

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

----- x

UNITED STATES OF AMERICA :

**INDICTMENT**

-v- :

S10 10 Cr. 228 (LTS)

DANIEL BONVENTRE, :

ANNETTE BONGIORNO, :

JOANN CRUPI, :

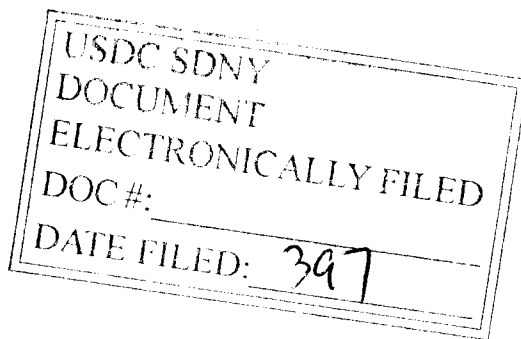
a/k/a "Jodi," :

JEROME O'HARA, and :

GEORGE PEREZ, :

Defendants. :

----- x



**COUNT ONE**

**(Conspiracy to Defraud Madoff Securities Investment Advisory Clients)**

The Grand Jury charges:

**Relevant Persons and Entities**

1. At all times relevant to this Indictment, Bernard L. Madoff Investment Securities LLC, and its predecessor, Bernard L. Madoff Investment Securities (collectively and separately, "Madoff Securities"), had its principal place of business in New York, New York. Madoff Securities operated three principal lines of business: market making, proprietary trading, and investment advisory. Madoff Securities was registered with the United States Securities and Exchange Commission ("SEC") as a broker-dealer since in or about 1960 and as an investment adviser since in or about August 2006. Madoff Securities also had a London-based affiliate, Madoff Securities International Ltd. ("Madoff International"), which engaged principally in proprietary trading.

2. Bernard L. Madoff (“Madoff”) was the founder of Madoff Securities and its sole owner; Madoff also owned the majority of voting shares of Madoff International.

3. In December 2008, Madoff Securities collapsed after its investment advisory business was revealed to be a massive fraud. While Madoff and his co-conspirators had promised investors in Madoff Securities that their money would be invested in stocks, options, and other securities of well-known corporations, that money was in fact virtually never invested as promised. Instead, as described below, the Madoff Securities investment advisory business operated as a massive Ponzi scheme in which some investors were paid with money “invested” by different investors, and other proceeds were used to personally benefit Madoff and the people around him. At the time of its collapse in December 2008, Madoff Securities maintained more than 4,000 investment advisory client accounts, which purported to have a combined balance of approximately \$65 billion. In fact, Madoff Securities only had about \$300 million in assets at the time.

4. DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants, were all long-time employees of Madoff Securities. In various important ways, BONVENTRE, BONGIORNO, CRUPI, O’HARA, and PEREZ — along with other Madoff Securities employees or outside consultants, including Frank DiPascali, Jr., David L. Kugel, Enrica Cotellessa-Pitz, Peter Madoff, Irwin Lipkin, Eric Lipkin, Craig Kugel, and David Friehling — enabled Madoff to commit different aspects of his massive fraud. In particular, and among other things, BONVENTRE, BONGIORNO, CRUPI, O’HARA, and PEREZ made false representations,

created false entries in books and records, and fabricated false securities transactions for Madoff Securities investment advisory clients. Each profited as a result.

5. DANIEL BONVENTRE, the defendant, worked at Madoff Securities from in or about August 1968, through at least on or about December 11, 2008, the date the fraud was revealed. Since at least the 1980s, BONVENTRE served as “Director of Operations” for Madoff Securities and was responsible for supervising its “back office,” which was the firm’s operations center. Among other things, BONVENTRE was responsible for maintaining various books and records of the firm, including the principal accounting documents, such as the General Ledger (“G/L”), and the stock record. BONVENTRE also reconciled the firm’s various bank accounts, and supervised the employees who worked in the accounting department and the “cage” — the area of Madoff Securities responsible for processing incoming and outgoing checks and/or wire transfers, and also for settling and clearing trades. BONVENTRE also supervised other Madoff Securities employees in connection with particular tasks, such as JEROME O’HARA and GEORGE PEREZ, the defendants, in connection with their work related to the production of the G/L and other accounting records.

6. ANNETTE BONGIORNO, the defendant, worked at Madoff Securities from in or about 1968, through at least on or about December 11, 2008. BONGIORNO, who worked essentially as a portfolio manager in the investment advisory business, had a variety of responsibilities, including managing hundreds of investment advisory accounts for Madoff’s longest-standing customers, purportedly having a cumulative balance of approximately \$8.5 billion dollars when Madoff Securities collapsed. BONGIORNO also supervised employees who worked for the firm’s investment advisory business.

7. JOANN CRUPI, a/k/a “Jodi,” the defendant, worked at Madoff Securities from in or about 1983, through at least on or about December 11, 2008. Like BONGIORNO, CRUPI worked in the investment advisory business as essentially a portfolio manager, and, among other things, managed several investment advisory accounts that purportedly had a cumulative balance of approximately \$900 million when Madoff Securities collapsed. CRUPI also assisted Frank DiPascali, Jr. in managing the so-called split strike conversion strategy accounts, discussed below. In addition to managing investment advisory accounts for Madoff Securities customers, CRUPI was also responsible for tracking the daily activity of the bank account into which billions of dollars of investment advisory client money was deposited and withdrawn (the “Ponzi Account”), and directing wire transfers into and out of the Ponzi Account.

8. JEROME O’HARA and GEORGE PEREZ, the defendants, worked at Madoff Securities 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 Madoff Securities. As described below, O’HARA and PEREZ created and/or maintained proprietary software designed to give the Madoff Securities investment advisory business the appearance of a legitimate firm, when in fact the investment advisory business was entirely a fraud.

#### **The Ponzi Scheme**

9. A “Ponzi scheme” is a particular type of financial fraud, in which an investment operation claims to pay returns to customers based on some promised investment strategy. In fact, however, in a Ponzi scheme, the perpetrator does not invest his client’s money as promised; instead, one investor is paid from money “invested” by another.

10. For more than three decades, the Madoff Securities investment advisory business was a Ponzi scheme. From at least as early as the 1970s through the date of Madoff's arrest, Madoff and his co-conspirators perpetrated a scheme to defraud the investment advisory clients of Madoff Securities by accepting billions of dollars under false pretenses. They promised to invest clients' money in stocks, options, other securities, and financial instruments, and further promised that investors would achieve high rates of return with limited risk. But Madoff and his co-conspirators — including DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a "Jodi," JEROME O'HARA, and GEORGE PEREZ, the defendants — knew that the investment advisory client funds were not being invested as promised. Instead, Madoff and his co-conspirators — again, including BONVENTRE, BONGIORNO, CRUPI, O'HARA, and PEREZ — misappropriated client money and converted it to their own use, whether by perpetuating the fraud or simply stealing it for their own use and the use of others.

11. In order to continue the fraud for so long, Madoff and his co-conspirators created and disseminated bogus account statements to Madoff Securities investment advisory clients, which purported to show that their money had been invested, when in fact it virtually never was. In particular, beginning in the 1970s and until the early 1990s, Madoff and his co-conspirators — including ANNETTE BONGIORNO and JOANN CRUPI, a/k/a "Jodi," the defendants, with the assistance of David L. Kugel — promised the bulk of Madoff Securities investment advisory clients that their money was invested in a so-called "convertible arbitrage" strategy, which involved paired trades of convertible securities and associated common stock. Beginning in the early 1990s, Madoff and his co-conspirators claimed that they had switched, for

the majority of investment advisory accounts, to a so-called “split-strike conversion” strategy, which involved the purchase of common stocks hedged by options. In addition, since at least the 1970s, certain Madoff Securities clients — those whose accounts were typically managed by ANNETTE BONGIORNO and JOANN CRUPI, a/k/a “Jodi,” the defendants — maintained investment advisory accounts that did not purport to run the convertible arbitrage or split-strike conversion strategies. Those client accounts — including accounts held by the defendants themselves, as well as other co-conspirators and members of Madoff’s family — appeared to enjoy particularly high rates of return (up to 45 percent per year, and sometimes more), whereas the majority of the investment advisory accounts appeared to generate rates of return closer to 10-17 percent.

12. But regardless of whether a client’s investment advisory account purported to run the convertible arbitrage strategy, the split-strike conversion strategy, or no particular strategy at all, the truth was that Madoff and his co-conspirators — with very rare exception — were not making any trades at all. Instead, Madoff Securities investment advisory account statements were created by using historical price information, which Madoff and his co-conspirators could manipulate to create whatever return (or, from time to time, loss) they desired.

13. Madoff and his co-conspirators also falsified Madoff Securities’s books and records, including its internal accounting documents, to conceal the fraud. And when, from time to time, Madoff Securities was audited by regulators or outside accountants, Madoff and his co-conspirators created a second (and third, fourth, fifth, etc.) set of books and records to frustrate those audits and keep the fraud from being discovered.

14. As a result of the actions of Madoff and his co-conspirators, including DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants, the Madoff Securities Ponzi scheme lasted for well over thirty years, until it finally collapsed under its own weight. Over that period, however, Madoff Securities had a number of “close calls,” either because the scheme had nearly run out of money, or because regulators or others were on the verge of discovering the fraud, or otherwise.

#### **The Liquidity Crises**

15. **The 1992 Crisis.** In 1992, Madoff Securities faced a crisis after the SEC shut down an investment fund called Avellino & Bienes (“A&B”), which did little more than feed clients’ money into the Madoff Securities investment advisory business. When the SEC had a receiver appointed to liquidate A&B, Madoff Securities had a host of problems: it had neither records to substantiate the purported value of the securities in the A&B accounts, nor securities to liquidate. Madoff Securities also did not have enough cash to pretend to liquidate A&B’s purported holdings — “worth” well in excess of \$300 million — which would have required approximately hundreds of millions of dollars in liquidity that Madoff Securities did not have. To the contrary, at the relevant time in or about November 1992, the Ponzi Account had only approximately \$8.86 million, and, firm-wide, Madoff Securities had only approximately \$15.2 million in the bank. In addition, Madoff Securities was at the time heavily in debt: according to its end-of-month balance sheets, the firm’s bank loans payable increased from \$54 million in October 1992 to \$215 million in November 1992.

16. To fix the records problem, over the course of several months, ANNETTE BONGIORNO and JOANN CRUPI, a/k/a “Jodi,” the defendants, along with Frank DiPascali,

Jr., helped Madoff create fake historical account records — going back at least three years — that showed profitable trading in the A&B account. They also disguised a source of deposits into the A&B account — which were really from another firm, Alpern & Avellino — making that cash appear to be a dividend from General Motors stock.

17. And to fix the cash problem, Madoff solicited a handful of his oldest investment advisory clients. One gave Madoff \$150 million in cash. Another gave him \$36 million in Treasury bills and municipal bonds. And a third transferred \$154 million in securities to Madoff. Madoff then pledged those securities, Treasury bills, and municipal bonds as collateral to obtain loans for Madoff Securities, and used the loan proceeds to reimburse the A&B receiver more than \$300 million, purportedly after liquidating the securities in A&B's accounts. Meanwhile, DANIEL BONVENTRE, the defendant, doctored Madoff Securities accounting records by including false entries on the G/L that made it appear as if the loans had been used not to pay back A&B's investors, but to purchase assets for Madoff Securities.

18. **The 2005-06 Crisis.** In late 2005, Madoff Securities faced another cash crisis. By early November 2005, Madoff Securities had only approximately \$13 million in the Ponzi Account, with hundreds of millions of dollars scheduled to be withdrawn by investors. Again, Madoff called upon certain clients, one of whom transferred \$125 million in cash to Madoff Securities, and another of whom transferred a total of \$154 million in Federal Home Loan Bank bonds to Madoff Securities. DANIEL BONVENTRE, the defendant, then contacted a federally-insured bank and arranged for those bonds to be pledged as collateral for \$145 million in loans to Madoff Securities. Meanwhile, between January and April 2006, Madoff Securities paid approximately \$262 million in investment advisory client redemptions out of its operating



account (*i.e.*, not the Ponzi Account), which BONVENTRE falsely accounted for as asset purchases on the G/L. Then in June 2006, the Ponzi Account transferred approximately \$262 million back to the operating account to “repay” it, which BONVENTRE again falsely recorded on the G/L and other accounting records.

19. Madoff Securities, as an SEC-registered broker dealer, was required to create so-called Financial and Operational Combined Uniform Single (“FOCUS”) Reports — a report required to be kept by registered broker-dealers that reflects, among other things, assets and liabilities. Madoff Securities FOCUS Reports repeatedly mis-stated the firm’s cash and securities positions, as well as, from time to time, its bank loans payable, including the \$145 million loan referenced above. In March and April 2006, during the same liquidity crisis, Madoff Securities also drew down approximately \$270 million on a line of credit at another federally-insured bank to help survive the liquidity crisis. In connection with maintaining that line of credit, DANIEL BONVENTRE, the defendant, regularly caused false FOCUS Reports to be sent to that bank on behalf of Madoff Securities.

20. **The Crisis in the Market Making Business.** The cash crises at Madoff Securities were not limited to the entirely fictitious investment advisory business. Beginning in at least in or about 1998, the Madoff Securities market making and proprietary trading businesses lost significant amounts of money, and had to be supported with the stolen funds in the Ponzi Account. Starting in or about 1998, Madoff transferred millions of dollars either directly, or through Madoff International in London, from the Ponzi Account to the operating account for the Madoff Securities market making and proprietary trading businesses. DANIEL BONVENTRE, the defendant, along with Enrica Cotellessa-Pitz and others, falsely accounted for these transfers

in the Madoff Securities G/L and other accounting documents, calling them “trading” profits. In this way, the Madoff Securities fraudulent investment advisory business propped up the rest of the firm for approximately a decade.

21. **The 2008 Crisis.** In 2008, the Madoff Securities investment advisory business faced an insurmountable cash crisis. Beginning in the fall of 2008, Madoff Securities faced withdrawal requests that far outpaced new deposits, creating concern among Madoff, DiPascali, JOANN CRUPI, a/k/a “Jodi,” the defendant, and others, that the firm would not survive. For example, on or about November 3, 2008, Madoff Securities had approximately \$487 million in the Ponzi Account, but faced withdrawal requests exceeding \$1.4 billion. As before, Madoff called on certain customers for help. One sent Madoff Securities approximately \$181 million in Federal Home Loan Bank bonds. And as before, DANIEL BONVENTRE, the defendant, called one of Madoff Securities’s federally-insured banks and inquired about the possibility of obtaining an approximately \$200 million loan, using the bonds as collateral. BONVENTRE falsely represented to the bank that the loan proceeds would be used for trading, explaining that Madoff Securities could take advantage of the downturn in the stock market. At or about the same time, the Madoff Securities operating account sent \$181 million to the Ponzi Account, and DANIEL BONVENTRE, the defendant, again made false entries in the G/L reflecting that this transfer was for the purchase of assets. Ultimately, however, Madoff Securities did not receive the bank loan, nor could it raise enough new investor money, to pay the requested redemptions. As a result, and as discussed in greater detail below, Madoff Securities collapsed in December 2008.

**The Audits and Reviews**

22. Years earlier, in 2001, two publications — Barron's and a hedge-fund industry periodical called MAR/Hedge — published articles revealing that the Madoff Securities investment advisory business was, in effect, one of the largest hedge funds in the world, and questioning how Madoff was able to achieve such consistent and impressive investment returns. As a result of these public reports, Madoff knew that regulators and others would soon ask questions.

23. And so, beginning in at least approximately 2003, Madoff Securities was periodically audited or reviewed by the SEC, the Internal Revenue Service (“IRS”) and New York State taxation authorities, and a European accounting firm acting on behalf of a major Madoff Securities investment advisory client. For each audit or review, Madoff and his co-conspirators — including DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants — created an alternative set of books and records, including (depending on the audit) fake trade blotters, order entry and execution reports, investment advisory account statements, Depository Trust Corporation (“DTC”) reports, trading account reports, profit and loss (“P&L”) statements, and gross revenue reports. The defendants also gave false or incomplete information in response to particular information requests concerning Madoff Securities, such as requests by the SEC about investment advisory commissions, or for a list of all of the firm’s bank accounts (from which BONVENTRE omitted, among other things, the Ponzi Account).

24. Although the books and records of Madoff Securities were — at least since the 1970s — always false, the alternative sets of books created by Madoff and his co-

conspirators in connection with the reviews and audits were tailored specifically to deceive the SEC, the taxing authorities, or the accounting firm, as the case may be. For example, as discussed below, DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants, helped to create alternative fake trade blotters for each of the reviews. For the SEC, the defendants made it look as if Madoff Securities traded with European counter-parties. And for the European accounting firm, they made it look as if Madoff Securities traded with American counter-parties — all on the theory that it would be more difficult for the SEC or European accounting firm to get information directly from what were, to them, foreign financial institutions.

25. Moreover, Madoff did not want the SEC or the accounting firm to discover the enormous size of the firm’s investment advisory business. As a result, although Madoff Securities had more than 4,000 investment advisory accounts, JEROME O’HARA and GEORGE PEREZ, the defendants, helped to create alternative books and records that reflected only approximately twenty investment advisory clients — typically the clients that Madoff thought the auditors already knew about. O’HARA and PEREZ then used these “special” lists of clients — which were different from audit to audit — in combination with “special” programs to create the alternative fake books and records in connection with each of the reviews.

26. **The SEC Reviews.** In 2004, 2005, and 2006, the SEC conducted reviews of the business of Madoff Securities. In connection with those reviews, DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants, and other co-conspirators, helped Madoff create books and records that had the effect of concealing the size, scope, and function of the investment advisory business. For example, as

discussed above, various records of Madoff Securities were altered (through a custom-designed computer program created by O'HARA and PEREZ) to make it appear as if counter-parties — which Madoff Securities books and records typically listed as the placeholder “CLEARING BANK” — were foreign financial institutions, on the theory that it would be harder for the SEC to check with such institutions. O'HARA and PEREZ also created a number of other custom computer programs in connection with the SEC's audits. In one such program, for example, the time that all of the investment advisory trades were supposedly executed was changed, from a time that corresponded to New York trading hours, to a random time that corresponded with London trading hours — to be consistent with the “foreign” scenario.

27. Madoff also wanted to create the impression with the SEC that Madoff Securities was not the custodian of investment advisory client assets, because if Madoff Securities was the custodian, the SEC could contact the DTC (which keeps such records) and discover that no such assets really existed. As a result, Madoff and DiPascali instructed JEROME O'HARA and GEORGE PEREZ, the defendants, with the assistance of DANIEL BONVENTRE and JOANN CRUPI, a/k/a “Jodi,” the defendants, and others, to create alternative books and records — including an alternative stock record and client account statements — in so-called “receive-versus-payment/delivery-versus-payment” (“RVP/DVP”) format. In an RVP/DVP arrangement, the broker (here, Madoff Securities) acts as an intermediary that conducts transactions on behalf of clients, but then delivers the cash or securities to the client, to be custodied elsewhere. For example, O'HARA and PEREZ's program might change the name of an account from “ABC Corporation” to “XYZ Bank, for benefit of ABC Corporation.” Then the underlying records — both the stock record and the client account statement — would be

altered to create the appearance that Madoff Securities did not hold any cash or securities. These alternative client account statements were never given to the client — they were produced solely to deceive the SEC.

28. DANIEL BONVENTRE, the defendant, also falsified Madoff Securities accounting documents in connection with the SEC reviews. For example, BONVENTRE ordinarily falsely booked interest income generated by the hundreds of millions of dollars in the Ponzi Account on the G/L — which never reflected the Ponzi Account or, indeed, the investment advisory business at all — as an “adjustment” to a particular trading account. In connection with the SEC’s audit in 2005, however, BONVENTRE further hid that income in the trading accounts of two traders in the market making and proprietary trading business, artificially inflating those two traders’ P&L.

29. **The European Accounting Firm Reviews.** Meanwhile, in or about 2005 and in or about 2008, a major accounting firm conducted audits of Madoff Securities on behalf of its client, which was a European financial institution that acted as administrator and custodian for a separate investment fund that — like A&B years earlier — did little more than feed its investors’ money on to Madoff Securities. Because Madoff Securities had previously told the accounting firm that Madoff Securities had custody of its investment advisory customers’ assets, Madoff could not show the accounting firm the RVP/DVP records. Instead, Madoff and DiPascali instructed JEROME O’HARA and GEORGE PEREZ, the defendants, with the assistance of DANIEL BONVENTRE, the defendant, and others, to create fake DTC reports reflecting that client assets were held by DTC in Madoff Securities’s account. O’HARA and PEREZ did so by taking the data that the Madoff Securities market-making and proprietary

trading operations actually received from DTC — which reflected the real securities that those parts of Madoff Securities actually held at DTC — and combining it with information from the investment advisory business's stock record, which contained a list of fake stocks that the investment advisory business claimed to hold, but which did not actually exist. O'HARA and PEREZ, with BONVENTRE and others, then took pains to make sure that their fake DTC reports looked exactly like a real DTC report, including obtaining commercially-available software to ensure that the report was properly formatted.

30. **The Tax Reviews.** Because Madoff Securities was wholly-owned by Madoff, Madoff Securities did not file its own tax returns. Rather, Madoff listed income and expenses associated with Madoff Securities on his own personal tax returns, on what is known as Schedule C. From at least in or about 1991, Madoff understated the firm's "Trading Profit/Loss" on his tax returns. From time to time, beginning in the mid-1990s and through 2008, Madoff's taxes were audited by the IRS and/or the New York State Department of Taxation and Finance. In connection with those audits, DANIEL BONVENTRE, the defendant, directed JEROME O'HARA, the defendant, and others to create yet another set of fake books and records, in order to substantiate Madoff's false returns. In particular, BONVENTRE instructed O'HARA and Enrica Cotellessa-Pitz to create alternative, fake versions of the G/L, stock record, and other reports as back-up to Madoff's returns. For example, when the IRS conducted an audit in 2007 of Madoff's 2004 and 2005 returns — years in which Madoff understated the firm's gross receipts by \$54 million and \$29 million, respectively — BONVENTRE directed O'HARA and Cotellessa-Pitz to create conforming versions of the G/L, which they did by inserting fake transactions in Apple Computers, Inc. stock into the Madoff Securities stock record. These

alternative G/Ls were shown to the auditors and ultimately maintained by BONVENTRE in his office.

31. **Other Reviews.** In addition, Madoff and his co-conspirators created false books and records in connection with other reviews, including reviews of certain Madoff Securities investment advisory clients. For example, ANNETTE BONGIORNO, the defendant, managed an investment advisory account for a pension plan (the “Plan”), which had been at Madoff Securities since at least the 1970s. The account statement for the Plan for the month of January 2002 initially reflected that the Plan’s portfolio consisted of approximately 94% equity securities positions and approximately 6% United States Treasury bonds. Facing an impending audit in 2003 by the Department of Labor, this portfolio, which was fictitious to begin with, was deemed to be too risky for a pension plan. As a result, in August and September 2002, BONGIORNO simply re-did the Plan’s statements to reflect more conservative investments.

32. Rather than go through the guise of liquidating the Plan’s equity positions and investing them elsewhere, ANNETTE BONGIORNO, the defendant, simply issued an “amended” January 2002 account statement for the Plan’s account. The new statement — which BONGIORNO created using “STMTPro,” one of the custom-made computer programs maintained by JEROME O’HARA and GEORGE PEREZ, the defendants — reflected an approximately 50/50 distribution of equity securities and Treasury bonds. BONGIORNO also created “amended” statements for the Plan’s investment advisory account — which purported to be worth billions of dollars — for February through July 2002, with the disparity in the Plan’s portfolio between the original and “amended” statements growing even more exaggerated. For example, on the July 31, 2002, end-of-plan-year statement, BONGIORNO rearranged what had



originally been a portfolio weighted 91% towards equity securities with only 9% Treasury bonds to an “amended” one that was 100% Treasury bonds, with no equity securities.

**The Defendants’ Profits**

33. Through their work at Madoff Securities, DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants, profited in numerous ways beyond their salaries and bonuses (which were already substantial).

34. **The Defendants’ Investment Advisory Accounts.** Each of the defendants — DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA, and GEORGE PEREZ — had one or more investment advisory accounts at Madoff Securities. Like every other investment advisory account, the defendants’ accounts reflected entirely made-up stock trades. Unlike many of Madoff’s investors, however, the defendants withdrew large amounts of cash from their accounts over the years — turning fake trades into real money.

35. DANIEL BONVENTRE, the defendant, had accounts dating at least to 1978, which were managed by ANNETTE BONGIORNO, the defendant. From time to time, BONGIORNO “executed” trades in BONVENTRE’s account that were back-dated by years, rather than (as usual) days. For example, in November 2002, BONGIORNO credited BONVENTRE’s account with the apparent purchase of approximately \$90,000 worth of stock in Consolidated Stores — back-dated to January 1990, more than 12 years prior. At the same time, she credited BONVENTRE’s account with the apparent sale of those same shares (which had undergone stock splits and a name change, to Big Lots Inc., in the “interim”), which had

“appreciated” to be worth \$1,089,375. Similarly, in July 2004, BONGIORNO credited BONVENTRE’s account with the “purchase” of \$246,510 worth of shares in Lucent Technologies, Inc. — back-dated to March 2003. At the same time, BONGIORNO credited BONVENTRE’s account with the sale of the same stock in April 2004, resulting in sale proceeds of \$646,320.

36. And in March 2006, BONGIORNO again entered a back-dated, fictitious trade for BONVENTRE, this time at his explicit instructions. In a handwritten note, BONVENTRE wrote:

Hi Annette

As per our phone conversation, I need a long term capital gain of \$449000.— on an investment of \$129000.— for a sale proceed of \$578000.—

I’ll be back in NY on March 30th but if you need to speak to me before then, call me on [BONVENTRE’s cell phone number].

Thanks  
Dan

As a result, in March 2006, BONGIORNO credited BONVENTRE’s account with the “purchase” of \$577,760 worth of stock in Apple Computer Inc. — back-dated to January 2005. At the same time, BONGIORNO credited BONVENTRE with the “sale” of the same stock (which had split in the purported interim) in early March 2006, for \$1,056,960. Because BONGIORNO had credited BONVENTRE with holding the Apple stock for more than a year, he was able to report the profit as a “long term capital gain,” just as he had requested. Although BONGIORNO did not use the precise dollar figures provided by BONVENTRE — which

requested “a sale proceed of \$578000” — BONVENTRE did in fact withdraw \$577,954.81 of “proceeds” from his account in early April 2006. As described below, that caused BONVENTRE’s account to run a negative cash balance, which was corrected through a fictitious cash credit in the Madoff Securities books and records.

37. BONGIORNO also altered her own investment advisory account statements to reflect outsized returns. Indeed, dating from in or about 1975, BONGIORNO deposited a total of approximately \$920,000 into her own investment advisory accounts, and during that same time period withdrew purported investment proceeds of approximately \$14.5 million. In addition to her own accounts, BONGIORNO maintained an account in the name of the “RuAnn Family Plan,” RuAnn being a combination of BONGIORNO’s first name and that of her husband. Until the 1990s, the RuAnn Family Plan collected money from other investors and passed it along to Madoff Securities. Beginning in or about 1993 (at or about the same time that A&B was liquidated), Madoff required the individual investors in the RuAnn Family Plan to hold individual investment advisory accounts.

38. In addition, BONGIORNO’s account statements reflected that her accounts were worth an additional approximately \$53 million at the time of the firm’s collapse in December 2008. BONGIORNO achieved that incredible rate of return by, as she had done with BONVENTRE’s accounts, back-dating trades in her account by months or more. For example, in June 2002, BONGIORNO credited her own account with hundreds of thousands of dollars in short positions in Worldcom, Inc. — which was then (in June) embroiled in accusations of fraud — back-dated to January 2002. Then, in late June 2002 — on the very same day that the SEC

announced accounting fraud charges against Worldcom — BONGIORNO closed out those short positions, creating a fictitious gain of approximately \$653,000.

39. For her own accounts, however, BONGIORNO occasionally did not bother with the ruse of documenting fake trades before she withdrew cash. For example, two investment advisory accounts — called “BLM Special 1” and “BLM Special 2” — belonged to BONGIORNO and her husband. Although, back in the 1970s and 1980s, BONGIORNO had “executed” convertible arbitrage trades in the BLM Special accounts, no trading was reflected in those accounts dating from the mid-1980s. But BONGIORNO routinely withdrew cash debited to those accounts, up until Madoff Securities collapsed in December 2008, when the balance in BLM Special 1 was -\$565,000, and the balance of BLM Special 2 was -\$354,000. (BONGIORNO and her husband did not report any of this approximately \$896,000, which was withdrawn in cash from the Ponzi Account, on their taxes.)

40. Similarly, JOANN CRUPI, a/k/a “Jodi,” the defendant, maintained a number of investment advisory accounts in her own name or the name of her partner. Like BONGIORNO, CRUPI at times withdrew cash from her own investment advisory accounts without bothering to create fake trades. Indeed, at the time of Madoff Securities’s collapse, CRUPI’s accounts reflected a cumulative negative cash balance of -\$355,846. CRUPI also at times — particularly near year-end — entered losing trades in her accounts, for tax purposes.

41. In addition, certain of the defendants received cash credits to their accounts at or around the time of various audits of the firm. For example, in October 2004 — at the time of the SEC and European accounting firm’s first audits of Madoff Securities, as well as a tax audit of Madoff — \$116,950 in cash was credited to the investment advisory account of

JEROME O'HARA, the defendant, and \$108,530 was credited to the investment advisory account of GEORGE PEREZ, the defendant.<sup>1</sup>

42. On or about April 6, 2006 — during the SEC's third review of Madoff Securities in as many years — DANIEL BONVENTRE, JEROME O'HARA, and GEORGE PEREZ, the defendants, all emptied their investment advisory accounts at Madoff Securities on the same day. BONVENTRE withdrew \$577,954.81; O'HARA withdrew \$976,000; and PEREZ withdrew \$289,000.<sup>2</sup> BONVENTRE actually withdrew more money than was purportedly in his account — \$116,944.81 more — which caused his account to briefly reflect a negative cash balance. BONVENTRE's June 2006 account statement, however, reflected a cash credit of \$116,944.81, bringing his balance to zero.

43. **Salary and Bonuses.** In addition to their Madoff Securities salaries and bonuses — which were, in several cases, substantially above the market rate — certain of the defendants received additional bonuses or raises at or around the time of their work in connection with the various audits of Madoff Securities. For example, in or about September 2006 — just months after they emptied their investment advisory accounts and deleted the programs used in connection with the audits — JEROME O'HARA and GEORGE PEREZ, the defendants, confronted Madoff and DiPascali and stated they would no longer create and maintain the

---

<sup>1</sup> This transfer was not denominated as salary or bonus in the Madoff Securities books and records, and neither O'HARA nor PEREZ ever paid taxes on this money, which, as described in the next paragraph, they withdrew — plus an additional \$33,500 and \$53,800, respectively, in fictitious trading profits — less than two years later.

<sup>2</sup> At approximately the same time that they emptied their investment advisory accounts, in or about April 2006, JEROME O'HARA and GEORGE PEREZ, the defendants, deleted hundreds of the "special" computer programs that they had created in connection with the audits.

computer programs Madoff needed to generate false books and records. In response, Madoff instructed DiPascali to meet any salary demand made by O'HARA and PEREZ, an offer that DiPascali relayed to O'HARA and PEREZ. O'HARA and PEREZ responded by demanding approximately 20 percent raises, which they received beginning in November 2006, along with additional bonus payments of \$64,812 and \$60,165, respectively.

44. At or about the same time in the fall of 2006, JOANN CRUPI, a/k/a "Jodi," the defendant — who offered to provide extra help in connection with the audits once she learned about O'HARA and PEREZ's complaints — also received an approximately 20 percent raise. And in 2008, CRUPI received another approximately 20 percent raise after the European accounting firm's second audit. Although O'HARA and PEREZ had claimed they would no longer write programs to help Madoff create false books and records as of 2006, they nevertheless wrote "special" programs in connection with the 2008 audit. Unlike the earlier "special" programs, however, the programs O'HARA and PEREZ wrote in connection with the 2008 audit required a user — CRUPI or DiPascali — to enter certain data, rather than automatically extracting that data from a separate computer file, as before.

45. **Cash Payments.** In addition to their salary, bonuses, and investment advisory accounts, the defendants profited from the Madoff Securities Ponzi scheme in a variety of other ways. For example, in 2008 — again, after the European accounting firm's second audit — JOANN CRUPI, a/k/a "Jodi," the defendant, received more than \$2.7 million in cash payments from Madoff Securities, which she used to purchase a beach house. This \$2.7 million was not reflected as salary, bonus, or any other form of compensation on Madoff Securities's books and records.

46. DANIEL BONVENTRE, the defendant, likewise received unaccounted for cash payments from Madoff Securities. Between at least in or about 1992 through in or about 2008, Madoff Securities paid more than \$1 million of BONVENTRE's personal expenses through direct payments from the Ponzi Account, including: more than \$195,000 to pay BONVENTRE's son's tuition at a private school; more than \$315,000 to pay common charges for BONVENTRE's luxury apartment on Manhattan's Upper East Side; more than \$117,000 to pay down a home equity line of credit on BONVENTRE's apartment; more than \$227,000 to pay membership dues in BONVENTRE's country club; and at least \$500,000 of personal expenses on BONVENTRE's personal American Express credit card. BONVENTRE also received hundreds of thousands of dollars in cash and checks made out to himself, and hundreds of thousands of dollars more in direct transfers from Madoff Securities to a brokerage account owned by BONVENTRE. BONVENTRE failed to accurately report any of this off-the-books income on his taxes.

47. **Other Benefits.** In addition to the cash and other benefits that the defendants received directly, Madoff allowed his co-conspirators to benefit financially in various indirect ways, as well. For example, in or about December 2007, DANIEL BONVENTRE, the defendant, arranged for his son to receive a "no show" job at Madoff Securities. That is, although BONVENTRE's son never actually worked at Madoff Securities, he received a salary and benefits, including health insurance coverage and participation in Madoff Securities's 401(k) plan. In connection with arranging for this no-show job, BONVENTRE caused Madoff Securities employees responsible for overseeing employee benefits, such as Craig Kugel and Eric

Lipkin, to file Annual Returns, known as Forms 5500, with the United States Department of Labor, which contained false information.

48. In another kind of indirect financial benefit, JOANN CRUPI, a/k/a “Jodi,” the defendant, was given a Madoff Securities corporate American Express credit card, which she used to charge more than \$270,000 in personal (*i.e.*, not business) expenses, as follows:

<u>Year</u>	<u>Approximate Amount of Personal Charges</u>
2004	\$40,757
2005	\$56,238
2006	\$52,042
2007	\$63,120
2008	\$55,069

None of this more than approximately \$270,000 was reported by CRUPI on her taxes, nor was it recorded in Madoff Securities’s records as any form of compensation.

49. The defendants were not the only co-conspirators to benefit from the Madoff Securities fraud. From time to time, for example, Madoff Securities employees requested the creation of fake investment advisory account statements or other documentation that inflated the purported value of their investment advisory accounts, usually in connection with securing a bank loan or other benefit that required them to show a substantial net worth. In one such instance, in or about September 2002, JOANN CRUPI, a/k/a “Jodi,” the defendant, signed a letter on behalf of David L. Kugel that stated that Kugel’s own investment advisory account was worth approximately \$5,998,572. In fact, however, Kugel’s investment advisory account only purported to hold about \$804,538 at the time. CRUPI provided the letter to Kugel, however, for Kugel to show to a federally-insured financial institution in connection with trying to get a mortgage on a new home in Boca Raton, Florida. After Kugel obtained the loan, in



October 2002, CRUPI prepared and signed another form stating that Kugel's account was worth approximately \$5,916,392, and sent it directly to the bank. CRUPI did the same thing in early 2003, in connection with a mortgage on David L. Kugel's other home, on Long Island. In that instance, CRUPI not only signed letters reflecting fraudulent account balances, but also created two months' worth of fake investment advisory account statements for Kugel to show to his bank.

**The Collapse of Madoff Securities and the Defendants' Attempt to Create a Cover Story**

50. As discussed above, the Madoff Securities Ponzi scheme collapsed under its own weight in December 2008 when requests for investor withdrawals far outpaced new deposits. Besides Madoff and DiPascali, among the first to know about the firm's impending demise were DANIEL BONVENTRE and JOANN CRUPI, a/k/a "Jodi," the defendants, since they were the ones who kept track of the deposits and withdrawals in the Ponzi Account. On or about December 3, 2008, CRUPI and DiPascali met on a street corner near the Madoff Securities office in Manhattan. DiPascali told CRUPI that Madoff had admitted Madoff Securities was out of money, and that there were no other assets behind the investment advisory business. At about the same time, as CRUPI knew because she tracked the Ponzi Account, Madoff Securities was facing about \$1.455 billion in withdrawals, against only about \$295 million in assets.

51. Over the next few days, JOANN CRUPI, a/k/a "Jodi," the defendant, and DiPascali discussed what they would say to law enforcement once Madoff Securities inevitably collapsed. CRUPI told DiPascali that she intended to say she thought the investment advisory trades were being executed overseas. On or about December 7, 2008, CRUPI and DiPascali met at a restaurant in New Jersey. CRUPI told DiPascali that she was "sticking to my story," and

would tell law enforcement that she thought clients' trades were being executed overseas.

CRUPI and DiPascali then discussed Madoff Securities's remaining assets, and to whom they should be distributed before Madoff Securities collapsed.

52. During the last days of Madoff Securities — between December 3 and December 10, 2008 — JOANN CRUPI, a/k/a “Jodi,” the defendant, and others accepted more than approximately \$48 million in new investor money into the Ponzi Account, even as Madoff Securities was about to collapse. Indeed, during this same time period CRUPI and others prepared to distribute all of the remaining funds at Madoff Securities to a select few employees and favored investors. At the time Madoff Securities collapsed, CRUPI's desk contained lists of those preferred clients and employees, and approximately \$176 million worth of checks written out to them. Madoff's desk, meanwhile, contained another approximately \$174 million in checks to friends, family, and preferred clients. Among the checks in Madoff and CRUPI's desks were almost \$10 million in checks written out to Madoff's family members; approximately \$1.5 million in checks written out to CRUPI and/or her partner; and more than \$57 million in checks written out to ANNETTE BONGIORNO, the defendant, and her husband.

53. In the immediate aftermath of Madoff Securities's collapse, the SEC and then a court-appointed receiver took over the firm's offices. Although the investment advisory business was closed off as a crime scene and certain of its employees were dismissed — including ANNETTE BONGIORNO and JOANN CRUPI, a/k/a “Jodi,” the defendants — other Madoff Securities employees, including DANIEL BONVENTRE, the defendant, were temporarily retained. And although BONVENTRE initially denied knowing the source of money used to fund investment advisory clients' withdrawals, on or about December 12, 2008 — the

day after Madoff Securities collapsed — BONVENTRE gave the bank statements for the Ponzi Account to SEC staff members and said, in substance, “the answers are in there.”

54. JEROME O’HARA, and GEORGE PEREZ, the defendants, were also temporarily retained at Madoff Securities. On or about February 24 and 25, and March 5 and 6, 2009, O’HARA and PEREZ accessed the Madoff Securities computer systems without authorization and printed, among other things, numerous programs associated with the fraudulent investment advisory business. When confronted, PEREZ claimed that he had printed programs that he had created in order to show potential employers his work. O’HARA likewise admitted that he had accessed and printed certain files.

#### **STATUTORY ALLEGATIONS**

55. **The Conspiracy.** From at least in or about the early 1970s, up to and including on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other 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 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; (c) 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; and (d) mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2.

**Objects of the Conspiracy**

56. **Securities Fraud.** It was a part and an object of the conspiracy that DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, 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 Madoff Securities 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 operated and would operate as a fraud and deceit upon persons who invested in and through Madoff Securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

57. **Falsifying Records of a Broker-Dealer.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, willfully and knowingly, did cause Madoff Securities, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, 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.

58. **Falsifying Records of an Investment Adviser.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, in connection with Madoff Securities’s business as an investment adviser, did cause Madoff Securities 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, 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.

59. **Mail Fraud.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, 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.

**Means and Methods of the Conspiracy**

60. Among the means and methods by which DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, would and did carry out the conspiracy were the following:

a. Madoff and others provided false and misleading information to the Madoff Securities investment advisory clients.

b. Madoff Securities filed false and misleading documents with the SEC that omitted material information about its financial condition.

c. Madoff Securities presented false and misleading documents and information to the SEC, the European accounting firm, and others in connection with their reviews of the firm’s operations.

d. Hundreds of millions of dollars of investment advisory clients’ funds were used to prop up the Madoff Securities market making and proprietary trading operations.

e. Madoff allowed the defendants to enrich themselves through Madoff Securities while they perpetrated the fraud.

f. BONVENTRE supervised the “back office” operations of Madoff Securities, prepared and supervised the preparation and maintenance of, the G/L and other accounting documents (which contained various false entries), and reconciled the Madoff Securities bank accounts, including the Ponzi Account as well as other accounts associated with the firm’s investment advisory, market making and proprietary trading operations; assisted in the

creation of false and fraudulent books and records for the purpose of misleading the SEC, the European accounting firm, and others; prepared information to be included in FOCUS Reports made and kept by Madoff Securities, and filed by Madoff Securities with the SEC and submitted to various federally-insured financial institutions; created false, back-dated documents for the purpose of deceiving tax auditors and maintaining the falsity of Madoff's personal income tax returns; acted as an authorized signatory for Madoff Securities in its business relationships with certain banks and DTC; and directed certain fictitious trading in his own investment advisory account.

g. BONGIORNO handled the receipt of investment funds sent to Madoff Securities by investment advisory clients; transferred investment advisory clients' funds between and among various Madoff Securities accounts; handled requests for withdrawals sent to Madoff Securities by investment advisory clients; communicated with investment advisory clients and answered their questions about their purported investments; created fictitious securities transactions that she calculated on the basis of historical stock prices; and oversaw the creation and mailing to investment advisory clients of thousands of pages of accounts statements, trade confirmations, and other documents that contained back-dated trades based on historical stock prices.

h. CRUPI handled requests for withdrawals sent to Madoff Securities by investment advisory clients; communicated with the investment advisory clients and answered their questions about their purported investments; created account statements, trade confirmations, and other documents reflecting purported securities transactions that she calculated on the basis of historical stock prices; assisted in the creation of false and fraudulent

books and records for the purposes of misleading the SEC, the European accounting firm, and others; and kept track of the funds transferred into and out of the Ponzi Account and prepared a daily report regarding the Ponzi Account for Madoff and others.

i. O'HARA and PEREZ developed and maintained computer programs that were used to generate false and fraudulent books and records related to the operation of the investment advisory business for the purpose of misleading Madoff Securities clients, the SEC, the European accounting firm, and others about the nature, scale, and activities of the investment advisory business.

#### **Overt Acts**

61. In furtherance of the conspiracy and to effect the illegal objects thereof, DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a "Jodi," JEROME O'HARA and GEORGE PEREZ, the defendants, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about 1992, in New York, New York, BONGIORNO fabricated A&B account statements to reflect the inflow of funds into the account as a dividend from General Motors, instead of a transfer of funds from another investment advisory account.

b. On or about November 22, 2002, in New York, New York, BONGIORNO created a back-dated trade to be entered in the records of the BONVENTRE investment advisory account that purportedly had taken place approximately twelve years earlier.

c. In or about 2004, in New York, New York, BONVENTRE participated in altering General Ledgers, stock records and/or reports derived from the General



Ledgers or stock records for the years 2001, 2002 and 2003 to be provided to an auditor from the New York State Department of Taxation and Finance.

d. In or about the months preceding November 2005, in New York, New York, BONVENTRE prepared DiPascali to play the role of Madoff Securities's Director of Operations during a visit by representatives of the European accounting firm.

e. On or about November 14, 2005, in New York, New York, BONVENTRE directed that a letter be written to a bank in which he requested a \$95 million loan on behalf of Madoff Securities.

f. In or about the fall of 2006, after telling Madoff and DiPascali that they would no longer create computer programs used to produce false and fraudulent Madoff Securities books and records, O'HARA and PEREZ asked for and received 20 percent pay raises and also received bonuses of \$64,812 and \$60,165, respectively.

g. In or about December 2008, as the collapse of Madoff Securities was impending, CRUPI prepared checks to distribute the remaining funds in the Ponzi Account to preferred investment advisory clients.

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

**COUNT TWO**

**(Conspiracy to Commit Securities Fraud and to Falsify Books and Records  
Relating to Audits of Madoff Securities)**

The Grand Jury further charges:

62. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

**STATUTORY ALLEGATIONS**

63. **The Conspiracy.** From at least in or about 2003, up to and including on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other 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 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; and (c) falsifying the records of an investment adviser, in violation of Title 15, United States Code, Sections 80b-4 and 80b-17.

**Objects of the Conspiracy**

64. **Securities Fraud.** It was a part and an object of the conspiracy that DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, 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 Madoff Securities 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 operated and would operate as a fraud and deceit upon persons who invested in and through Madoff Securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

65. **Falsifying Records of a Broker-Dealer.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, willfully and knowingly, did cause Madoff Securities, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, 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.

66. **Falsifying Records of an Investment Adviser.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, in connection with Madoff Securities’s business as an investment adviser, did cause Madoff Securities 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, 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.

**Means and Methods of the Conspiracy**

67. Among the means and methods by which DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others, known and unknown, would and did carry out the conspiracy were the following:

a. O’HARA and PEREZ developed and maintained computer programs that were used to generate false and fraudulent books and records related to the operation of the investment advisory business for the purpose of misleading Madoff Securities clients, the SEC, the European accounting firm, and others about the nature, scale, and activities of the firm’s investment advisory business.

b. BONVENTRE and CRUPI assisted in the creation of false and fraudulent books and records for the purpose of misleading Madoff Securities clients, the SEC, the European accounting firm, and others.

**Overt Acts**

68. In furtherance of the conspiracy and to effect the illegal objects thereof, DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, and others known and unknown, committed the overt acts set forth in paragraph 61(b)-(g) of Count One of this Indictment, which are fully incorporated by reference.

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

**COUNT THREE**

**(Conspiracy to Commit Accounting Fraud and Defraud Banks)**

The Grand Jury further charges:

69. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

70. DANIEL BONVENTRE, the defendant, and others, created false and misleading entries in the Madoff Securities General Ledgers and stock records, as well as supporting books and records, that were designed to disguise the transfers of funds to and from the investment advisory business and the market making and proprietary trading operations.

71. DANIEL BONVENTRE, the defendant, and others, created General Ledgers, supporting books and records, and FOCUS Reports that were false and misleading in material ways.

72. DANIEL BONVENTRE, the defendant, and others, caused false and misleading information to be provided to two federally-insured banks in connection with bank loans and lines of credit extended to Madoff Securities.

**STATUTORY ALLEGATIONS**

73. **The Conspiracy.** From at least in or about 1992, up to and including on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other 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 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; (c) falsifying the records of an investment adviser, in violation of Title 15, United States Code, Sections 80b-4 and 80b-17; (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) bank fraud, in violation of Title 18, United States Code, Sections 1344 and 2.

**Objects of the Conspiracy**

74. **Securities Fraud.** It was a part and an object of the conspiracy that DANIEL BONVENTRE, 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 Madoff Securities 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 operated and would operate as a fraud and deceit upon persons who invested in and through Madoff Securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

75. **Falsifying Records of a Broker-Dealer.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, the defendant, and others known and

unknown, willfully and knowingly, did cause Madoff Securities, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, 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.

76. **Falsifying Records of an Investment Adviser.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, 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 Madoff Securities's business as an investment adviser, did cause Madoff Securities 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, 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.

77. **False Filings With the SEC.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, 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, 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.

78. **Mail Fraud.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, 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.

79. **Bank Fraud.** It was a further part and an object of the conspiracy that DANIEL BONVENTRE, the defendant, and others known and unknown, willfully and knowingly would and did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.



**Means and Methods of the Conspiracy**

80. Among the means and methods by which DANIEL BONVENTRE, the defendant, and others, known and unknown, would and did carry out the conspiracy were the following:

a. BONVENTRE supervised the preparation and maintenance of the General Ledger and stock record, and reconciled Madoff Securities bank accounts, including the Ponzi Account and other accounts associated with Madoff Securities's investment advisory, market making and proprietary trading operations;

b. BONVENTRE prepared information to be included in FOCUS Reports made and kept by Madoff Securities, and filed by Madoff Securities with the SEC;

c. BONVENTRE prepared information to be included in annual financial statements sent to various investment advisory clients by Madoff Securities;

d. BONVENTRE prepared information for, and corresponded with banks in connection with, bank loans and lines of credit extended to Madoff Securities.

**Overt Acts**

81. In furtherance of the conspiracy and to effect the illegal objects thereof, DANIEL BONVENTRE, the defendant, and his co-conspirators committed the overt acts set forth in paragraph 61(b)-(e) of Count One of this Indictment, which are fully incorporated by reference.

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

**COUNT FOUR**

**(Conspiracy to Commit Tax Fraud)**

The Grand Jury further charges:

82. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

83. DANIEL BONVENTRE, the defendant, and others created false, back-dated Madoff Securities General Ledgers, stock records and reports derived from the stock record that appeared consistent with Madoff's false tax returns for the purposes of showing the false records to tax auditors and maintaining the falsity of Madoff's tax returns.

**STATUTORY ALLEGATIONS**

84. **The Conspiracy.** From at least in or about the 1991, through and including on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, 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 for the purpose of impeding, impairing, obstructing, and defeating the lawful government function of the Internal Revenue Service in the ascertainment, assessment, computation and collection of the revenue, to wit, income taxes.

**Object of the Conspiracy**

85. **Impair the lawful function of the IRS.** It was a part and an object of the conspiracy that DANIEL BONVENTRE, 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**

86. Among the means and methods by which DANIEL BONVENTRE, the defendant, and others known and unknown would and did carry out the conspiracy were the following:

a. BONVENTRE created false, back-dated Madoff Securities General Ledgers and stock records for the purpose of deceiving tax auditors and to maintain the falsity of Madoff's tax returns.

**Overt Acts**

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

a. In or about 2004, BONVENTRE participated in altering General Ledgers, stock records, and/or reports derived from the General Ledgers or stock records, for the years 2001, 2002 and 2003 to be provided to an auditor from the New York State Department of Taxation and Finance.

b. In or about 2007, BONVENTRE participated in altering the 2004 General Ledger, stock record and a report derived from the stock record to be provided to tax auditors.

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

**COUNT FIVE**

**(Conspiracy to Commit ERISA Fraud Related to Fictitious Jobs at Madoff Securities)**

The Grand Jury further charges:

88. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

**STATUTORY ALLEGATIONS**

89. **The Conspiracy.** From at least in or about the 1998, through and including on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, and others known and unknown, knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit, falsifying statements in relation to documents required by ERISA, in violation of Title 18, United States Code, Sections 1027 and 2.

**Object of the Conspiracy**

90. **False Statements in a document required by ERISA.** It was a part and an object of the conspiracy that DANIEL BONVENTRE, 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, 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, explain, clarify, and check for accuracy and completeness reports required by such title to

be published and information required by such title to be certified, in violation of Title 18, United States Code, Sections 1027 and 2.

**Means and Methods of the Conspiracy**

91. Among the means and methods by which DANIEL BONVENTRE, the defendant, and others known and unknown, would and did carry out the conspiracy were the following:

- a. BONVENTRE arranged a “no show” job for his son at Madoff Securities.
- b. BONVENTRE caused to be created false Madoff Securities documents reflecting an employee who in fact did not work at Madoff Securities so that the individual could fraudulently receive salary and benefits, and caused to be submitted to the United States Department of Labor fraudulent Forms 5500 that misrepresented the total number of Madoff Securities employees.

**Overt Act**

92. In furtherance of the conspiracy and to effect the illegal object thereof, DANIEL BONVENTRE, the defendant, and others known and unknown, committed the following overt act, among others, in the Southern District of New York and elsewhere:

- a. In or about December 2007, in New York, New York, BONVENTRE directed that his son be placed on the Madoff Securities payroll.

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

**COUNT SIX**

**(Securities Fraud — on Madoff Securities Investment Advisory Clients)**

The Grand Jury further charges:

93. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein, as setting forth a scheme to defraud.

94. From at least in or about the early 1970s, through on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, willfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes, and artifices to defraud; (b) making untrue statements of material facts 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 transactions, acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, BONVENTRE, BONGIORNO, CRUPI, O’HARA and PEREZ participated in the creation and dissemination of

records and documents that misrepresented to investment advisory clients of Madoff Securities that various trading activity had occurred in their accounts.

(Title 15, United States Code, Sections 78j(b) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.10b-5;  
Title 18, United States Code, Section 2.)

**COUNT SEVEN**

**(Securities Fraud — Related to the European Accounting Firm’s Reviews)**

The Grand Jury further charges:

95. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein, as setting forth a scheme to defraud.

96. From at least in or about 2004, through on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, willfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes, and artifices to defraud; (b) making untrue statements of material facts 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 transactions, acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, BONVENTRE, CRUPI, O’HARA and PEREZ created false and

fraudulent documents to be shown to the European accounting firm that conducted reviews of the Madoff Securities operations on behalf of investment advisory clients.

(Title 15, United States Code, Sections 78j(b) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.10b-5;  
Title 18, United States Code, Section 2.)

**COUNT EIGHT**

**(Securities Fraud — in Connection with Madoff Securities’s Accounting Practices)**

The Grand Jury further charges:

97. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein, as setting forth a scheme to defraud.

98. From at least in or about 1998, through on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, in connection with the purchase and sale of securities, did use and employ manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes, and artifices to defraud; (b) making untrue statements of material facts 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 transactions, acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, BONVENTRE created false and misleading Madoff Securities



FOCUS Reports and annual financial statements that were provided to various investment advisory clients.

(Title 15, United States Code, Sections 78j(b) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.10b-5;  
Title 18, United States Code, Section 2.)

**COUNT NINE**

**(Falsifying Records of a Broker-Dealer — Fake Trading Documents)**

The Grand Jury further charges:

99. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

100. Between in or about the early 1970s, and on or about December 11, 2008, DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, willfully and knowingly, did cause Madoff Securities, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, 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, to wit, BONVENTRE, BONGIORNO, CRUPI, O’HARA and PEREZ, in connection with fake trades in investment advisory client accounts, caused false and fraudulent books and records, including, among other things, client account statements and trade confirmations, to be made and kept by Madoff Securities, a broker-dealer.

(Title 15, United States Code, Sections 78q(a) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.17a-3;  
Title 18, United States Code, Section 2.)

**COUNT TEN**

**(Falsifying Records of a Broker-Dealer —  
in Connection with the SEC and European Accounting Firm's Reviews)**

The Grand Jury further charges:

101. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

102. Between in or about 2003, and on or about December 11, 2008, DANIEL BONVENTRE, JOANN CRUPI, a/k/a "Jodi," JEROME O'HARA and GEORGE PEREZ, the defendants, willfully and knowingly, did cause Madoff Securities, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, 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, to wit, BONVENTRE, CRUPI, O'HARA and PEREZ, in connection with reviews of Madoff Securities conducted by the SEC and the European accounting firm, caused false and fraudulent books and records, including, among other things, client account statements, trade blotters, order entry and execution reports, commission reports, DTC reports, documents relating to the profit, loss and revenue of Madoff Securities, General Ledgers and/or stock records, to be made and kept by Madoff Securities, a broker-dealer.

(Title 15, United States Code, Sections 78q(a) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.17a-3;  
Title 18, United States Code, Section 2.)

**COUNT ELEVEN**

**(Falsifying Records of a Broker-Dealer — False Accounting Documents)**

The Grand Jury further charges:

103. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

104. Between in or about 1992, and on or about December 11, 2008, DANIEL BONVENTRE, the defendant, willfully and knowingly, did cause Madoff Securities, a registered broker-dealer, to fail to make and keep such records as the SEC, by rule, 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, to wit, BONVENTRE caused false and fraudulent books and records, including, among other things, General Ledgers, stock records, and/or reports derived from the General Ledgers and stock records, to be made and kept by Madoff Securities, a broker-dealer.

(Title 15, United States Code, Sections 78q(a) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.17a-3;  
Title 18, United States Code, Section 2.)

**COUNT TWELVE**

**(Falsifying Records of an Investment Adviser — Fake Trading Documents)**

The Grand Jury further charges:

105. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

106. Between in or about the early 1970s, and on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, ANNETTE

BONGIORNO, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, directly and indirectly, in connection with Madoff Securities’s business as an investment adviser, did cause Madoff Securities 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, BONVENTRE, BONGIORNO, CRUPI, O’HARA and PEREZ, in connection with fake trades in investment advisory client accounts, caused false and fraudulent books and records, including, among other things, client account statements and trade confirmations, to be made and kept by Madoff Securities, 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.)

**COUNT THIRTEEN**

**(Falsifying Records of an Investment Adviser —  
in Connection with the SEC and European Accounting Firm’s Reviews)**

The Grand Jury further charges:

107. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

108. Between in or about 2003, and on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, JOANN CRUPI, a/k/a “Jodi,” JEROME O’HARA and GEORGE PEREZ, the defendants, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, directly and

indirectly, in connection with Madoff Securities's business as an investment adviser, did cause Madoff Securities 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, BONVENTRE, CRUPI, O'HARA and PEREZ, in connection with Reviews conducted by the SEC and the European accounting firm, caused false and fraudulent books and records, including, among other things, client account statements, trade blotters, order entry and execution reports, commission reports, DTC reports, documents relating to the profit, loss and revenue of Madoff Securities, and/or stock records, to be made and kept by Madoff Securities, 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.)

#### **COUNT FOURTEEN**

##### **(Falsifying Records of an Investment Adviser — False Accounting Documents)**

The Grand Jury further charges:

109. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

110. Between in or about 1992, and on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, directly and indirectly, in connection with Madoff Securities's business as an investment adviser, did cause Madoff Securities 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, BONVENTRE caused false and fraudulent books and records, including, among other things, general ledgers, stock records, and/or reports derived from the general ledgers or stock records, to be made and kept by Madoff Securities, 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.)

**COUNT FIFTEEN**

**(False Filing With the SEC — False Accounting Documents)**

The Grand Jury further charges:

111. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

112. In or about May 2006, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, 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, did make and cause to be made statements that were false and misleading with respect to material facts, to wit, BONVENTRE aided and abetted the filing of a false and misleading Madoff Securities FOCUS Report with the SEC.

(Title 15, United States Code, Sections 78q(a) and 78ff;  
Title 17, Code of Federal Regulations, Section 240.17a-5;  
Title 18, United States Code, Section 2.)

**COUNT SIXTEEN**

**(Conspiracy to Commit Bank Fraud — JOANN CRUPI and the Kugel Bank Loans)**

The Grand Jury further charges:

113. The allegations contained in paragraphs 1 through 54 and 60 through 61 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

**STATUTORY ALLEGATIONS**

114. **The Conspiracy.** From in or about 2002, through and including in or about 2007, in the Southern District of New York and elsewhere, JOANN CRUPI, a/k/a “Jodi,” the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit bank fraud, in violation of Title 18, United States Code, Section 1344.

**Object of the Conspiracy**

115. **Bank Fraud.** It was a part and an object of the conspiracy that JOANN CRUPI, a/k/a “Jodi,” the defendant, and others known and unknown, willfully and knowingly would and did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

**Means and Methods of the Conspiracy**

116. Among the means and methods by which JOANN CRUPI, a/k/a “Jodi,” the defendant, and others known and unknown, would and did carry out the conspiracy were the following:

a. CRUPI and David Kugel submitted false and misleading information concerning Kugel’s and other people’s assets to financial institutions.

**Overt Acts**

117. In furtherance of the conspiracy and to effect the illegal object thereof, JOANN CRUPI, a/k/a “Jodi,” the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about May 2002, CRUPI submitted to a financial institution a false “Verification of Deposit” in which she misstated the value of a client’s investment advisory account.

b. In or about early 2003, David Kugel provided fraudulent account statements, prepared in New York, New York, to a financial institution.

c. In or about September 2007, CRUPI submitted a letter to a mortgage lender entitled “Verification of Deposit,” in which she misstated the value of Craig Kugel’s investment advisory account.

(Title 18, United States Code, Section 1349.)



**COUNT SEVENTEEN**

**(Bank Fraud — JOANN CRUPI and the Kugel Bank Loans)**

The Grand Jury further charges:

118. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

119. From in or about 2002, up to and including in or about 2007, in the Southern District of New York and elsewhere, JOANN CRUPI, a/k/a “Jodi,” the defendant, willfully and knowingly, did execute, and attempt to execute, a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations and promises, to wit, CRUPI submitted and caused to be submitted false financial information to lenders in order to procure loans on behalf of David L. Kugel, Craig Kugel, and another purchaser.

(Title 18, United States Code, Sections 1344 and 2.)

**COUNT EIGHTEEN**

**(Bank Fraud – DANIEL BONVENTRE and the Madoff Securities Bank Loans)**

The Grand Jury further charges:

120. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

121. From in or about 2005, up to and including in or about 2006, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully

and knowingly, did execute, and attempt to execute, a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations and promises, to wit, BONVENTRE submitted and caused to be submitted false FOCUS Reports and other financial information to lenders in order to procure loans for Madoff Securities.

(Title 18, United States Code, Sections 1344 and 2.)

**COUNT NINETEEN**

**(Falsifying Statements in Relation to Documents Required by ERISA —  
Fictitious Employment of DANIEL BONVENTRE's Son)**

The Grand Jury further charges:

122. The allegations contained in paragraphs 1 through 54 and 60 through 61 are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

123. From at least in or about 2007 through on or about December 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, knowingly, in documents required by Title I of ERISA to be published and kept as part of the records of employee welfare benefit plans and employee pension benefit plans, and certified to the administrator of such plans, made and caused to be made false statements and representations of fact, knowing them to be false, and knowingly concealed, covered up and failed to disclose facts the disclosure of which was required by Title I of ERISA, and was necessary to verify, explain, clarify, and check for accuracy and completeness reports required by such title to be

published and information required by such title to be certified, to wit, BONVENTRE caused to be submitted to the United States Department of Labor false documents reflecting an employee who in fact did not work at Madoff Securities.

(Title 18, United States Code, Sections 1027 and 2.)

**COUNT TWENTY**

**(Subscribing to a False U.S. Individual  
Income Tax Return for Tax Year 2003 — DANIEL BONVENTRE)**

The Grand Jury further charges:

124. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

125. On or about April 13, 2004, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2003, which return contained and was verified by the written declaration of BONVENTRE that it was made under penalties of perjury, and which return BONVENTRE did not believe to be true and correct as to every material matter, in that BONVENTRE falsely omitted material amounts of wage and other income, whereas, as BONVENTRE then and there well knew and believed, he was not entitled to omit the material amounts of wage and other income from his 2003 return.

(Title 26, United States Code, Section 7206(1).)

**COUNT TWENTY-ONE**

**(Subscribing to a False U.S. Individual  
Income Tax Return for Tax Year 2004 — DANIEL BONVENTRE)**

The Grand Jury further charges:

126. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

127. On or about April 15, 2005, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2004, which return contained and was verified by the written declaration of BONVENTRE that it was made under penalties of perjury, and which return BONVENTRE did not believe to be true and correct as to every material matter, in that BONVENTRE: (a) falsely omitted material amounts of wage and other income; and (b) falsely characterized hundreds of thousands of dollars of ordinary income as a long-term capital gain, whereas, as DANIEL BONVENTRE then and there well knew and believed, he was not entitled to omit the material amounts of wage and other income from his 2004 return, and that he was not entitled on that return to characterize the ordinary income he received as a long-term capital gain.

(Title 26, United States Code, Section 7206(1).)

**COUNT TWENTY-TWO**

**(Subscribing to a False U.S. Individual  
Income Tax Return for Tax Year 2006 — DANIEL BONVENTRE)**

The Grand Jury further charges:

128. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

129. On or about April 12, 2007, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2006, which return contained and was verified by the written declaration of DANIEL BONVENTRE that it was made under penalties of perjury, and which return DANIEL BONVENTRE did not believe to be true and correct as to every material matter, in that DANIEL BONVENTRE, the defendant: (a) falsely omitted material amounts of wage and other income; (b) falsely omitted approximately \$166,944 of cancellation-of-indebtedness income; and (c) falsely characterized hundreds of thousands of dollars of ordinary income as a long-term capital gain, whereas, as DANIEL BONVENTRE then and there well knew and believed, he was not entitled to omit the material amounts of wage and other income, and cancellation-of-debt income, from his 2006 return, and that he was not entitled on that return to characterize the ordinary income he received as a long-term capital gain.

(Title 26, United States Code, Section 7206(l).)

**COUNT TWENTY-THREE**

**(Subscribing to a False U.S. Individual  
Income Tax Return for Tax Year 2007 — DANIEL BONVENTRE)**

The Grand Jury further charges:

130. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

131. On or about April 11, 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, willfully and knowingly did make and subscribe to a U.S. Individual Income Tax Return, Form 1040, for the tax year 2007, which return contained and was verified by the written declaration of BONVENTRE that it was made under penalties of perjury, and which return BONVENTRE did not believe to be true and correct as to every material matter, in that BONVENTRE, the defendant, falsely omitted material amounts of wage and other income, whereas, as DANIEL BONVENTRE then and there well knew and believed, he was not entitled to omit the material amounts of wage and other income from his 2007 return.

(Title 26, United States Code, Section 7206(1).)

**COUNT TWENTY-FOUR**

**(Obstructing and Impeding the Due Administration  
of the Internal Revenue Laws — DANIEL BONVENTRE)**

The Grand Jury further charges:

132. The allegations in paragraphs 1 through 55, 61-62, 83, and 86-87 of this Indictment are repeated and realleged as though fully set forth herein.

133. From in or about 1991, through in or about 2008, in the Southern District of New York and elsewhere, DANIEL BONVENTRE, the defendant, did corruptly obstruct and impede, and endeavor to obstruct and impede, as set forth above, the due administration of the Internal Revenue laws.

(Title 26, United States Code, Section 7212(a).)

**COUNTS TWENTY-FIVE THROUGH TWENTY-NINE**

**(Tax Evasion — ANNETTE BONGIORNO)**

The Grand Jury further charges:

134. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

135. From on or about January 1 of each of the calendar years set forth below, through on or about the tax return filing dates set forth below for each calendar year, in the Southern District of New York and elsewhere, ANNETTE BONGIORNO, the defendant, willfully and knowingly, did attempt to evade and defeat a substantial part of the income tax due and owing by her to the United States of America for the calendar years 2004 through 2008 by various means, including, among other things, by (a) arranging to get paid a portion of her income through monthly checks that BONGIORNO caused to be cashed in New York, New York, thereby causing Madoff Securities to issue BONGIORNO tax reporting documents that falsely under-reported BONGIORNO's income, and (b) by preparing and causing to be prepared, by signing and causing to be signed, and by filing and causing to be filed with the Internal Revenue Service, a false and fraudulent United States Individual Income Tax Return, Form 1040, for the calendar years 2004 through 2008, wherein BONGIORNO failed to report certain income

she received from Madoff Securities, and thus falsely stated that her taxable income was in the amount set forth below, and that the amount of tax due and owing thereon was in the amount set forth below, whereas, as BONGIORNO then and there well knew and believed, the correct taxable income and correct tax due and owing for the calendar years 2004 through 2008 was substantially in excess of the amounts reported, as set forth below:

COUNT	TAX YEAR	APPROXIMATE FILING DATE OF RETURN	REPORTED TAXABLE INCOME	APPROXIMATE ACTUAL TAXABLE INCOME	APPROXIMATE ADDITIONAL TAX DUE AND OWING
25	2004	4/15/2005	\$96,943	\$185,008	\$27,425
26	2005	4/15/2006	\$59,470	\$122,403	\$18,616
27	2006	4/15/2007	\$54,792	\$122,112	\$20,201
28	2007	4/15/2008	\$579,085	\$640,606	\$17,220
29	2008	10/15/2009	\$65,467	\$116,977	\$17,850

(Title 26, United States Code, Section 7201.)

### COUNT THIRTY

#### **(Obstructing and Impeding the Due Administration of the Internal Revenue Laws — ANNETTE BONGIORNO)**

The Grand Jury further charges:

136. The allegations in paragraphs 1 through 54 and 60 through 61 of this Indictment are repeated and realleged as though fully set forth herein.

137. From in or about 1994, through in or about 2008, in the Southern District of New York and elsewhere, ANNETTE BONGIORNO, the defendant, did corruptly obstruct



and impede, and endeavor to obstruct and impede, as set forth above, the due administration of the Internal Revenue laws.

(Title 26, United States Code, Section 7212(a).)

**COUNTS THIRTY-ONE THROUGH THIRTY-THREE**

**(Tax Evasion — JOANN CRUPI)**

The Grand Jury further charges:

138. The allegations contained in paragraphs 1 through 54 and 60 through 61 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

139. From on or about January 1 of each of the calendar years set forth below, through on or about the tax return filing dates set forth below for each calendar year, in the Southern District of New York and elsewhere, JOANN CRUPI, a/k/a “Jodi,” the defendant, willfully and knowingly, did attempt to evade and defeat a substantial part of the income tax due and owing by her to the United States of America for the calendar years 2004, 2007, and 2008 by various means, including, among other things, by (a) using a corporate credit card to pay annually for tens of thousands of dollars of personal expenses and thereby causing Madoff Securities to falsely and fraudulently characterize those expenses as business rather than payroll or wage expenses; (b) causing Madoff Securities to issue CRUPI tax reporting documents that falsely under-reported CRUPI’s income in the form of personal credit card payments; and (c) by preparing and causing to be prepared, by signing and causing to be signed, and by filing and causing to be filed with the Internal Revenue Service, false and fraudulent United States Individual Income Tax Return, Form 1040, for the calendar years 2004, 2007, and 2008 wherein CRUPI failed to report certain income she received from Bernard L. Madoff Investment

Securities, and thus falsely stated that her taxable income was in the amount set forth below, and that the amount of tax due and owing thereon was in the amount set forth below, whereas, as CRUPI then and there well knew and believed, the correct taxable income and correct tax due and owing for the calendar years 2004, 2007, and 2008 was substantially in excess of the amounts reported, as set forth below:

COUNT	TAX YEAR	APPROXIMATE FILING DATE OF RETURN	REPORTED TAXABLE INCOME	TAX PAID	APPROXIMATE ACTUAL TAXABLE INCOME	APPROXIMATE ADDITIONAL TAX DUE AND OWING
31	2004	4/15/2005	\$104,418	\$26,422	\$170,290	\$13,341
32	2007	4/15/2008	\$0	\$0	\$34,700	\$7,955
33	2008	10/19/2009	\$2,534,045	\$938,230	\$2,589,665	\$19,467

(Title 26, United States Code, Section 7201.)

### **FORFEITURE ALLEGATION**

#### **(Offenses Constituting Specified Unlawful Activity)**

140. As the result of committing one, some, or all of the offenses constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7), as alleged in Counts One, Two, Three, Six, Seven, Eight, Nine, Ten, and Eleven of this Indictment, DANIEL BONVENTRE, ANNETTE BONGIORNO, JOANN CRUPI, a/k/a Jodi,” JEROME O’HARA, and GEORGE PEREZ, the defendants, 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 offenses, including but not limited to a sum of money representing the amount of proceeds obtained as a result of the said offenses, to wit,

approximately \$170 billion, and all property traceable thereto, for which the defendants are jointly and severally liable.

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

**FORFEITURE ALLEGATION**

**(Bank Fraud)**

141. As a result of committing one or both of the offenses alleged in Counts Three and Eighteen of this Indictment, DANIEL BONVENTRE, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982, any and all property constituting or derived from proceeds obtained directly or indirectly as a result of the said offenses, and all property traceable to such property, including but not limited to, a sum of money representing the amount of proceeds obtained as a result of the said offenses, to wit, approximately \$487 million as to each of Counts Three and Eighteen, and all property traceable thereto.

(Title 18, United States Code, Section 982(a)(2)(A).)

**FORFEITURE ALLEGATION**

**(Bank Fraud)**

142. As a result of committing one or both of the offenses alleged in Counts Sixteen and Seventeen of this Indictment, JOANN CRUPI, a/k/a Jodi,” the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982, any and all property constituting or derived from proceeds obtained directly or indirectly as a result of the said offenses, and all property traceable to such property, including but not limited to, a sum of money representing the

amount of proceeds obtained as a result of the said offenses, to wit, approximately \$3,585,000 as to each of Counts Sixteen and Seventeen, and all property traceable thereto.

(Title 18, United States Code, Section 982(a)(2)(A).)


**Substitute Assets Provision**

143. If any of the forfeitable property described above in paragraphs 140, 141, or 142 of this Indictment, 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 defendants up to the value of the forfeitable property described above.

(Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(2)(A);  
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 -

DANIEL BONVENTRE,  
ANNETTE BONGIORNO,  
JOANN CRUPI,  
a/k/a "Jodi,"  
JEROME O'HARA, and  
GEORGE PEREZ,

Defendants.

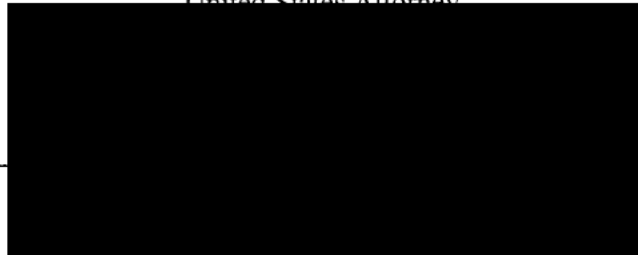
INDICTMENT

S10 10 Cr. 228 (LTS)

15 U.S.C. §§ 78j(b), 78q(a), 78ff, 80b-4, 80b-17;  
Title 17, Code of Federal Regulations,  
Sections 240.10b-5, 240.17a-3, 240.17a-5, 275.204-2; 26  
U.S.C., §§ 7201, 7206(l), 7212(a); 18 U.S.C. §§ 371, 1027,  
1344, 1349 and 2.

PREET BHARARA

United States Attorney



7/29/13 - Filed superseding indictment  
dc Judge Maas  
USMJ