

**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.

BANQUE INTERNATIONALE À
LUXEMBOURG S.A. (*f/k/a* Dexia Banque
Internationale à Luxembourg S.A.); CACEIS
BANK S.A., as successor in interest to RBC
Dexia Investor Services Bank France S.A., and
d/b/a CACEIS Bank, Luxembourg Branch, as
successor in interest to RBC Dexia Investor
Services Bank S.A.; and BANQUE
INTERNATIONALE À LUXEMBOURG
(SUISSE) S.A. (*f/k/a* Dexia Private Bank
(Switzerland) Ltd.),

Defendants.

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

SIPA Liquidation
(Substantively Consolidated)

Adv. Pro. No. 12-01698 (LGB)

**STIPULATION AND ORDER REGARDING
MOTION FOR SANCTIONS UNDER RULE 37(e)**

WHEREAS, Irving H. Picard (the “Trustee”), as Trustee for the liquidation of the
business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities

Investor Protection Act, 15 U.S.C. §§ 78aaa-lll, and the substantively consolidated chapter 7 estate of Bernard L. Madoff, seeks to recover transfers from BLMIS under section 550 of the Bankruptcy Code made by BLMIS feeder funds Fairfield Sentry Limited and Fairfield Sigma Limited (together, “Fairfield”) to, *inter alia*, defendants Banque Internationale à Luxembourg S.A. (*f/k/a* Dexia Banque Internationale à Luxembourg S.A.) (“BIL”) and Banque Internationale à Luxembourg (Suisse) S.A. (*f/k/a* Dexia Private Bank (Switzerland) Ltd.) (“BIL Suisse,” and together with BIL, the “BIL Defendants”) pursuant to the operative Second Amended Complaint in this action (ECF No. 222);

WHEREAS, on July 9, 2025, the Trustee filed a letter with the Court seeking leave to file a motion to compel the BIL Defendants to produce documents, in which the Trustee referenced a spoliation motion he intended to file at the appropriate time (ECF No. 202);

WHEREAS, on January 23, 2026, the Trustee filed his motion to compel, in which he “reserve[d] all rights to seek relief for any spoliation of evidence by the BIL Defendants” in connection with their failure to preserve Fairfield-related ESI (ECF No. 213, at 4-6);

WHEREAS, on February 25, 2026, the Court held a hearing on the Trustee’s motion to compel, at which the Court stated to the Trustee: “I, obviously, am mindful of your spoliation issue, but that’s going to have to be the subject of a whole other motion” (ECF No. 228, at 9:9-11);

WHEREAS, on March 11, 2026, the Court entered an order granting the Trustee’s motion to compel (ECF No. 231);

WHEREAS, in March and April 2026, pursuant to that order, BIL produced documents to the Trustee, substantially completing its document productions in this action, which include no Fairfield-related ESI;

WHEREAS, the parties have met and conferred regarding the Trustee's contemplated spoliation motion and recognize the issues raised by the motion cannot be resolved by agreement and must be presented to the Court;

WHEREAS, in light of the facts set forth above, the parties respectfully submit that a pre-motion conference with the Court is unnecessary and would not advance the resolution of the issues to be raised in the motion;

WHEREAS, the Trustee has advised BIL that certain documents he plans to refer to in the motion and submit to the Court have been designated Confidential by BIL pursuant to the applicable Litigation Protective Order¹ (the "BIL Documents"), and the Trustee has requested that BIL dedesignate the BIL Documents; and

WHEREAS, the parties have agreed on a briefing schedule for the motion.

IT IS HEREBY STIPULATED AND AGREED by and between the parties by the endorsement of their counsel below, that:

1. The Trustee will file a motion for sanctions under Rule 37(e) of the Federal Rules of Civil Procedure against BIL on or before **August 19, 2026**.
2. BIL will file its opposition to the motion on or before **September 23, 2026**.
3. The Trustee will file a reply in support of his motion on or before **October 14, 2026**.
4. Subject to the Court's availability and discretion, the motion will be heard on **October 21, 2026**, the next available omnibus hearing date thereafter.

¹ *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-01789 (Bankr. S.D.N.Y. June 6, 2011), ECF No. 4137, as amended by the Order Modifying the Litigation Protective Order, *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-01789 (Bankr. S.D.N.Y. Sept. 17, 2013), ECF No. 5474.

5. To the extent that BIL has not dedesignated the BIL Documents by the time of the foregoing filings, BIL consents to (i) the filing of such documents under seal, pursuant to paragraph 15(b) of the Litigation Protective Order, (ii) the filing of the relevant papers on the docket, provided that references to any personal, financial, or confidential settlement information or data from the BIL Documents are fully redacted, and (iii) a hearing on the motion in open court.
6. Except as expressly set forth herein, the parties reserve all rights and defenses they may have, and entry into this Stipulation shall not impair or otherwise affect such rights and defenses, including without limitation any defenses based on lack of jurisdiction.

[Signatures on following page]

Dated: August 13, 2026
New York, New York

/s/ Howard L. Simon

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Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7
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à Luxembourg S.A. (f/k/a Dexia Banque
Internationale à Luxembourg S.A.) and Banque
Internationale à Luxembourg (Suisse) S.A.
(f/k/a Dexia Private Bank (Switzerland) Ltd.)*

SO ORDERED this 17th day of August 2026:

/s/ Lisa G. Beckerman

Honorable Lisa G. Beckerman
United States Bankruptcy Judge