, 2025 [ECF No. 133]; and

WHEREAS, the Parties have had an ongoing discussion about the potential for mediation and recently agreed upon a mediator; and

WHEREAS, the Parties have agreed to mediation of this action with the Honorable Henry Pitman (Ret.) (the “Mediator”).

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned counsel, and upon review of the Court it is ORDERED, as follows:

1. Defendants and the Trustee, by their respective counsel, shall submit to mediation (the “Mediation”) consistent with the Court’s General Order M-390 Amending and Restating Adopted Procedures Governing Mediation of Matters in Bankruptcy Cases and Adversary Proceedings dated December 1, 2009, and any amendments thereto, as incorporated into the Court’s Local Rule 9019-1, on the issues presented in this adversary proceeding.
2. The Mediation shall be conducted by the Mediator in person on April 24, 2026, and at 620 Eighth Avenue, 34th Floor New York, New York 10018, as agreed upon by the Mediator and the Parties, and to be continued on additional day(s)

to be agreed upon by the Parties and the Mediator.

3. No Party shall be bound by anything said or done during the Mediation, unless a Party voluntarily agrees to be so bound by a written and signed stipulation submitted to the Mediator and the other Parties.
4. The Mediation process shall be considered a settlement negotiation for the purpose of all federal and state rules protecting disclosures made during such negotiations from later discovery or use in evidence. The entire Mediation procedure shall be confidential, and no stenographic or other record shall be made except to memorialize a settlement record. All communications, oral or written, that a party or its employee or other agents make during the Mediation are confidential and are to be considered work product and privileged. Such communications, statements, promises, offers, views and opinions shall not be discoverable or admissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties. Evidence otherwise discoverable or admissible is not excluded from discovery or admission in evidence simply as a result of having been used in connection with the Mediation process.
5. The Mediator and his agents shall have immunity consistent with § 6.0 of the General Order # M-452, amending and reinstating General Orders M-143, M-211 and M-390, Re: Procedures Governing Mediation of Matters and the Use of Early Neutral Evaluation and Mediation/Voluntary Arbitration in Bankruptcy Cases and Adversary Proceedings, §6.0 (Bankr. S.D.N.Y. June 28, 2013), and from compulsory process to testify or produce documents in

connection with the Mediation.

6. The Parties: (i) shall not call or subpoena the mediator as a witness or expert in any proceedings relating to: the Mediation, the subject matter of the Mediation, or any thoughts or impressions that the Mediator may have about the Parties in the Mediation, and (ii) shall not subpoena any notes, documents or other material prepared by the mediator in connection with the Mediation, and (iii) shall not offer into evidence any statements, views or opinions of the Mediator.
7. The Parties shall work with the Mediator and agree on a procedure for Mediation and deadlines for the submission of mediation statements.
8. Defendants and the Trustee must be prepared to mediate in good faith and exchange offers at the Mediation.
9. Defendants and the Trustee shall pay 50% of the costs of Mediation.
10. The Parties agree that this Mediation will conclude within 120 days from the date that this Stipulation and Order is entered, unless that deadline is extended by mutual consent of the Parties and the Mediator.
11. This Stipulation and Order may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation and Order shall be deemed an original.

[Signatures to Follow on Next Page]

Dated: March 9, 2026
New York, New York

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*Attorney for National Bank of Kuwait S.A.K. and
NBK Banque Privée (Suisse) S.A.*

SO ORDERED.

Dated: March 11, 2026
New York, New York

/s/ Lisa G. Beckerman
Honorable Lisa G. Beckerman
United States Bankruptcy Judge