

Media Contact:
Amanda Remus
212-847-2826
aremus@bakerlaw.com

Statement from the office of the SIPA Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC (BLMIS)

Attributable to Amanda Remus, spokeswoman for the SIPA Trustee and his Counsel at Baker Hostetler:

On Friday, April 13, 2012, on behalf of Irving H. Picard, the SIPA Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC (BLMIS), Counsel to the Trustee filed the following with the District Court for the Southern District of New York with regard to Picard v. Katz et al.:

1. Trustee's Motion and Memorandum for Entry of Order Pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002(a)(3) and 9019(a) of the Federal Rules of Bankruptcy Procedure Approving Settlement Agreement
2. Trustee's Affidavit in support of Motion and Memorandum for Entry of Order pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002(a)(3) and 9019(a) of the Federal Rules of Bankruptcy Procedure Approving Settlement Agreement
3. Settlement Agreement and Release

Summary/highlights of the Settlement:

- The Settlement Agreement represents a good faith, complete and final settlement between the two parties. It is a practical and fair compromise of complex litigation issues and avoids a protracted and expensive trial and lengthy appeals. The settlement is in the best interests of the BLMIS Customer Fund and the BLMIS customers with allowed claims – who were defrauded by the Madoff Ponzi scheme – who will ultimately receive distributions of recovered monies from the Customer Fund.
- The Agreement enables the BLMIS Customer Fund to recoup six years (2002 through 2008) of fictitious profits of \$162,000,000 and enables the SIPA Trustee to increase the fund of customer property (the Customer Fund) by \$162 million.
- The settlement payment schedule – details of which are fully outlined in the Agreement – is structured to make the settlement fully collectable, and creates a way to work around the restrictive issues faced by the Defendants that include constricted cash flow and lender covenant issues. The Trustee believes that without a solution such as this settlement presents, he would not have been able to recover more for the BLMIS Customer Fund by litigating to the point of judgment.

- The Trustee’s financial due diligence confirmed the basis for the settlement and the representations made by the Katz et al. Defendants.
- The Defendants’ allowed claims of approximately \$178 million (BLMIS accounts in which the Defendants had deposited more money than they had withdrawn – their “net loser” accounts) will be unconditionally assigned to the Trustee. Any payments against the allowed claims that the Defendants are assigning to the Trustee will reduce the amount owed by the Defendants and will be added to the Customer Fund. If the settlement has not been fully satisfied in three years, Katz et al. Defendants must each pay their respective remainder of the settlement amount. If any of the Defendants are unable to do so, Saul Katz and Fred Wilpon will be personally responsible for any shortfall up to \$29 million.
- The Katz et al. Defendants agree to withdraw their petition for a *writ of certiorari* filed with the United States Supreme Court from the Second Circuit Net Equity Order and also agree not to pursue or join any other litigation involving the Trustee or SIPC arising out of or relating to the BLMIS liquidation. The termination of such litigation will help speed additional distributions to BLMIS customers with allowed claims.

A hearing for approval of the settlement before the District Court for the Southern District of New York has been scheduled for Tuesday, May 15, 2012, at 4:00 p.m.

Counsel to the SIPA Trustee at Baker Hostetler who worked on the settlement filings with regard to Picard v. Saul Katz et al. include: David Sheehan, Fernando Bohorquez, Geraldine Ponto, Regina Griffin, Steven Goldberg, Karin Jenson Scholz, Henry Bodenheimer, Katherine Zunno, and Jody Schechter.

All three of the above filings and their respective supporting documents can be found on the Trustee’s website on the court filing tab: www.madofftrustee.com.