

**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.

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

SIPA Liquidation

(Substantively Consolidated)

**DECLARATION OF MATTHEW B. GREENBLATT IN SUPPORT OF THE
TRUSTEE'S MOTION TO AFFIRM TRUSTEE'S DETERMINATIONS DENYING
CLAIMS OF CLAIMANTS WITHOUT BLMIS ACCOUNTS IN THEIR NAMES,
NAMELY, INVESTORS IN FEEDER FUNDS**

I, Matthew B. Greenblatt, CPA, CFE, hereby declare as follows:

1. I have more than 15 years of experience in accounting, auditing and litigation consulting services, including forensic accounting and fraud investigations. I am a Certified Public Accountant and a Certified Fraud Examiner, and am Certified in Financial Forensics. I am a member of the American Institute of Certified Public Accountants, the New York State Society of Certified Public Accountants and the Association of Certified Fraud Examiners, and an associate member of the Association of Certified Anti-Money Laundering Specialists. I have spoken on multiple panels and authored articles in the area of forensic accounting and investigations, and currently serve as an adjunct professor with New York University in its financial accounting certificate program. Additional information regarding my personal and professional experience is included in my Curriculum Vitae annexed hereto as Exhibit 1.

2. On or about December 30, 2008, FTI was retained by Irving H. Picard, the trustee (“Trustee”) appointed by the United States District Court for the Southern District of New York for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”), under the Securities Investor Protection Act (“SIPA”), and for Bernard L. Madoff (“Madoff”) (collectively, “Debtor”), to examine, among other things, the financial affairs of BLMIS.

3. I make this declaration based upon the information and knowledge acquired during the course of FTI’s retention, and in support of the Trustee’s motion (“Motion”) for an order upholding the Trustee’s determinations denying claims of claimants without BLMIS accounts in their names, namely, investors in the Feeder Funds.¹

4. At the Trustee’s direction, FTI has reviewed the books and records of BLMIS.²

5. For purposes of this Motion, the Trustee has selected nineteen BLMIS accounts held by the Feeder Funds. There are sixteen Feeder Funds associated with the nineteen BLMIS accounts, which are listed on Exhibit 1 to the declaration of David J. Sheehan, submitted herewith (“Sheehan Declaration”).

6. Typically, BLMIS accounts were separated into subaccounts, with the equities in the “dash 3” (-3) subaccount and the options in the “dash 4” (-4) subaccount. Fairfield Sentry Limited was the exception to this rule. Starting in October of 2001, Fairfield Sentry Limited had separate BLMIS accounts set up for the options instead of using subaccounts. They were paired together as follows: BLMIS Account No. 1FN012 for equities and BLMIS Account No. 1FN069 for options, and BLMIS Account No. 1FN045 for equities and BLMIS Account No. 1FN070 for

¹ Capitalized terms used herein shall have the meanings ascribed to them in the Trustee’s Motion.

² The books and records of BLMIS are incomplete. The Trustee is endeavoring to supplement the corporate books and records with third-party records where available.

options. Accordingly, four of the nineteen Feeder Fund accounts are associated with Fairfield Sentry Limited; each of the other Feeder Funds had one account with BLMIS.

7. For at least the seven year period prior to the Filing Date, BLMIS used one primary bank account for customer deposits and withdrawals relating to its Investment Advisory Business, an account at JPMorgan Chase Bank, N.A. (“JPMC”), Account Number 140081703 (the “703 Account”). Amounts invested in BLMIS by the Feeder Funds were deposited into the 703 account. Similarly, redemptions by the Feeder Funds were withdrawn from the 703 Account.

8. Shortly after the Filing Date, the Trustee requested JPMC to provide all bank records for BLMIS’s accounts. JPMC provided the Trustee with: (a) hard copy bank statements pertaining to BLMIS for the seven year period from December 1, 2001 through December 11, 2008; and (b) an electronic file of all wire transfer deposit and payment activity, in Microsoft Excel (the “Wire File”), which contained information related to all deposits and withdrawals via wire transfer in the 703 Account for the period from January 1, 2002 through December 11, 2008. FTI then performed a detailed analysis of the cash deposit and withdrawal activity during this time period of the sixteen Feeder Funds associated with the nineteen BLMIS accounts identified in the Sheehan Declaration.

9. In addition to the third-party bank records provided by JPMC, the Trustee has electronic copies of all BLMIS Investment Advisory customer monthly account statements for the period from December 1, 2001 through November 30, 2008. At the request of the Trustee, FTI has identified each cash transaction reported on the Feeder Funds’ customer account statements and has correlated those transactions to the corresponding line-item entries in the bank statements and in the Wire File provided by JPMC. Each cash transaction between BLMIS

and the Feeder Funds (as reported on the customer account statements) has been via wire transfer, and the Wire File provided by JPMC contains bank account information for each individual transaction, including the counterparty financial institution.

10. At the request of the Trustee, FTI has reviewed the cash deposit and cash withdrawal activity in each of the Feeder Fund accounts to identify any BLMIS payments directly to or from the Objecting Claimants and other “indirect investors” in BLMIS.

11. That review revealed no BLMIS payments directly to or from the Objecting Claimants.

12. Each of the Feeder Funds maintained customer accounts with BLMIS.

13. The books and records of BLMIS reflect the amounts owing and owed between the Feeder Funds and BLMIS.

14. Account opening documents were located for many of the Feeder Funds, but not all, as the books and records of BLMIS are incomplete in this regard. The Account Agreements, to the extent that they have been located, are attached as exhibits to the Sheehan Declaration.

15. BLMIS account statements were prepared and addressed to the Feeder Funds or their agents. Copies of the November 30, 2008 statements for each of the nineteen Feeder Fund accounts are attached as exhibits to the Sheehan Declaration.

16. A list of Objecting Claimants is attached to the Sheehan Declaration as Exhibits 2 and 3, listing their claim number and the docket number of their objections.

17. The nineteen Feeder Fund Accounts were in the names of the Feeder Funds, not the Objecting Claimants. *See* Sheehan Declaration, Exhibit 1. The names of the Objecting Claimants do not appear on the books and records of BLMIS vis-à-vis the nineteen accounts that

are included in the Trustee's Motion.³ Accordingly, the amounts that the Objecting Claimants allege are owed to them are not discernable from the books and records of BLMIS.

18. Based on the books and records of BLMIS, the cash in/cash out position of Kingate Global Fund, Ltd., or its "net equity" claim, is \$540,158,887.54.

Pursuant to 28 U.S.C. § 1746, I hereby declare that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: New York, New York
June 11, 2010

/s/ Matthew B. Greenblatt
Matthew B. Greenblatt, CPA, CFE
Senior Managing Director
FTI Consulting, Inc
Three Times Square, 11th Floor
New York, NY 10036

³ Some Objecting Claimants may have held accounts in their own names, in addition to investing in a Feeder Fund that in turn, invested with BLMIS. The Trustee's Motion only deals with the claims of Objecting Claimants insofar as they invested in a Feeder Fund.

EXHIBIT 1

Matthew B. Greenblatt, CPA, CFE

Senior Managing Director

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11th Floor
New York, NY 10036
Tel: (212) 841-9375
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Certifications

Certified Public
Accountant, New York
and Pennsylvania

Certified Fraud Examiner

Professional Affiliations

American Institute of
Certified Public
Accountants

New York State Society of
Certified Public
Accountants

Pennsylvania State
Society of Certified Public
Accountants

Association of Certified
Fraud Examiners

Association of Certified
Anti-Money Laundering
Specialists

Education

B.S. in Accounting,
Lehigh University

Matthew Greenblatt is a Senior Managing Director in the FTI Forensic and Litigation Consulting practice and is based in New York. Mr. Greenblatt has extensive experience in auditing and accounting matters, litigation consulting, forensic accounting and internal investigations, post-acquisition and shareholder disputes, anti-money laundering, and advising troubled companies.

Mr. Greenblatt has conducted multiple forensic investigations in connection with cases involving diversions of funds by fiduciaries and fraudulent accounting activity by management and has been involved in several internal forensic investigations conducted on behalf of Audit Committees and/or Boards of Directors for both public and private companies. Mr. Greenblatt is currently managing a team of FTI professionals and forensic accountants in connection with the firm's retention by the court-appointed trustee under SIPA in the liquidation of Bernard L. Madoff Investment Securities LLC. Further, he has advised on cases involving partnership disputes; lost profits; breach of contract claims; accountants' malpractice, and valuation matters and his overall industry experience includes wholesale and retail companies, manufacturing, cable and satellite television broadcasting, radio production, pharmaceutical manufacturing, and financial services sectors, such as investment banks and broker/dealers.

Mr. Greenblatt has spoken on multiple panels in the area of forensic accounting and investigations and is an adjunct professor, teaching the course *Prevention and Detection of Fraudulent Financial Reporting*, a required course within the Forensic Accounting Program of New York University's Finance, Law and Taxation Program of NYU's School of Continuing & Professional Studies.

Professional Experience

- Conducted various forensic accounting investigations for engagements involving diversions of funds by fiduciaries and fraudulent accounting activity by management on behalf of Audit Committees and/or Boards of Directors for both public and private companies
- Issued expert report in litigation involving the results of the forensic investigation performed to analyze company records and historical invoices to quantify an alleged overbilling scheme.
- Issued expert report in matrimonial dispute involving the valuation of Marital Assets
- Member of Examiner Team to support the monitoring of non-prosecution agreements to monitor and report on the state of two major financial institutions suspicious activity reporting and AML procedures and overall compliance programs
- Assisted testifying witnesses with expert reports in various litigations involving valuation issues; partnership disputes; lost profits; breach of contract claims; damages; fraud & fraudulent conveyances; solvency opinions and accountants' malpractice
- Served as member of team of neutral arbitrators to provide a binding conclusion regarding the appropriateness of a post-acquisition purchase price dispute
- Assisted troubled companies by formulating strategic business plans; developing financial models to prepare forecasts and long-term business plans; planning for liquidation; assisting management with headcount and cost reduction plans; and negotiating restructuring plans

Forensic Accounting Investigations

- Currently managing a team of FTI professionals and forensic accountants in connection with the firm's retention by the court-appointed trustee under SIPA in the liquidation of Bernard L. Madoff Investment Securities LLC.
- Conducted a forensic review of the business operations of one shareholder on behalf of another shareholder, and FTI's client, to ascertain if our client's allegations and suspicions regarding improper management were valid. The work primarily consisted of conducting interviews of current and former employees and executives; performing a detailed forensic review of the internal books and records; and providing assistance to counsel in the conducting of depositions.
- Served on team as Responsible Officer of a wholesaler of watches in Chapter 11 and conducted the fraud and forensic investigation of management in which it was found that the revenues of the Company had been overstated by approximately 600%. The forensic services included: extensive reviews of the internal books and records; assisting counsel with the conducting of various interviews and depositions; quantification and identification of fraudulent conveyance actions; presenting the results of the investigation to the Bankruptcy Court, US Trustee's office; US Attorney's Office; and FBI, as well as providing testimony at two depositions in related litigations.
- Conducted the forensic accounting investigation of a multinational temporary staffing company on behalf of counsel to the Audit and Finance Committee. The forensic accounting services consisted primarily of: participating in the interviews of current and former employees and executives; performing extensive forensic reviews of the internal books and records; providing assistance to counsel in identifying, understanding and interpreting certain complex accounting issues; traveling to international branches and divisions to further the investigation overseas; and presenting FTI's findings to the Audit Committee, outside auditors and the SEC and other regulatory authorities.
- Conducted an internal forensic accounting investigation on behalf of the Audit Committee of a public pharmaceutical manufacturer. The investigation included a detailed and thorough review of the accounting treatment of specific transactions and presentations of the overall conclusions to the Audit Committee, Board of Directors, Enforcement Division of the Securities and Exchange Commission, and the Company's independent accountants.
- Assisted counsel to the Financial Institutions Committee in connection with the accounting investigation undertaken by the Audit Committee focusing on alleged improper accounting treatments utilized and potential misuse of corporate funds and resources by Management. The work included: participating in the interviews of current and former employees and executives; providing assistance to counsel for Rule 2004 depositions of executives and directors; and reviewing the Debtors' forensic accountants' workpapers to investigate the accounting and revenue recognition issues related to vendor allowances and other items.
- Conducted a forensic investigation for special counsel to the Audit Committee of a multinational retail company to assist with an internal investigation into the facts and circumstances of a potential restatement of its prior financial results due to misstatements in one of its operating divisions, alleged to be in excess of \$45 million over a three year period. The services included participating in interviews of current/former employees and executives; performing a detailed forensic review of the books and records and annual and quarterly

financial statements from 1999 through 2001; providing assistance to special counsel in identifying, understanding and interpreting certain complex accounting issues, including transfer pricing; and presenting FTI's findings to the Audit Committee and the SEC.

Monitor/Examiner Matters

- Served on the team selected by the U.S. Attorney offices in the Eastern and Southern Districts of New York and Western Pennsylvania to support the monitoring of the non-prosecution agreements of both The Bank of New York and Mellon Financial Corporation, to monitor and report on the state of the banks' suspicious activity reporting practices and AML procedures and overall compliance and ethics management program

Expert Testimony Engagements in Litigation

- Issued an expert report in litigation involving the results of the forensic investigation performed to analyze company records and historical invoices to quantify an alleged overbilling scheme.
- Co-issued an expert report in a matrimonial dispute involving the valuation of Marital Assets in which the Wife had exercised her rights to audit the Marital Balance Sheet with respect to the valuation of the primary Marital Asset, controlling ownership of the family business.
- Retained by the Successor Liquidating Trustee of a large Hedge Fund to assist the Trustee with its assessment of the potential cause of action against the independent auditors of the Fund which issued unqualified opinions for the years from 1995 through and including 2000 although the securities were later found to have been overvalued by more than \$100 million. The engagement then evolved into a litigation consulting assignment to assist counsel with the prosecution of the cause of action against the public accounting firm for accounting malpractice through the discovery phase, and potentially to include expert testimony.
- Engaged by counsel to an interdealer broker to determine the fair value of the common shares held by a minority shareholder who elected to exercise his dissolution rights as of the Valuation Date as defined in the litigation.
- Assisted with the preparation of an expert report in a litigation involving two chemical companies which encompassed issues of antitrust violations and breaches of contract damages in which FTI was engaged to testify as the expert witness.
- Advised on a multi-billion dollar lawsuit filed by the U.S. Trustee against an accounting firm hired as financial advisors to a debtor in a Chapter 11 proceeding.

Testimony Experience

- *Albion Alliance Mezzanine Fund, L.P., et al v. State Street Bank and Trust Company*, Supreme Court of the State of New York, County of New York
- *Sharp International Corporation v. KPMG LLP*, United States Bankruptcy Court, Eastern District of New York

Adjunct Professor, NYU

- Adjunct professor with New York University's School of Continuing & Professional Studies teaching the course *Prevention and Detection of Fraudulent Financial Reporting*, a required course within the Forensic Accounting Program of NYU's Finance, Law and Taxation Program

Articles Authored

- Co-authored, “Inside an Internal Accounting Investigation”, published in *The New York Law Journal*, Investigations & Computer Forensics special section, May 29, 2007

Presentations and Speaking Engagements

- “Technology’s Role on Large Internal Accounting Investigations”, presented at the New Jersey Society of CPAs annual Damages Conference, October 25, 2007
- “Forensic Investigations - How to Conduct a Successful Investigation”, Continuing Professional Education focused on internal accounting and forensic investigations conducted on behalf of Audit Committee, Boards of Directors and management as a result of Sarbanes Oxley, including a discussion of the role of the forensic accountants and investigation experts, incorporating the components of interview and forensic investigation skills, and the utilization of electronic evidence to efficiently and effectively conduct the investigation, April 22, 2004
- “Anatomy of a Financial Statement Fraud”. This course discussed the common methods to perpetrate a financial statement fraud (e.g. aggressive revenue recognition practices, rebates/allowances, reserves, off balance sheet financing), as well as warning signs and red flags of fraud, and the corporate environment in which fraud typically occurs, July 21, 2004
- “Forensic Accounting Presentation to Goldman Sachs Group, Inc.”, a discussion of forensic accounting, financial transparency, and a summary of some of the critical components of the major frauds in the recent media, March 20, 2003
- “Financial Statement Analysis” course within the Basic Accounting for the General Practitioner program at the Practising Law Institute, focusing on horizontal and vertical analysis, common sizing, industry comparison, ratio and trend analysis, and the common sense factor, October 23, 2002

Employment History

- Prior to its acquisition by FTI, Mr. Greenblatt joined Kahn Consulting in June of 1998.
- Mr. Greenblatt was a Senior Auditor in the Entertainment, Media and Communications division of Price Waterhouse’s Audit and Business Advisory Services Group from 1994 through May, 1998. At Price Waterhouse, Mr. Greenblatt planned and supervised audits for multinational and middle-market clients in industries including book, magazine and newspaper publishing; manufacturing; high-tech; financial services; and non-profit organizations.

Education and Certifications

- B.S. in Accounting from Lehigh University
- Certified Public Accountant, New York & Pennsylvania
- Certified Fraud Examiner
- Member, American Institute of Certified Public Accountants, New York State Society of Certified Public Accountants, Pennsylvania State Society of Certified Public Accountants, and Association of Certified Fraud Examiners.