

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

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

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

SIPA LIQUIDATION

(Substantively Consolidated)

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.

ABU DHABI INVESTMENT AUTHORITY,

Defendant.

Adv. Pro. No. 11-02493 (LGB)

**CASE MANAGEMENT PLAN**

Plaintiff Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. § 78aaa-*lll*, and the Chapter 7 estate of Bernard L. Madoff individually, and defendant Abu Dhabi Investment Authority (“Defendant,” together with the Trustee, the “Parties,” and each individually, a “Party”), by and through their respective undersigned counsel, hereby submit the following Case Management Plan pursuant to Rules 16 and 26 of the Federal

Rules of Civil Procedure (the “Federal Rules”), applicable under Rules 7016 and 7026 of the Federal Rules of Bankruptcy Procedure.

1. Relevant Procedural History.

a. On August 11, 2011, the Trustee commenced the above-captioned adversary proceeding in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) by filing a complaint against Abu Dhabi Investment Authority. *Picard v. Abu Dhabi Investment Authority.*, Adv. Pro. No. 11-02493, ECF No. 1.

b. On August 22, 2024, Defendant filed an Answer and affirmative defenses. *Id.* ECF No. 150.

c. On September 16, 2024, the Court entered an Order on Remand Granting in Part Defendant’s Motion to Dismiss concerning the purported transfer of \$100,000,000.00 in March 2006. *Id.* ECF No. 151.

d. On September 30, 2024, the Court entered an Order Granting In Part Defendant’s Motion to Dismiss. *Id.* ECF No. 152.

2. Fact Discovery Plan.

a. Fact Discovery Cut-Off. Unless otherwise agreed to by the Parties or ordered by the Bankruptcy Court, all fact discovery is to be completed by October 1, 2026 (the “Fact Discovery Cut-Off Date”).

b. Initial Disclosures. The Parties do not propose any changes in initial disclosures required under Federal Rule 26(a)(1)(A) (the “Initial Disclosures”). The Parties agree

that they shall serve such Initial Disclosures as required under Federal Rule 26 on or before 60 days after the entry of this Case Management Plan.

c. Subjects On Which Discovery May Be Needed. The Parties contemplate that fact and expert discovery will be needed on asserted claims and defenses.

d. Foreign Discovery. Because, per Defendant, there are both witnesses and documentary evidence outside the United States, the Parties anticipate the need for discovery under internationally recognized means, including from individuals and entities that may have been affiliated with Defendant. To obtain discovery, the Parties will comply with the relevant discovery rules of the applicable jurisdiction, the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, and/or any other internationally recognized means of obtaining cross-border discovery, including but not limited to, letters rogatory (collectively, “International Discovery”). To the extent the Parties avail themselves of International Discovery procedures, they will not be deemed to have waived, prejudiced, or otherwise altered their rights to conduct discovery under the Federal Rules, the Local Bankruptcy Rules for the Southern District of New York (the “Local Bankruptcy Rules”), or other applicable domestic rules. To the extent that timely requested International Discovery by the Fact Discovery Cut-Off Date, or that depositions or examinations under International Discovery procedures have not occurred by the Fact Discovery Cut-Off Date, the Parties agree to seek reasonable extensions of the deadlines set forth herein; absent consent of all Parties to such an extension, any Party may seek relief from the Court in respect of any such outstanding International Discovery, without prejudice to the rights of any Party to oppose such a request. The Parties reserve all their respective rights, and do not hereby

waive any arguments, concerning the manner in which discovery should be conducted with respect to any International Discovery.

e. Form Of Certain Discovery. The Trustee intends to utilize one or more electronic data rooms to affirmatively make available millions of documents related to the Trustee's claims. The Trustee's use of such data rooms will be governed by all applicable orders and rules. Defendant reserves all rights with respect to the manner, process, and format of any document productions made in response to their discovery requests.

f. Document Requests. The Parties may serve requests for documents on or before 60 days before the Fact Discovery Cut-Off Date.

g. Interrogatories. The Parties may serve Interrogatories in accordance with the rules and limitations articulated in Local Bankruptcy Rule 7033-1.

h. Requests For Admission.

(i) The Parties may serve substantive Requests for Admission on or before 60 days before the Fact Discovery Cut-Off Date.

(ii) The Parties may serve Requests for Admission relating to authentication and admissibility of documents at any time before the close of fact discovery.

i. Limitations on Discovery. Limitations on written discovery will be governed by the Federal Rules made applicable to this adversary proceeding by the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules. The Parties may agree on certain limitations on discovery, or any Party may file an application with the Court to impose limitations.

j. Production of Privileged Materials. The Parties acknowledge that the production or other disclosure of documents or other information subject to recognized privilege

or work product protection is not a waiver of the privilege or protection from discovery in this case or in any other federal or state proceeding. This Order shall be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502(d). Nothing contained in this paragraph is intended to or shall serve to limit a Party's right to conduct a review of documents, including electronically stored information, for relevance, responsiveness, and/or privileged and/or protected status.

k. Depositions.

i. All depositions of fact witnesses must be completed by the Fact Discovery Cut-Off Date. Depositions shall proceed concurrently, with no Party having priority. The Parties will endeavor to conclude the majority of depositions within the seven (7) hours provided by Federal Rule 30(d)(1), although the Parties acknowledge that there may be certain depositions of fact witnesses with knowledge of issues common to multiple Avoidance Actions (as defined below) that cannot be concluded within this time limit. For any such witness, the Parties will attempt in good faith to agree to reasonable expansions of the seven (7) hour time limit as appropriate, and failing agreement either Party may apply to the Court for an expansion of this time limit.

ii. To the extent the deposition of any fact witness raises common issues relevant to another avoidance action related to the above-captioned case (Adv. Pro. No. 08-01789) (the "Avoidance Action(s)"), in which fact discovery has not closed, the Parties shall coordinate such depositions with the witness and defendants in such Avoidance Actions to maximize efficiency and use of resources to the extent reasonably practicable. The

Parties shall confer in good faith and provide notice of such depositions under the Federal Rules, including the date, time, and location of any such depositions, to all relevant parties. The Parties recognize that in a coordinated deposition, the limitations set forth in Federal Rule 30(d)(1) shall not necessarily apply, and the parties shall agree on an appropriate duration for the deposition. Such depositions shall not prejudice or preclude any Party from additional depositions of such witness in Avoidance Actions in which initial disclosures have not been made and discovery is not open.

iii. The Parties agree that they will work in good faith to identify the requisite number of each Party's deponents and depositions.

iv. Depositions of Irving H. Picard himself are prohibited absent an order issued by this Court upon a showing of good cause.

v. Nothing contained in this Case Management Plan shall be deemed or construed to be a waiver of any Party's right to object to the taking of the deposition of a particular witness, or abridge, limit, or modify any rights that a foreign witness has under the applicable law of the relevant foreign jurisdiction.

3. Expert Discovery Plan. Within 30 days prior to the Fact Discovery Cut-Off Date, the Parties agree to meet and confer in good faith on the need for and timing of expert discovery. The Parties further agree to submit a proposed Amended Case Management Plan that addresses expert discovery within 30 days after the Fact Discovery Cut-Off Date.

4. Manner of Production of Discovery Materials. The Parties may produce discovery on a CD-ROM, flash drive, portable hard drive, in an electronic data room, or other similar

electronic format. Information and documents produced or made available electronically shall, to the extent reasonably feasible:

- (i) be text searchable;
- (ii) provide data and image load files necessary to review the documents on search platforms (e.g., Summation, Concordance, Relativity) upon request of either Party;
- (iii) provide any system-created or non-privileged captured objective metadata, such as date fields, author fields, custodian fields, path to native file, etc.;
- (iv) be organized, such as by date, custodian, or subject matter, as maintained in the ordinary course of business (or in the case of information obtained by any Party from a third party, as produced by such third party or maintained by such third party in the ordinary course of business) as organized by the relevant Party;
- (v) provide additional reasonably accessible formats of production, metadata, or native documents if requested by either Party.

The Parties will first meet and confer in a good faith attempt to resolve any dispute regarding the manner, process, or format of production of any discovery materials, including to the extent Defendant determines they are unable to comply with the foregoing requirements based on the age and condition of the electronically stored information, the systems on which such information was created, stored, and/or maintained, or otherwise, and absent resolution of any such dispute by agreement, will comply with Local Rule 7007-1 to resolve the dispute.

5. Confidentiality. The Litigation Protective Order (ECF No. 4137) entered *in Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC (In re Bernard L. Madoff Inv. Sec., LLC)*, Adv. Pro. No. 08-01789, on June 6, 2011, as modified by the Order Modifying the June 6, 2011 Litigation Protective Order (ECF No. 5474), shall govern the disclosure of confidential information in this proceeding.

6. Proposed Modifications Of Standard Pretrial Proceedings Due To The Special Nature Of The Action. The Parties do not presently propose any modifications.

7. Prospects For Settlement, Including Whether A Settlement Conference Should Be Scheduled. The Parties believe that it would be premature to schedule a settlement conference at this time.

8. Summary Judgment and Trial. The Parties propose that they will confer with each other and the Court at the conclusion of all discovery to schedule motions for summary judgment and a final pretrial conference and trial date.<sup>1</sup>

*[Signatures on following page]*

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<sup>1</sup> Defendant has demanded a trial by jury on all issues that may be tried by a jury and do not consent to the entry of final orders or judgments by the Bankruptcy Court. *See* ECF No. 150. Nothing contained herein shall be construed to be a waiver of those positions.

Dated: October 18, 2024  
New York, New York

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Bernard L. Madoff*

**SO ORDERED.**

**Dated: October 30, 2024  
NEW YORK, NEW YORK**

By: /s/ Marc Greenwald  
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/s/ Lisa G. Beckerman  
**HONORABLE LISA G. BECKERMAN  
UNITED STATES BANKRUPTCY JUDGE**