



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

November 16, 2011

BY HAND

Honorable Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: United States v. David L. Kugel
S4 10 Cr. 228 (LTS)

Dear Judge Swain:

The Government anticipates that at the court appearance scheduled for November 21, 2011 at 12:30 PM, the Government will file a Superseding Information (the "Superseding Information") in the above-referenced case. The parties anticipate that at the conference, David L. Kugel ("Kugel"), a former supervisory trader in the Proprietary Trading operation at Bernard L. Madoff Investment Securities LLC ("BLMIS"), will plead guilty to the Superseding Information pursuant to a cooperation agreement with the Government. The Superseding Information charges (1) a conspiracy beginning in the early 1970s through December 2008 to commit securities fraud, falsify records of a broker-dealer, and falsify records of an investment adviser at BLMIS, by participating with other co-conspirators in the creation of fake trades used to deceive the clients of BLMIS's Investment Advisory business; (2) a conspiracy to commit bank fraud; (3) securities fraud; (4) falsifying records of a broker-dealer; (5) falsifying records of an investment adviser; and (6) bank fraud. A chart of the charges in the Information and the maximum penalties is attached.

In order to provide notice to victims of the anticipated guilty plea proceeding, the Government respectfully requests that the Court direct the United States Attorney's Office to post this

Honorable Laura Taylor Swain

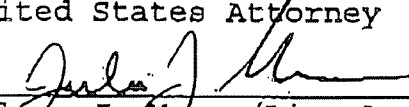
November 16, 2011

Page 2

letter on its Internet website at <http://www.usdoj.gov/usao/nys>
on a separate Web page for *United States v. Bernard L. Madoff and
Related Cases.*

Respectfully submitted,

PREET BHARARA
United States Attorney

By: 
Julian J. Moore/Lisa A. Baroni
Assistant U.S. Attorneys
(212) 637-2473 / 637-2405

cc: Daniel L. Zelenko, Esq.
Martin B. Adelman, Esq.
(Counsel to David L. Kugel)

SO ORDERED.

NEW YORK, NY


LAURA TAYLOR SWAIN
NOV 16, 2011 UNITED STATES DISTRICT JUDGE

United States v. David L. Kugel, S4 10 Cr. 228 (LTS)

<u>Count</u>	<u>Charge</u>	<u>Maximum Penalties</u>
ONE	Conspiracy to (1) Commit Securities Fraud; (2) Falsify Books and Records of a Broker-Dealer; and (3) Falsify Books and Records of an Investment Adviser	5 yrs. imprisonment; 3 yrs. supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss; mandatory \$100 special assessment; restitution; and criminal forfeiture.
TWO	Conspiracy to Commit Bank Fraud	5 yrs. imprisonment; 3 yrs. supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss; mandatory \$100 special assessment; restitution; and criminal forfeiture.
THREE	Securities Fraud	20 yrs. imprisonment; 3 yrs. supervised release; fine of the greatest of \$5,000,000 or twice the gross gain or loss; mandatory \$100 special assessment; restitution; and criminal forfeiture.
FOUR	Falsifying Books and Records of a Broker-Dealer	20 yrs. imprisonment; 3 yrs. supervised release; fine of the greatest of \$5,000,000 or twice the gross gain or loss; mandatory \$100 special assessment; restitution; and criminal forfeiture.
FIVE	Falsifying Books and Records of an Investment Adviser	5 yrs. imprisonment; 3 yrs. supervised release; fine of the greatest of \$250,000 or twice the gross gain or loss; mandatory \$100 special assessment; and restitution
SIX	Bank Fraud	30 yrs. imprisonment; 5 yrs. supervised release; fine of the greatest of \$1,000,000 or twice the gross gain or loss; mandatory \$100 special assessment; restitution; and criminal forfeiture.