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Presentment Date: August 12, 2024
Time: 12:00 p.m.

Objections Due: August 7, 2024
Time: 11:00 a.m.

*Attorneys for 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*

**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 (LGB)

SIPA Liquidation

(Substantively Consolidated)

**TRUSTEE’S APPLICATION FOR AN ORDER APPROVING THE RETENTION OF
LENNON, MURPHY & PHILLIPS LLC AS SPECIAL COUNSEL**

Irving H. Picard (the “Trustee”), as 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, *et seq.* (“SIPA”), and the Chapter 7 estate of Bernard L. Madoff (together with BLMIS, the “Debtor”), by and through his undersigned counsel, hereby

submits this Application for authority to retain Lennon, Murphy & Phillips LLC (“LMP”) as special counsel in Connecticut, and respectfully represents as follows:

Jurisdiction

1. This Court has jurisdiction over this Application under SIPA section 78eee(b) and 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are section 78eee(b)(3) of SIPA, sections 327(a), 328, and 330 of the Bankruptcy Code, and Fed. R. Bankr. P. 2014.

Background

3. On December 11, 2008, the Securities and Exchange Commission filed a complaint in the United States District Court for the Southern District of New York against Bernard L. Madoff and BLMIS, alleging that Madoff and BLMIS engaged in fraud through the investment advisory activities of BLMIS. *See United States v. Madoff*, No. 08 CV 10791 (S.D.N.Y. 2008).

4. On December 15, 2008, the Honorable Louis L. Stanton of the United States District Court for the Southern District of New York entered an order pursuant to SIPA, which in pertinent part:

- a) appointed the Trustee for the liquidation of the business of BLMIS pursuant to section 78eee(b)(3) of SIPA;
- b) appointed Baker & Hostetler LLP as counsel to the Trustee pursuant to section 78eee(b)(3) of SIPA; and
- c) removed the case to this Bankruptcy Court pursuant to section 78eee(b)(4) of SIPA.

5. Issues have arisen in Connecticut that require the Trustee's representation by local counsel. The Trustee seeks to retain LMP to advise the Trustee regarding various issues under Connecticut law and assist the Trustee with litigation where Connecticut law is implicated.

Relief Requested

6. LMP is a New York and Connecticut based law firm specializing in litigation and transactional work, with a focus on civil, commercial and probate litigation. LMP attorneys also serve as local counsel for out-of-state law firms seeking assistance in Connecticut and New York. Ms. Tracy Wheeler Lennon, the managing partner of LMP, is a seasoned attorney with over 20 years of experience, including expertise in business law and estate administration. Mr. Kevin Lennon, of counsel at LMP, is an experienced attorney who focuses his practice on litigation, arbitration and mediation, and commercial disputes. Mr. Jonathan Gaberman, an associate at LMP, specializes in trust and estate planning and administration and other probate matters.

7. The services of LMP, Ms. Lennon, and Messrs. Lennon and Gaberman are necessary and essential to enable the Trustee to execute faithfully his duties in the SIPA liquidation proceeding. The Trustee, therefore, proposes to retain and employ LMP as special counsel with regard to litigation and any similar matters as directed by the Trustee.

8. The Trustee submits that the retention of LMP is permissible under section 78eee(b)(3) of SIPA and is in the best interest of the Debtor's estate, customers, and creditors. To the best of the Trustee's knowledge, as disclosed in Ms. Lennon's declaration of disinterestedness annexed hereto as Exhibit A, the partners of LMP are disinterested pursuant to sections 78eee(b)(3) and 78eee(b)(6) of SIPA and do not hold or represent any interest adverse to the Debtor's estate with respect to the matter for which LMP is to be retained.

9. LMP is willing to act on the Trustee's behalf to render the foregoing professional services and will be compensated at agreed upon rates, listed below, which reflect a reduction of its normal rates by at least ten percent (10%). Applications for compensation to LMP will be filed with this Court pursuant to applicable statutes, rules, and orders of this Court. LMP's rate information is as follows:

| Attorney | Standard Hourly Rate | Discounted Hourly Rate |
|--------------------------------|-----------------------------|-------------------------------|
| Kevin Lennon (Of Counsel) | \$325.00 | \$292.50 |
| Tracy Wheeler Lennon (Partner) | \$295.00 | \$265.50 |
| Jonathan Gaberman (Associate) | \$195.00 | \$175.50 |

LMP and Baker & Hostetler will coordinate so there will be no duplication of efforts.

10. SIPC has no objection to this Application and, pursuant to SIPA section 78eee(b)(3), SIPC specifies and approves of the retention of LMP as the Trustee's special counsel in Connecticut.

Notice

11. Notice of this Application will be provided by U.S. Mail or email to (i) all parties included in the Master Service List as defined in the Order Establishing Notice Procedures (ECF No. 4560); (ii) all parties that have filed a notice of appearance in this case; (iii) the SEC; (iv) the IRS; (v) the United States Attorney for the Southern District of New York; and (vi) SIPC, pursuant to the Order Establishing Notice Procedures (ECF No. 4560). The Trustee submits that no other or further notice is required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order substantially in the form of Exhibit B hereto, (a) granting this Application; (b) authorizing the Trustee to employ LMP as special counsel in Connecticut for the purposes described herein; and (c) granting the Trustee such other and further relief as is just and proper.

Dated: July 31, 2024
New York, New York

Respectfully submitted,

/s/ David J. Sheehan

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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
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and the Chapter 7 Estate of Bernard L. Madoff*

EXHIBIT A

**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 (LGB)

SIPA Liquidation

(Substantively Consolidated)

**DECLARATION OF DISINTERESTEDNESS
OF TRACY WHEELER LENNON OF LENNON, MURPHY & PHILLIPS LLC
AS PROPOSED SPECIAL COUNSEL TO THE TRUSTEE**

I, Tracy Wheeler Lennon, declare as follows:

1. I am admitted to practice as an attorney in Connecticut.
2. I am a partner of the law firm Lennon, Murphy & Phillips LLC (“LMP”).
3. All matters stated herein are known by me to be true except as otherwise stated.
4. By the Order dated December 15, 2008, entered by the Honorable Louis A. Stanton of the United States District Court for the Southern District of New York, Irving H. Picard (the “Trustee”), was appointed as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS” or the “Debtor”) and Baker & Hostetler LLP was appointed as counsel to the Trustee. The Trustee wishes to retain LMP to serve as special counsel to assist the Trustee.
5. Section 78eee(b)(6) of the Securities Investor Protection Act of 1970 (“SIPA”) is entitled “Disinterestedness” and provides as follows:

(6) Disinterestedness

(A) Standards

For the purposes of paragraph (3), a person shall not be deemed disinterested if:

- (i) such person is or was a creditor (including a customer), stockholder, or partner of the debtor;
- (ii) such person is or was an underwriter of any of the outstanding securities of the debtor or within five years prior to the filing date was the underwriter of any securities of the debtor;
- (iii) such person is, or was within two years prior to the filing date, a director, partner, officer, or employee of the debtor or such an underwriter, or an attorney for the debtor or such an underwriter; or
- (iv) it appears that such person has by reason of any other direct or indirect relationship to, connection with, or interest in the debtor or such an underwriter, or for any other reason an interest materially adverse to the interests of any class of creditors (including customers) or stockholders,

except that SIPC shall in all cases be deemed disinterested, and an employee of SIPC shall be deemed disinterested if such employee would, except for his association with SIPC, meet the standards set forth in this subparagraph.

(B) Hearing

The court shall fix a time for a hearing on disinterestedness, to be held promptly after the appointment of a trustee. Notice of such hearing shall be mailed at least ten days prior thereto to each person who, from the books and record of the debtor, appears to have been a customer of the debtor with an open account within the past twelve months, to the address of such person as it appears from the books and records of the debtor, and to the creditors and stockholders of the debtor, to SIPC, and to such other persons as the court may designate. The court may, in its discretion, also require that notice be given by publication in such newspaper or newspapers of general circulation as it may designate. At such hearing, at any adjournment thereof, or upon application, the court shall hear objections to the retention in office of a trustee or attorney for a trustee on the grounds that such person is not disinterested.

15 U.S.C. section 78eee(b)(6)

- 6. In order to determine that LMP is disinterested within the meaning of SIPA section 78eee(b)(6), I used the firm's conflicts check procedures and practices to determine that, to the best of my knowledge, LMP meets the "disinterestedness" requirements set forth in SIPA section 78eee(b)(6).
- 7. In response to the firm's conflicts check procedures and practices, no association with the Debtor was disclosed and no conflict was disclosed.
- 8. LMP ran conflict checks on the Honorable Lisa G. Beckerman of the United States Bankruptcy Court for the Southern District of New York and her Chambers' law clerks and staff (Ilayna Guevrekian, Griselda Cabrera, Jillian Ingrisano, Francis O'Rourke and Chantel Barrett) and no conflict was disclosed.

9. LMP ran conflict checks on the Honorable John P. Mastando, III of the United States Bankruptcy Court for the Southern District of New York and his Chambers' law clerks and staff (Maria Rodriguez-Castillo, Matthew Smith, Paul Veazey and Francis O'Rourke) and no conflict was disclosed.
10. Based on this inquiry, and that belief, it would appear that LMP meets the disinterestedness standard of SIPA section 78eee(b)(6)(A), as well as under Bankruptcy Code Section 327(a), Federal Rule of Bankruptcy Procedure 2014(a), and Bankruptcy Code Section 327(e), and has no conflict nor an interest materially adverse to the Debtor.
11. As a result, to the best of my knowledge, information and belief, I have been able to determine:
 - (A) No lawyer or non-lawyer employee of LMP is a creditor (including customer), stockholder, or partner of the Debtor;
 - (B) No lawyer or non-lawyer employee of LMP is or was an underwriter of any of the outstanding securities of the Debtor or within five years prior to the filing date was the underwriter of any securities of the Debtor;
 - (C) No lawyer or non-lawyer employee of LMP is or was within two years prior to the filing date, a director, partner, officer or employee of the Debtor or such an underwriter or any attorney for the Debtor or such an underwriter; and
 - (D) It appears that no lawyer or non-lawyer employee of LMP has, by reason of any other direct or indirect relationship to, connection with, or interest in the Debtor or such an underwriter, or for any other reason, an interest materially adverse to the interest of any class of creditors (including customers) or stockholders.
12. I understand that the Trustee and SIPC are continuing to research and analyze the books and records of the Debtor on an ongoing basis. As a result, additional information may be discovered that may be relevant to the instant Declaration. I understand that LMP has a continuing duty to disclose any subsequently discovered information and/or connections within the meaning of SIPA section 78eee(b)(6), and I will supplement this Declaration as appropriate.

I declare under penalty of perjury that the foregoing is true and correct and if called on as a witness I could testify competently thereto.

Executed on the 31st day of July, 2024.

/s/ Tracy Wheeler Lennon

Tracy Wheeler Lennon

EXHIBIT B

**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 (LGB)

SIPA Liquidation

(Substantively Consolidated)

**[PROPOSED] ORDER GRANTING THE TRUSTEE'S APPLICATION TO RETAIN
LENNON, MURPHY & PHILLIPS LLC AS SPECIAL COUNSEL**

Upon the Application of Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, and the Chapter 7 estate of Bernard L. Madoff, for authority to retain Lennon, Murphy & Phillips LLC ("LMP") as special counsel, and upon the declaration of Ms. Tracy Wheeler Lennon submitted in connection therewith, and due and proper notice having been given under the circumstances of this case, and after due deliberation,

IT IS HEREBY ORDERED THAT:

1. The Application is **GRANTED**.
2. The Court finds that LMP is deemed disinterested under 15 U.S.C. § 78eee(b)(6).

3. The Trustee is authorized to retain LMP as special counsel to the Trustee as provided in the Application.

DATED: _____
NEW YORK, NEW YORK

HONORABLE LISA G. BECKERMAN
UNITED STATES BANKRUPTCY JUDGE

Baker & Hostetler LLP
45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
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Presentment Date: August 12, 2024
Time: 12:00 p.m.

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*Attorneys for 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*

**UNITED STATES BANKRUPTCY COURT
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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.

**NOTICE OF PRESENTMENT OF TRUSTEE’S APPLICATION FOR AN ORDER
APPROVING THE RETENTION OF LENNON, MURPHY & PHILLIPS LLC
AS SPECIAL COUNSEL**

PLEASE TAKE NOTICE that Irving H. Picard, as trustee (the “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, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff, by the Trustee’s undersigned counsel, will present an order approving the retention of Lennon, Murphy & Phillips LLC as special counsel, a copy of

which is annexed hereto as Exhibit A (the “Order”), to the Honorable Lisa G. Beckerman, United States Bankruptcy Judge, for signature on **August 12, 2024 at 12:00 p.m.**

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the Order (“Objections”), shall (i) be in writing; (ii) conform to the Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules and General Orders; (iii) specify the name of the objecting party and state with specificity the basis of the objection(s) and the specific grounds therefore; (iv) be filed in accordance with the electronic filing procedures for the United States Bankruptcy Court for the Southern District of New York, with a proof of service; and (v) be served upon (a) Baker & Hostetler LLP, Counsel for the Trustee, 45 Rockefeller Plaza, New York, New York 10111, Attn: David J. Sheehan, Esq., and (b) the Securities Investor Protection Corporation, 1667 K Street, NW, Suite 1000, Washington, DC 20006-1620, Attn: Kevin H. Bell, Esq., so as to be received no later than **August 7, 2024 at 11:00 a.m.**

PLEASE TAKE FURTHER NOTICE, that in the event any Objections are timely served and filed, the parties will contact the Courtroom Deputy for a hearing date and the moving party will notify other parties entitled to receive notice. The moving and objecting parties are required to attend the hearing, and failure to attend in person or by counsel may result in the relief being granted or denied upon default.

PLEASE TAKE FURTHER NOTICE, that if no timely Objections are served or filed the proposed Order may be signed without a hearing.

Dated: July 31, 2024
New York, New York

By: /s/ David J. Sheehan
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SIPA Liquidation

(Substantively Consolidated)

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IT IS HEREBY ORDERED THAT:

1. The Application is **GRANTED**.
2. The Court finds that LMP is deemed disinterested under 15 U.S.C. § 78eee(b)(6).

3. The Trustee is authorized to retain LMP as special counsel to the Trustee as provided in the Application.

DATED: _____
NEW YORK, NEW YORK

HONORABLE LISA G. BECKERMAN
UNITED STATES BANKRUPTCY JUDGE