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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

BERNARD L. MADOFF,

Defendant.

- - - - - - - - - - - - - - - - - - - -x

ORDER

09 Crim. 213 (DC)

CHIN, District Judge

On September 24, 2009, I issued an order finding restitution impractical and permitting the Government to proceed with remission, which would allow victims to be paid through forfeiture. Subsequently, attorney Helen Chaitman filed a motion for reconsideration on behalf of "a large group of victims."[1] In her declaration, she states that the victims do not oppose remission, but seek restrictions on the administration of the forfeiture and remission process.

The motion for reconsideration is denied, for in my September 24, 2009 order, I merely held that the government could use remission in lieu of restitution. I did not hold, or intend to hold, that particular victims or categories of victims were not entitled to relief.

Chaitman states in her declaration that the victims she represents do not oppose remission. She does not dispute the Court's finding that restitution is impracticable and that the Government is authorized under 21 U.S.C. § 853(i) to grant petitions and compromise claims for remission of forfeiture.

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[1] Chaitman identifies some but not all of the victims that she represents.

Rather, Chaitman argues that Irving Picard deprived investors of the money that should be paid to them under the Securities Investor Protection Act ("SIPA"). Other victims have also submitted letters to the Court asserting that they were denied restitution under SIPA by Mr. Picard.

The simple answer is that these are not issues for me. Judge Stanton appointed Irving Picard as the SIPA Trustee on December 15, 2008. Judge Lifland, on December 23, 2008, ordered that any objections to the appointment and retention of the Trustee shall be filed with the Bankruptcy Court, and set a procedure to resolve customer claims and "net equity" claims. Victims who disagree with Mr. Picard's determination of their claims under SIPA or who seek an order directing the government "to follow Congress' mandate in SIPA" must pursue their remedies under SIPA, in the proceedings before Judge Lifland or Judge Stanton.

Finally, to the extent the victims object to the government's possible retention of Mr. Picard to assist in the remission process, even assuming I have the power to block the government from doing so, I decline to exercise that power. Accordingly, the motion to reconsider my September 24, 2009 motion is denied.

SO ORDERED.

Dated: New York, New York
October 27, 2009

DENNY CHIN
United States District Judge