UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA :

-v- :

PETER MADOFF, :

Defendant. :

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**INFORMATION**

S7 10 Cr. 228 (LTS)

## COUNT ONE

**(Conspiracy to Commit Securities Fraud, to Falsify Records of an Investment Adviser, to Falsify Records of a Broker-Dealer, to Make False Filings with the SEC, to Commit Mail Fraud, to Falsify Statements in Relation to Documents Required by ERISA, and to Obstruct and Impede the Lawful Governmental Function of the Internal Revenue Service)**

The United States Attorney charges:

### Relevant Persons and Entities

1. At all times relevant to this Information, Bernard L. Madoff Investment Securities LLC, and its predecessor, Bernard L. Madoff Investment Securities (collectively and separately, "BLMIS"), had its principal place of business in New York, New York, most recently at 885 Third Avenue, New York, New York. BLMIS was a broker-dealer that engaged in three principal types of business: Market Making; Proprietary Trading; and Investment Advisory ("Investment Advisory" or "IA") services. BLMIS was registered with the United States Securities and Exchange Commission ("SEC") as a broker-dealer and was, beginning in or about 2006, registered with the SEC as an investment adviser.

2. Bernard L. Madoff was the founder of BLMIS, and served as its sole member and principal. In that capacity, Bernard L. Madoff controlled the business activities of BLMIS. At the time of the collapse of BLMIS on December 11, 2008, Bernard L. Madoff managed more than 4,000 Investment Advisory accounts purporting to have a cumulative balance of approximately $65 billion. While Bernard L. Madoff promised to clients and prospective clients that he would invest their money in shares of common stock, options, and other securities of well-known corporations, he never invested the client funds in the securities as he had promised.

3. PETER MADOFF, the defendant (hereinafter, "MADOFF"), was employed at BLMIS from in or about 1965, through on or about December 11, 2008, during which time MADOFF held a variety of positions. From approximately 1969 through December 11, 2008, MADOFF, an attorney, was the Chief Compliance Officer ("CCO") and Senior Managing Director at BLMIS. MADOFF also was the head trader in BLMIS's Market Making and Proprietary Trading operations for many years. MADOFF was a director of Madoff Securities International Ltd. ("MSIL"), an entity incorporated in the United Kingdom, that was an affiliate of BLMIS. MADOFF was a part owner of Cohmad Securities Corp. ("Cohmad Securities"), a related entity that, among other things, solicited Investment Advisory clients on behalf of BLMIS. MADOFF held several

securities licenses and a number of leadership positions in the financial industry, including Vice Chairman of the National Association of Securities Dealers, Inc. ("NASD"), Member of the NASD Executive Committee, Governor of the National Stock Exchange, Director of the Depository Trust and Clearing Corporation, Chairman of the Security Industry Association, and President of the Security Traders Association of New York.

4. Frank DiPascali, Jr. was employed at BLMIS between on or about September 11, 1975, and on or about December 11, 2008. During his employment at BLMIS, DiPascali had a variety of duties and responsibilities. By the early 1990s, DiPascali was one of the BLMIS employees responsible for managing the majority of BLMIS's IA accounts into which thousands of clients invested, and eventually lost, billions of dollars. DiPascali created fake trades in IA client accounts from at least in or about the early 1990s through December 11, 2008.

5. Daniel Bonventre was employed at BLMIS from in or about August 1968, through at least on or about December 11, 2008. Bonventre began working at BLMIS as an auditor and eventually assumed the position of "Director of Operations" for BLMIS since at least the 1980s. Bonventre maintained the books and records of BLMIS, including the General Ledger and the Stock Record, and BLMIS's bank accounts. In this capacity, he engaged in an accounting fraud that was designed to disguise transfers of

funds to and from the Investment Advisory business to other parts of BLMIS's operations.

6. Annette Bongiorno was employed at BLMIS from on or about July 1, 1968, through at least on or about December 11, 2008. Among other things, Bongiorno managed hundreds of IA accounts purportedly having a cumulative balance of approximately $8.5 billion dollars as of November 30, 2008. During her employment, Bongiorno created fake trades in IA client accounts from at least in or about the early 1970s through December 11, 2008.

7. Joann Crupi, a/k/a "Jodi," was employed at BLMIS from on or about July 5, 1983, through at least on or about December 11, 2008. During her employment at BLMIS, Crupi had a variety of duties and responsibilities, including tracking the daily activity of the bank account through which the Ponzi scheme was perpetrated, into which billions of dollars of IA client money was deposited and from which IA client redemptions were paid (the "IA Bank Account") and directing wire transfers into and out of the IA Bank Account. In addition, Crupi managed several BLMIS IA accounts purportedly having a cumulative balance of approximately $900 million as of November 30, 2008. Crupi created fake trades in IA client accounts from at least in or about the 1990s through December 11, 2008.

8. David Kugel was employed at BLMIS from in or about 1970, through at least on or about December 11, 2008. Beginning in or about 1970, David Kugel was a trader in BLMIS's Proprietary Trading and Market Making operations. During his employment at BLMIS, David Kugel worked under the supervision of PETER MADOFF, the defendant. Beginning in the early 1970s until the collapse of BLMIS, David Kugel, along with Bongiorno, Crupi and others, helped create fake, backdated trades for BLMIS's IA business.

9. Enrica Cotellessa-Pitz was employed at BLMIS from in or about June 1978, through at least on or about December 11, 2008. In or about 1998, Cotellessa-Pitz became the Controller of BLMIS. Cotellessa-Pitz assisted Bonventre in maintaining the books and records of BLMIS, including the General Ledger and the Stock Record, and BLMIS's bank accounts. Cotellessa-Pitz engaged in an accounting fraud that was designed to disguise transfers of funds to and from the Investment Advisory business to other parts of BLMIS's operations.

10. David G. Friehling, a licensed Certified Public Accountant ("CPA"), was the sole practitioner at Friehling & Horowitz, CPAs, P.C. ("F&H"). From in or about 1991 through 2008, F&H was the accounting firm retained by BLMIS purportedly to audit BLMIS's financial statements. Friehling created false certified and audited financial statements for BLMIS, which were filed with the SEC and sent to certain clients of BLMIS.

Friehling also was the tax accountant for PETER MADOFF, the defendant, and other Madoff family members. Friehling prepared MADOFF's personal income tax returns from at least in or about 2000 through 2007. Friehling was the tax accountant for Bernard L. Madoff beginning in at least 1991 through 2008.

11. Jerome O'Hara and George Perez were employed at BLMIS starting in or about 1990 and 1991, respectively. O'Hara and Perez were each responsible for, among other things, developing and maintaining computer programs for computers that supported the operations of BLMIS, including its Market Making, Proprietary Trading, and IA operations. In this capacity, they created and maintained computer programs that were used to create false books and records of BLMIS.

12. Eric S. Lipkin was employed at BLMIS from in or about the mid-1980s, through at least on or about December 11, 2008. From in or about 1996, Lipkin created false books and records at BLMIS and, in his capacity as payroll manager, maintained individuals on BLMIS's payroll who did not work for the firm but who nevertheless received salaries and benefits.

13. Craig Kugel was employed at BLMIS, or its affiliated entity Primex Trading LLC ("Primex"), from in or about 2001, through at least on or about December 11, 2008. At Primex, Craig Kugel worked under the direct supervision of PETER MADOFF, the defendant. Craig Kugel's responsibilities included, among

other things, budget forecasting for BLMIS's Market Making and Proprietary Trading operations and overseeing BLMIS's health care plan. Craig Kugel also maintained individuals on BLMIS's payroll who did not work for the firm but who nevertheless received salaries and benefits.

**The Principal Bank Accounts of BLMIS**

14. The IA Bank Account into which billions of dollars of IA client money for investment was deposited, and from which IA client redemptions were paid, was maintained most recently at a bank in New York, New York ("Bank No. 1").

15. PETER MADOFF, the defendant, along with Bernard L. Madoff, Frank DiPascali, Daniel Bonventre, Enrica Cotellessa-Pitz and others, were authorized signatories on the IA Bank Account at Bank No. 1.

16. PETER MADOFF, the defendant, signed checks drawn on the IA Bank Account for BLMIS IA clients. Specifically, from at least 1999 through 2008, MADOFF signed redemption checks for IA clients.

17. BLMIS maintained a separate bank account that was principally used to fund, directly and indirectly, the Market Making and Proprietary Trading operations of BLMIS (the "BLMIS Operating Account"). The BLMIS Operating Account was custodied most recently at a different bank in New York, New York ("Bank No. 2").

**PETER MADOFF Created False and Misleading Documents at BLMIS**

18. PETER MADOFF, the defendant, created false and misleading entries in numerous BLMIS documents that were designed to make it appear that MADOFF, as CCO, performed various compliance reviews of BLMIS's Investment Advisory business and that BLMIS maintained an effective compliance program. MADOFF's false and misleading statements made it appear to regulators and IA clients that BLMIS actually had a CCO who performed required compliance functions, when in reality MADOFF did nothing of the sort.

19. For example, in or about 2006, PETER MADOFF, the defendant, participated in creating and writing the "Bernard L. Madoff Investment Securities LLC Investment Advisory Compliance Manual" ("IA Compliance Manual") that stated, "BLMIS has designated Peter Madoff . . . as the Chief Compliance Officer to administer BLMIS's compliance policies and procedures in connection with its investment advisory business." The IA Compliance Manual also required that MADOFF perform regular reviews of the trading activity in the BLMIS IA business and prepare reports reflecting such reviews (the "Investment Advisory Reviews"). In order to make it appear that he had performed the periodic reviews of IA trading, MADOFF signed several weeks of fictitious Investment Advisory Reviews in one sitting, intentionally changing pens and ink colors to conceal that MADOFF

had created many of the Investment Advisory Reviews all at one time.

20. After registering as an investment adviser with the SEC in or about 2006, BLMIS was required to perform certain reviews of its Investment Advisory operations on an annual basis. In 2007 and 2008, PETER MADOFF, the defendant, created and approved annual reports under Rule 206(4)-7 of the Investment Advisers Act, in which he stated that he had performed the required annual compliance reviews of BLMIS's IA business; however, MADOFF did not perform any of the required reviews. Specifically, MADOFF stated that he was "qualified to perform such review [of BLMIS's IA business] based upon his knowledge of the Investment Adviser's Act of 1940 and of Madoff's advisory business." MADOFF certified that he had "examined the process by which all trading is supervised" in the BLMIS IA business, and that he had "found that the implementation of the compliance procedures reflected good principles of management and control." These statements were false. MADOFF performed no such reviews and conducted no examinations of trading in the IA business. MADOFF further certified that he had "qualitatively tested the compliance procedures" and that "[i]t was demonstrated to the CCO [MADOFF] that the reviews [of BLMIS's IA trading] are reasonably designed to detect violations of the Investment Adviser Rules and the federal securities laws applicable to [BLMIS's] business."

As MADOFF knew, these statements also were false and created the false impression to regulators, auditors, and IA clients that MADOFF had undertaken substantive compliance reviews, which in fact he never performed.

21. PETER MADOFF, the defendant, also created annual reports in or about 2006 and 2007 pursuant to NASD Rules 3012 and 3013 in which he again falsely stated that he had performed a comprehensive compliance review of all aspects of BLMIS's operations, including its Investment Advisory business. The false reports set out in detail the purported compliance review that MADOFF claimed to have performed. For example, MADOFF stated that he "coordinated and oversaw" a compliance review of all of BLMIS's operations, including its IA business, "on a quarterly basis" and that "[t]he Compliance Department coordinated and oversaw this review." MADOFF further stated, "[t]his initiative included all aspects of Madoff's business" and that he "personally observes on a daily basis" the trading activity. These statements were false. In reality, as he knew, MADOFF performed no compliance reviews of the trading in the BLMIS IA business. These false statements were designed to mislead regulators, auditors, and IA clients.

22. From at least in or about 2006 through 2008, PETER MADOFF, the defendant, represented to IA Clients that he was the Chief Compliance Officer for the IA business and made false

statements to certain IA clients about the compliance program that BLMIS had in place with respect to its IA business.

23. In addition to creating false documents, PETER MADOFF, the defendant, also participated in the withholding of certain BLMIS documents from the SEC. Specifically, in 2005, the SEC performed a review of BLMIS's businesses ("2005 Review"). In connection with the 2005 Review, the SEC requested numerous documents, including emails of certain BLMIS employees. MADOFF, Frank DiPascali, and others reviewed emails responsive to the SEC's request and caused certain emails relating to the IA business, among others, to be withheld from the SEC.

**PETER MADOFF Created and Caused to be Filed With the SEC False and Misleading Forms ADV**

24. BLMIS had been registered as a broker-dealer since approximately 1960 and, in or about August 2006, BLMIS registered with the SEC as an investment adviser. Specifically, in or about August 2006, BLMIS filed its initial Form ADV, the document that investment advisers are required to file at least on an annual basis with the SEC, pursuant to the Investment Advisers Act. The information provided by registered investment advisers on the Form ADV is used by the SEC, among other things, to manage its examination programs of investment advisers. In 2006, 2007 and 2008, BLMIS filed numerous Forms ADV with the SEC (collectively, the "Forms ADV"). The Forms ADV also were provided to certain

BLMIS IA clients. The Forms ADV were materially false and misleading in several respects.

25. PETER MADOFF, the defendant, was the CCO and Senior Managing Director of BLMIS at the time that the Forms ADV were filed with the SEC and disseminated to certain of BLMIS's Investment Advisory clients. MADOFF was integrally involved in BLMIS's registration process. MADOFF had numerous discussions with Bernard L. Madoff, Frank DiPascali, and others about whether the IA "trading strategy" required registration with the SEC as an investment adviser. Further, after the decision to register with the SEC had been made, MADOFF created and caused the false and misleading Forms ADV to be filed with the SEC. In fact, the Forms ADV list MADOFF as the "contact employee" in his capacity as Principal and/or CCO of BLMIS.

26. The Forms ADV contained numerous false statements about the nature of BLMIS's Investment Advisory operations, including that: (1) BLMIS provided Investment Advisory services to only approximately "11 to 25" clients; (2) the "total number" of IA accounts was "23"; (3) BLMIS had assets under management of approximately $11.7 billion in 2006, $13.2 billion in 2007, and $17.1 billion in 2008; (4) BLMIS's IA services were available "only to institutional and high net worth clients;" (5) MADOFF, as CCO, ensured that reviews of IA trading were being performed;

and (6) no other firms or individuals solicited IA clients on behalf of BLMIS.

27. With respect to the false statements about the number of clients to whom BLMIS provided IA services and the amount of assets under management, PETER MADOFF, the defendant, knew that BLMIS had significantly more than 23 IA accounts, and he knew that the assets under management exceeded the amounts reported on the Forms ADV. In 2008, at the time of its collapse, BLMIS had more than 4,000 IA accounts. Further, on paper, BLMIS had more than $65 billion in assets under management from its IA clients.

28. With respect to the statement that BLMIS's IA services were available "only to institutional and high net worth clients," PETER MADOFF, the defendant, knew that this was false. MADOFF knew that many of the BLMIS IA clients included individuals who did not have a "high net worth," and he also had conversations with other BLMIS employees about the smaller IA accounts.

29. With respect to the false statements that no other firms or individuals solicited IA clients on behalf of BLMIS, PETER MADOFF, the defendant, knew that numerous individuals and entities in fact solicited IA clients for BLMIS in exchange for fees. Indeed, MADOFF even had an ownership interest in one such

firm, Cohmad Securities, and he also personally solicited IA clients on behalf of BLMIS.

30. With respect to the false statements that PETER MADOFF, the defendant, as the CCO of BLMIS, ensured that reviews of IA trading were being performed, MADOFF knew that this statement about conducting reviews was false. MADOFF performed no such reviews.

31. The numerous misstatements in BLMIS's Forms ADV made by PETER MADOFF, the defendant, were designed to create the false appearance that BLMIS's IA business had a small number of highly sophisticated clients and fewer assets under management in order to avoid greater scrutiny from the SEC. Further, the false statements that MADOFF performed compliance reviews of BLMIS's IA trading on a regular basis were designed to mislead the SEC, as well as IA clients and auditors. MADOFF's false representations made it appear that a responsible and qualified CCO was performing a genuine and effective compliance function at BLMIS. In reality, contrary to his representations, MADOFF did not even attempt to review any IA trades. MADOFF's false statements and his failure to perform any compliance reviews of the IA business served to perpetuate the fraud that resulted in billions of dollars of losses to BLMIS's IA clients.

**PETER MADOFF's Conduct At the Collapse of BLMIS In 2008**

32. By the fall of 2008, the collapse of BLMIS appeared likely to certain BLMIS employees. From at least in or about the fall of 2008, requests for redemptions made by BLMIS IA clients began to increase at a rate greater than investments made by new or existing clients. On or about November 3, 2008, the balance of the IA Bank Account, which was maintained by Joann Crupi, Daniel Bonventre and others, showed a balance of approximately $487 million, and unfulfilled requests for redemptions totaling approximately $1.447 billion.

33. By on or about December 4, 2008, the balance of the IA Bank Account was only approximately $295 million, and unfulfilled requests for redemptions from IA clients totaled approximately $1.455 billion.

34. In or about December 2008, Frank DiPascali, Joann Crupi, and others, prepared lists reflecting preferred employees, family members, and certain other IA clients, and the balances in their respective IA accounts. PETER MADOFF, the defendant, Bernard L. Madoff, and others reviewed these lists and decided which preferred IA clients - including MADOFF's own friends and family - should receive the remaining BLMIS funds, putting the interests of themselves, their friends, and their families ahead of other IA clients.

35. PETER MADOFF, the defendant, and others, caused checks to be prepared for these preferred IA clients so that the remaining BLMIS funds would be sent to them before BLMIS collapsed. More than approximately $300 million in checks were prepared to be mailed to these preferred IA clients. BLMIS collapsed before these checked were ever mailed.

36. On or about December 10, 2008, when the collapse of BLMIS was imminent, PETER MADOFF, the defendant, withdrew approximately $200,000 from the BLMIS Operating Account for himself.

**PETER MADOFF Engaged In Tax Fraud**

37. From at least in or about 1998 through in or about 2008, PETER MADOFF, the defendant, substantially under-reported his taxable income on his U.S. Individual Income Tax Returns, Forms 1040 ("Tax Returns") and, together with others, avoided taxes such as gift taxes required for transfers of millions of dollars. MADOFF engaged in schemes to transfer wealth within the Madoff family and avoided paying millions of dollars in required taxes to the Internal Revenue Service ("IRS"). Most, if not all, of that "wealth" was money that came, directly or indirectly, from the IA Bank Account. As set forth in greater detail below, the methods by which MADOFF engaged in tax fraud included the following: (1) MADOFF received approximately $15,700,000 from Bernard L. Madoff and his wife, and MADOFF executed sham

promissory notes to make it appear that the transfers of these funds were loans in order to avoid required tax payments; (2) MADOFF gave approximately $9,900,000 to other Madoff family members, and MADOFF executed sham promissory notes to make it appear that the transfers of these funds were loans in order to avoid required tax payments; (3) MADOFF received approximately $7,750,000 directly out of the IA Bank Account and did not pay taxes on these funds; (4) MADOFF received approximately $16,800,000 from Bernard L. Madoff from two sham trades, and disguised the proceeds of the trades as long-term stock transactions in order for MADOFF to take advantage of the lower tax rate for long-term capital gains; and (5) MADOFF charged approximately $175,000 in personal expenses to a corporate American Express card and did not report those expenses as income. From these tax avoidance schemes, MADOFF avoided paying millions of dollars in taxes that he was required to pay to the IRS and other taxing authorities. Further, MADOFF's schemes caused Bernard L. Madoff to avoid paying millions of dollars in taxes that he was required to pay to the IRS.

**The Sham Promissory Notes**

38. From at least 1998 through 2008, PETER MADOFF, the defendant, received approximately $15,700,000 from Bernard L. Madoff and his wife. MADOFF signed sham promissory notes to disguise these transfers of funds as loans in order to conceal

the true nature of the transfers and to avoid the required tax payments. Under the terms of the notes, MADOFF was required to make regular interest payments on the loans, which he never did. As a result of this scheme, MADOFF avoided, or caused others to avoid, millions of dollars in required tax payments. MADOFF used these funds, among other things, to purchase a luxury home in Palm Beach, Florida. Almost all of these funds - $13,200,000 of the $15,700,000 - came out of IA investors' funds held in the IA Bank Account.

39. From in or about 2005 through in or about 2008, PETER MADOFF, the defendant, also transferred approximately $9,900,000 to other family members. With respect to these transfers of funds, MADOFF again executed sham promissory notes to conceal the true nature of the transfers and to make it appear that the transfers were loans. Under the terms of the notes, regular interest payments were required to be made to MADOFF; however, the interest payments were not made. As a result of this scheme, MADOFF avoided millions of dollars in required tax payments.

**Transfers Out of the IA Bank Account to MADOFF**

40. In or about 2004 and in or about 2008, PETER MADOFF, the defendant, also received a total of approximately $7,750,000 from the IA Bank Account. No tax payments were made on these transfers of funds.

41. Specifically, in or about 2004, PETER MADOFF, the defendant, received approximately $4,450,000 from the IA Bank Account, which he used to purchase a luxury apartment on Park Avenue in New York, New York.

42. In or about 2008, PETER MADOFF, the defendant, received approximately $3,100,000 from the IA Bank Account, which he gave to a Madoff family member to purchase a home in East Hampton, New York.

43. On or about December 10, 2008, when the collapse of BLMIS was imminent, PETER MADOFF, the defendant, withdrew approximately $200,000 from the Operating Account.

**The Sham Trades**

44. In or about 2002, PETER MADOFF, the defendant, received approximately $8,750,000 from Bernard L. Madoff disguised as profits from a trade in Microsoft stock in MADOFF's IA account. The stock purportedly was purchased in MADOFF's IA account, in part on margin and in part from a loan from Bernard L. Madoff. Although the purported purchase date of the Microsoft stock reflected on the BLMIS account statements was in or about December 2000, and the purported sale date was in or about January 2002, the Microsoft trade was not actually entered into the BLMIS computer system, and MADOFF's account statements were not created, until in or about March 2002. MADOFF's IA account in which these trades purportedly were executed was not even

created until in or about March 2002. The trade, fictitious reports of which were created by Annette Bongiorno, was in fact a sham, and was designed to disguise payments made by Bernard L. Madoff to MADOFF in order to take advantage of the lower tax rate for long-term capital gains (as opposed to the higher tax rates for either ordinary income or gifts).

45. The proceeds that PETER MADOFF, the defendant, received from this trade came directly out of the IA Bank Account.

46. PETER MADOFF, the defendant, falsely claimed on his 2002 personal income tax return, which had been prepared by David Friehling, that the $8,750,000 was the proceeds of a long-term capital gain in Microsoft stock.

47. Similarly, in 2005, PETER MADOFF, the defendant, received approximately $8,100,000 from Bernard L. Madoff disguised as profits from a trade in Apple stock. Records relating to this fictitious trade were created by Annette Bongiorno. Like the 2002 Microsoft transaction, the Apple stock purportedly was purchased in MADOFF's IA account in part on margin and in part from a loan from Bernard L. Madoff. MADOFF told Bongiorno that he wanted to earn "8 million total plus taxes plus BLM loan int[erest]" from the trade. Records were later created showing that the fictitious trade "earned" $8,100,000, just as MADOFF requested. In or about March 2005, before the

trade was even "executed," MADOFF withdrew several million dollars from his IA account, leaving his account with a negative balance of approximately -$4,500,000. These funds came directly out of the IA Bank Account. From these funds, MADOFF gave approximately $2,400,000 to a family member for the purchase of a luxury apartment in New York, New York, and gave $2,500,000 to another family member, pursuant to the sham promissory notes described in paragraph 39 above.

48. Although the purported purchase date of the Apple stock trade reflected on the BLMIS account statements was in or about January 2004, and the purported sale date was in or about March 2005, the Apple trade was not actually entered into the BLMIS computer system, and the IA account statements for the IA account of PETER MADOFF, the defendant, were not even created, until in or about September 2005 - six months after MADOFF withdrew the "proceeds" of the trade. Like the sham 2002 transaction in Microsoft, the trade in Apple stock was designed to disguise payments made by Bernard L. Madoff to MADOFF in order to take advantage of the lower tax rate for long-term capital gains (as opposed to the higher tax rates for either ordinary income or gifts).

49. PETER MADOFF, the defendant, falsely claimed on his 2005 personal income tax return, prepared by David Friehling,

that the $8,100,000 was the proceeds of a long-term capital gain in Apple stock.

**The Use of the Corporate Credit Card for Personal Expenses**

50. Beginning at least in or about 2002 through on or about December 11, 2008, PETER MADOFF, the defendant, charged approximately $175,000 dollars in personal expenses, including luxury clothes and international vacations for himself and his family, to a corporate American Express card.

51. None of the more than $175,000 dollars in personal expenses charged by PETER MADOFF, the defendant, was reported by BLMIS or MADOFF to the IRS as salary, bonus, or any other form of compensation.

52. Further, beginning in or about 2001, PETER MADOFF, the defendant, had numerous conversations with Craig Kugel about Craig Kugel's personal charges on the corporate American Express Card. MADOFF suggested an arrangement whereby the personal charges incurred by Craig Kugel were not reported to the IRS as income.

**The No-Show Job For MADOFF's Wife**

53. In or about 1996, PETER MADOFF, the defendant, instructed BLMIS employee Eric Lipkin to place MADOFF's wife on the BLMIS payroll. MADOFF knew that his wife did not work at BLMIS or perform any services for BLMIS; nonetheless, she received salary and benefits to which she was not entitled. At

the direction of MADOFF, his wife received between approximately $100,000 to $160,000 per year in purported salary and other benefits to which she was not entitled.

54. PETER MADOFF, the defendant, caused false documents to be created and disseminated reflecting that his wife was an employee. For example, PETER MADOFF, the defendant, caused false Annual Returns ("Forms 5500") concerning BLMIS's employee benefit plan to be submitted to the United States Department of Labor ("DOL"). Form 5500 is part of the Employee Retirement Income Security Act's ("ERISA") overall reporting and disclosure framework, which is intended to assure that employee benefit plans are operated and managed in accordance with certain prescribed standards and that participants and beneficiaries, as well as regulators, are provided or have access to sufficient information to protect the rights and benefits of participants and beneficiaries under employee benefit plans.

55. Further, PETER MADOFF, the defendant, caused false documents to be submitted to the third party administrator of a BLMIS health care plan, falsely stating that his wife was an employee and thus was eligible to participate in BLMIS's 401(k) plan and flexible spending account program.

## STATUTORY ALLEGATIONS

### The Conspiracy

56. From at least in or about 1996, through and including on or about December 11, 2008, in the Southern District of New York and elsewhere, PETER MADOFF, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to defraud the United States, and any agency thereof, to wit, the IRS, and to commit offenses against the United States, to wit, (a) securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff; and Title 17, Code of Federal Regulations, Section 240.10b-5; (b) falsifying the records of an investment adviser, in violation of Title 15, United States Code, Sections 80b-4 and 80b-17; and Title 17, Code of Federal Regulations, Section 275.204-2; (c) falsifying the records of a broker-dealer, in violation of Title 15, United States Code, Sections 78q(a) and 78ff; and Title 17, Code of Federal Regulations, Section 240.17a-3; (d) causing the filing of false documents with the SEC, in violation of Title 15, United States Code, Sections 78q(a) and 78ff, and Title 17, Code of Federal Regulations, Section 240.17a-5; (e) mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2; and (f) falsifying statements in relation to documents required by ERISA,

in violation of Title 18, United States Code, Sections 1027 and 2.

**Objects of the Conspiracy**

**Securities Fraud**

57. It was a part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and unknown, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, would and did use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities, in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes, and artifices to defraud; (b) making and causing BLMIS to make untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which would and did operate as a fraud and deceit upon persons who invested in and through BLMIS, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

**Falsifying Records of an Investment Adviser**

58. It was a further part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and

unknown, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, in connection with BLMIS's business as an investment adviser, would and did cause BLMIS to fail to make and keep for prescribed periods such records, furnish such copies thereof and make and disseminate such reports as the SEC, by rule, has prescribed as necessary and appropriate in the public interest and for the protection of investors, in violation of Title 15, United States Code, Sections 80b-4 and 80b-17; and Title 17, Code of Federal Regulations, Section 275.204-2.

**Falsifying Records of a Broker-Dealer**

59. It was a further part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and unknown, willfully and knowingly would and did cause BLMIS, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, has prescribed as necessary and appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Securities Exchange Act of 1934, in violation of Title 15, United States Code, Sections 78q(a) and 78ff; and Title 17, Code of Federal Regulations, Section 240.17a-3.

**False Filings with the SEC**

60. It was a further part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and

unknown, willfully and knowingly, in applications, reports, and documents required to be filed with the SEC under the Securities Exchange Act of 1934, and the rules and regulations thereunder, would and did make and cause to be made statements that were false and misleading with respect to material facts, in violation of Title 15, United States Code, Sections 78q(a) and 78ff; and Title 17, Code of Federal Regulations, Section 240.17a-5.

**Mail Fraud**

61. It was a further part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises for the purpose of executing said scheme and artifice and attempting so to do, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and would and did take and receive therefrom, such matters and things, and would and did knowingly cause to be delivered by mail and such carriers according to the directions thereon, such matters and things, in violation of Title 18, United States Code, Section 1341.

**Falsifying Statements in Relation to Documents Required by ERISA**

62. It was a further part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and unknown, knowingly, in documents required by Title I of ERISA to be published, kept as part of the records of employee welfare benefit plans and employee pension benefit plans, and certified to the administrator of such plan, would and did make and cause to be made false statements and representations of fact, knowing them to be false, and did knowingly conceal, cover up and fail to disclose facts the disclosure of which was required by Title I of ERISA, and was necessary to verify, clarify, and check for accuracy and completeness reports required by such title to be published and certified, in violation of Title 18, United States Code, Section 1027.

**Obstructing and Impeding the Lawful Governmental Function of the Internal Revenue Service**

63. It was a further part and an object of the conspiracy that PETER MADOFF, the defendant, and others known and unknown, willfully and knowingly would and did defraud the United States of America, and an agency thereof, to wit, the Internal Revenue Service, by impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service in the ascertainment, assessment, computation and collection of income taxes.

## Means and Methods of the Conspiracy

64. Among the means and methods by which PETER MADOFF, the defendant, and others known and unknown, would and did carry out the conspiracy were the following:

a. MADOFF made false statements to certain IA clients about the compliance program that BLMIS purportedly maintained with respect to its IA business.

b. MADOFF created and caused to be filed with the SEC false Forms ADV that misled regulators and IA clients about the size and scope of BLMIS's IA business.

c. MADOFF created false and misleading statements in the BLMIS books and records that were designed to conceal the fact that MADOFF, as CCO of BLMIS, did not perform any compliance reviews of the trading in the IA business.

d. At the collapse of BLMIS, MADOFF and others decided which IA clients should receive the remaining BLMIS funds, thereby putting the interests of their own friends and family ahead of all other IA clients.

e. MADOFF received millions of dollars directly from IA client funds in the IA Bank Account.

f. MADOFF signed sham promissory notes to disguise transfers of funds as loans in order to avoid payment of millions of dollars of taxes.

g. MADOFF disguised transfers of funds as long-term capital gains in order to avoid payment of millions of dollars of taxes.

h. MADOFF received unreported income through his usage of the corporate American Express card, and he failed to report that income on his federal tax returns.

i. MADOFF caused to be filed with the DOL fraudulent Forms 5500 that included employees who did not work at BLMIS.

**Overt Acts**

65. In furtherance of the conspiracy and to effect the illegal objects thereof, PETER MADOFF, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. Beginning in or about 1996, in New York, New York, MADOFF caused his wife, who performed no work for BLMIS, to be put on the BLMIS payroll and given a salary of approximately $100,000 to $160,000 per year and benefits to which she was not entitled.

b. In or about December 1998, in New York, New York, MADOFF received approximately $2,500,000 from Bernard L. Madoff, and MADOFF executed a sham promissory note to disguise the transfer as a loan.

c. In or about May 2001, in New York, New York, MADOFF received approximately $4,200,000 from Bernard L. Madoff, and MADOFF executed a sham promissory note to disguise the transfer as a loan.

d. In or about 2002, MADOFF and Bernard L. Madoff disguised approximately $8,750,000 as profits from a long-term trade that was, in fact, a sham.

e. In or about 2004, in New York, New York, MADOFF received approximately $4,450,000 from the IA Bank Account.

f. In or about March 2005, in New York, New York, MADOFF gave approximately $2,500,000 to a family member, and MADOFF executed a sham promissory note to disguise the transfer as a loan.

g. In or about March 2005, in New York, New York, MADOFF gave approximately $2,400,000 to a family member, and MADOFF executed a sham promissory note to disguise the transfer as a loan.

h. In or about 2005, MADOFF and Bernard L. Madoff disguised approximately $8,750,000 as profits from a long-term trade that was, in fact, a sham.

i. In or about August 2006, in New York, New York, MADOFF caused a false and misleading Form ADV to be filed with the SEC that falsely stated, among other things, that

BLMIS's Investment Advisory business had only "23" accounts, assets under management of only $11.7 billion, no individual clients other than "high net worth individuals," and that no other firms or individuals solicited advisory clients on behalf of BLMIS.

j. In or about September 2006, in New York, New York, MADOFF caused a false and misleading Form ADV to be filed with the SEC that falsely stated, among other things, that he would ensure that weekly reviews of IA trading would be performed, and that "BLMIS's advisory services are available only to institutional and high net worth clients."

k. In or about December 2006, in New York, New York, MADOFF created a false and misleading annual report pursuant to NASD Rules 3012 and 3013.

l. In or about January 2007, in New York, New York, MADOFF caused a false and misleading Form ADV to be filed with the SEC that falsely stated, among other things, that BLMIS's Investment Advisory business had only "23" accounts, assets under management of only $13.2 billion, no individual clients other than "high net worth individuals," and that no other firms or individuals solicited advisory clients on behalf of BLMIS.

m. In or about February 2007, in New York, New York, MADOFF gave approximately $2,000,000 to a family member,

and MADOFF executed a sham promissory note to disguise the transfer as a loan.

n. In or about May 2007, in New York, New York, MADOFF created a false and misleading annual report pursuant to Rule 206(4)-7 of the Investment Advisers Act that falsely stated that he had performed the required annual compliance review of the Investment Advisory business and had "examined that process by which all [Investment Advisory] trading is supervised."

o. In or about December 2007, in New York, New York, MADOFF received approximately $9,000,000 from Bernard L. Madoff, and MADOFF executed a sham promissory note to disguise the transfer as a loan.

p. In or about January 2008, in New York, New York, MADOFF caused a false and misleading Form ADV to be filed with the SEC that falsely stated, among other things, that BLMIS's Investment Advisory business had only "23" accounts, assets under management of only $17.1 billion, no individual clients other than "high net worth individuals," and that no other firms or individuals solicited advisory clients on behalf of BLMIS.

q. In or about January 2008, in New York, New York, MADOFF created a false and misleading annual report pursuant to Rule 206(4)-7 of the Investment Advisers Act that falsely stated that he had performed the required annual

compliance review of the Investment Advisory business and had "examined that process by which all [Investment Advisory] trading is supervised and found that the implementation of the compliance procedures reflected good principles of management and control."

r. In or about April 2008, in New York, New York, MADOFF caused a fraudulent Form 5500 to be submitted to the DOL.

s. In or about 2008, in New York, New York, MADOFF received approximately $3,100,000 directly from the IA Bank Account.

t. In or about June 2008, in New York, New York, MADOFF gave approximately $3,000,000 to a family member, and MADOFF executed a sham promissory note to disguise the transfer as a loan.

u. In or about August 2008, in New York, New York, MADOFF caused a false and misleading Form ADV to be filed with the SEC that falsely stated, among other things, that he would ensure that weekly reviews of IA trading would be performed and that "BLMIS's advisory services are available only to institutional and high net worth clients."

v. In or about December 2008, in New York, New York, MADOFF caused checks to be prepared to be mailed to preferred IA clients.

w. On or about December 10, 2008, in New York, New York, MADOFF withdrew approximately $200,000 from the BLMIS Operating Account.

(Title 18, United States Code, Section 371.)

COUNT TWO

**(Falsifying Records of an Investment Adviser)**

The United States Attorney further charges:

66. The allegations contained in paragraphs 1 through 55 and 64 through 65 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

67. From at least in or about 1996, through in or about 2008, in the Southern District of New York and elsewhere, PETER MADOFF, the defendant, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, directly and indirectly, in connection with BLMIS's business as an investment adviser, did cause BLMIS to fail to make and keep for prescribed periods such records, furnish such copies thereof and make and disseminate such reports as the SEC, by rule, prescribed as necessary and appropriate in the public interest and for the protection of investors, to wit, MADOFF caused false and fraudulent books and records including, among

other things, Forms ADV, compliance reports, and general ledgers, to be made and kept by BLMIS, an investment adviser.

(Title 15, United States Code, Sections 80b-4 and 80b-17; Title 17, Code of Federal Regulations, Section 275.204-2; Title 18, United States Code, Section 2.)

**FORFEITURE ALLEGATION**

68. As the result of committing the offense of conspiracy to commit each of the offenses constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7), as alleged in Count One, PETER MADOFF, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the said conspiracy offense, including but not limited to approximately $143.1 billion, a sum of money representing the amount of proceeds obtained as a result of the said offense, and all property traceable thereto.

(Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461.)

**Substitute Assets Provision**

69. If any of the forfeitable property described above in paragraph 68 of this Information, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981(a)(1)(C), Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461.)

Preet Bharara

PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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

**UNITED STATES OF AMERICA**

**- v -**

**PETER MADOFF,**

**Defendant.**

**INFORMATION**

S7 10 Cr. 228 (LTS)

Title 15 U.S.C. Sections 80b-4 and 80b-17;
Title 17, Code of Federal Regulations,
Section 275.204-2; and
Title 18 U.S.C. Sections 371 and 2.

PREET BHARARA
United States Attorney.