

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

STIPULATION AND ORDER

- v. -

09 Cr. 213 (DC)

BERNARD L. MADOFF, :

Defendant. :

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RUTH MADOFF, :

Interested Party. :

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WHEREAS, on or about June ____, 2009, the Court entered a Preliminary Order of Forfeiture (Final as to the Defendant) (the "Preliminary Order") as to BERNARD L. MADOFF, the defendant ("MADOFF" or the "defendant"), which is attached hereto and incorporated herein by reference as if set out in full;

WHEREAS, in the Preliminary Order, which was entered on the defendant's consent, the Government and the defendant stipulated that, if the Government were to apply for an order of criminal forfeiture to be imposed as part of the defendant's sentence, and the Court were to hold a hearing on the Government's claims for forfeiture:

- (i) the Government could prove by a preponderance of the evidence that the defendant is liable for a personal money judgment in the amount of \$170,000,000,000, a sum of money representing the amount of property constituting or derived from proceeds traceable to

the commission of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and property traceable to such property, as alleged in the First Forfeiture Allegation; and

(ii) the Government could prove by a preponderance of the evidence that the defendant is further liable for a personal money judgment in the amount of \$799,000,000, a sum of money representing the property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information, and property traceable to such property, as alleged in the Second Forfeiture Allegation;

WHEREAS, in the Preliminary Order, the Government represented that:

(i) subject to the provisions of paragraph (iii) below, the Government could prove by a preponderance of the evidence that any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, has the requisite nexus to the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information and/or the Money Laundering Offenses charged in Counts Five through Seven of the Information, and is therefore forfeitable to the United States of America as property constituting or derived from proceeds traceable to the commission of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and/or as property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information;

(ii) subject to the provisions of paragraph (iii) below, the Government could prove by a preponderance of the evidence that the property subject to forfeiture includes, but is not limited to, all right, title and interest of the defendant in the property listed in Exhibit A to this Order (the "Specific Property");

(iii) based on the readily provable facts available at the present time, the evidence at a hearing on the forfeitability of a portion of the approximately \$14,500,000 combined equity in two assets listed in Exhibit A, to wit, all those shares of capital stock in 133 East 64th Street Corporation attributable to, and the proprietary lease for, Apartment 11A/12, 133 East 64th Street, New York, New York, which are held in the name of RUTH MADOFF and valued at approximately \$7,500,000, and the real property known as 216 Old Montauk Highway, Montauk, New York, held in the name of BERNARD L. MADOFF and RUTH MADOFF as tenants by the entireties and valued at approximately \$7,000,000 (collectively, the "New York Real Property"), would not establish the requisite nexus to either the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information or the Money Laundering Offenses charged in Counts Five through Seven of the Information;

WHEREAS, in the Preliminary Order, the defendant stipulated that the property subject to forfeiture as proceeds of the SUA Offenses and/or as property involved in the Money Laundering Offenses includes any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, including, but not limited to, the Specific Property; provided, however, that the defendant does not concede that the Government could prove that the portion of the approximately \$14,500,000 combined equity in the New York Real Property described in the preceding paragraph, and any and all personal property or other interests belonging to, owed to or controlled in whole or in part by the defendant (including, but not limited to, the Specific Property) that was purchased in or before 1985, and all property traceable to such property, is forfeitable to the United States of America as property constituting or derived from proceeds traceable to the commission of the

SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and/or as property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information;

WHEREAS, in the Preliminary Order, the Government and the defendant stipulated that any and all right, title and interest of the defendant in any and all personal property or other interests belonging to, owed to or controlled in whole or in part by the defendant, including, but not limited to, the Specific Property, that was purchased in or before 1985, and all property traceable to such property, and the portion of the approximately \$14,500,000 combined equity in the New York Real Property (collectively, the "Substitute Assets") is nonetheless forfeitable to the United States as a substitute asset of the defendant, pursuant to 21 U.S.C. § 853(p) and 18 U.S.C. § 982(b);

WHEREAS, in the Preliminary Order, the Court (i) imposed a money judgment upon the defendant in the amount of \$170,000,000,000, representing the amount of proceeds obtained as a result of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information; (ii) imposed a further money judgment upon the defendant in the amount of \$799,000,000, representing the property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information; (iii) except as provided in subsection (iv) of this paragraph, ordered the defendant to forfeit all of his right, title and interest in any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, including, but not limited to, the Specific Property, as property having the requisite nexus to the offenses giving rise to the forfeiture, including, but not limited to, all right, title and interest of the defendant in the Specific Property; and (iv) ordered the forfeiture of

any and all interest of the defendant in the Substitute Assets pursuant to 21 U.S.C. § 853(p) and 18 U.S.C. § 982(b);

WHEREAS, RUTH MADOFF, the wife of the defendant, would file a petition pursuant to 21 U.S.C. § 853(n) asserting an interest in all the property, including, but not limited to, the Specific Property, subject to forfeiture under the Preliminary Order of Forfeiture entered against the defendant;

WHEREAS, RUTH MADOFF would take the position at a hearing pursuant to 21 U.S.C. § 853(n) that she has a claim to the Specific Property, including but not limited to:

(i) at least approximately \$13,500,000 on deposit in accounts at Wachovia Securities held in the name of RUTH MADOFF;

(ii) municipal bonds and other securities, cash and other property valued at approximately \$46,665,673 on deposit in an account at COHMAD Securities Corp., held in the name of RUTH MADOFF;

(iii) all those shares of capital stock in 133 East 64th Street Corporation attributable to, and the proprietary lease for, Apartment 11A/12, 133 East 64th Street, New York, New York, which are held in the name of RUTH MADOFF and valued at approximately \$7,500,000;

(iv) the real property known as 216 Old Montauk Highway, Montauk, New York, held in the name of BERNARD L. MADOFF and RUTH MADOFF as tenants by the entireties and valued at approximately \$7,000,000, which RUTH MADOFF could claim entitles her to hold the property until its sale, or her death if she predeceases Bernard L. Madoff, whichever comes first;

(v) title in fee simple to the real property known as 410 North Lake Way, Palm Beach, Florida, 33480, held in the name of RUTH MADOFF, valued at approximately \$7,450,000;

(vi) Any and all jewelry owned or held in the name of Ruth Madoff, including that with an insurance replacement value of approximately \$2,624,340;

WHEREAS, in consideration of the facts and circumstances of this case, including, among other factors, that based on the readily provable facts available at the present time, the evidence at a hearing on the forfeitability of a portion of the approximately \$14,500,000 combined equity in the New York Real Property would not establish the requisite nexus of such property to either the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information or the Money Laundering Offenses charged in Counts Five through Seven of the Information; RUTH MADOFF would take the position at a hearing pursuant to 21 U.S.C. § 853(n) that she has a claim to the New York Real Property based on her ownership of all those shares of capital stock in 133 East 64th Street Corporation attributable to, and the proprietary lease for, Apartment 11A/12, 133 East 64th Street, New York, New York, which are held in the name of RUTH MADOFF, valued at approximately \$7,500,000, and her interest – a tenancy by the entirety – in the real property known as 216 Old Montauk Highway, Montauk, New York, valued at approximately \$7,000,000; and would make a claim to other assets having an aggregate value of more than \$70,000,000; in accordance with the Government’s authority under 21 U.S.C. § 853(i)(2) to compromise claims arising under 21 U.S.C. § 853; and in furtherance of the Government’s intent to distribute, as soon as practicable, the net proceeds from the sale or other disposition of the forfeited property to victims of the offenses of which MADOFF was convicted, consistent with applicable Department of Justice regulations, the parties to this Stipulation and Order, the Office of the United States Attorney for the Southern District of New York (“the Office”), and RUTH MADOFF, have determined to resolve

without litigation RUTH MADOFF's potential claims to the property subject to forfeiture under the Preliminary Order of Forfeiture entered against the defendant;

THEREFORE, THE OFFICE AND RUTH MADOFF HEREBY STIPULATE AND AGREE as follows:

1. Subject to the provisions of paragraphs 2 and 3 below, RUTH MADOFF withdraws and relinquishes any claim under the U.S. asset forfeiture laws that she has or may have, on any legal, factual or other basis, in any manner or forum, to the property subject to forfeiture under the Preliminary Order of Forfeiture entered against the defendant, any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, including, but not limited to, all right, title and interest in the Specific Property and agrees that she will not object to the entry of the proposed Preliminary Order of Forfeiture or otherwise contest the administrative or judicial forfeiture of such property under the U.S. forfeiture laws or assist a third party in doing so.

2. Notwithstanding the above, to facilitate the recovery and liquidation of assets located abroad that are subject to forfeiture under the Preliminary Order of Forfeiture, RUTH MADOFF, for the purpose of complying with Court orders directing the interlocutory sale of the French Assets, for the further purpose of maximizing recovery for victims, and in order to repatriate the net proceeds of the sale to the United States, shall retain all right, title and interest in the assets identified in item numbers 5, 6 and 14 of Exhibit A (the "French Assets").

3. In compromise of claims RUTH MADOFF would have pursued, the Office will not contest RUTH MADOFF's claim to a sum of money equal to \$2,500,000 (the "Funds"), which sum the Office shall cause to be tendered to RUTH MADOFF promptly after she vacates the real

property and surrenders all personal property listed in Exhibit A hereto as provided in paragraph 4 below. RUTH MADOFF understands and agrees that this Stipulation and Order binds only the Office and does not in any way preclude any other department or agency of the United States or any other person or entity, including, but not limited to, the United States Securities and Exchange Commission, Irving H. Picard, Esq. as trustee for the liquidation of the business of defendant Bernard L. Madoff Investment Securities LLC, the Securities Investor Protection Corporation, or Alan Nisselson, Esq. as trustee for the personal assets of BERNARD L. MADOFF and RUTH MADOFF from seeking to recover the Funds from RUTH MADOFF.

4. RUTH MADOFF agrees to vacate the real property and surrender all personal property listed in Exhibit A hereto on or before the date of the defendant's sentencing or such other date as RUTH MADOFF and the United States Marshals Service ("USMS") may agree in writing. As long as she possesses or maintains control over any of the Specific Property other than the French Assets, RUTH MADOFF agrees to maintain such property in order to preserve its current market value (normal wear and tear excepted); to maintain insurance policies on the Specific Property other than the French Assets with coverage satisfactory to the Office; and to make timely payments on current and continuous obligations regarding the Specific Property other than the French Assets, and RUTH MADOFF agrees that any such maintenance or payments shall be made from the Funds, with these obligations to begin on a date determined by the USMS, in its sole discretion. RUTH MADOFF agrees to provide the Office with a signed, written statement confirming her compliance with all obligations covered by this paragraph and shall provide proof satisfactory to the Office that those obligations are being met on a timely basis. RUTH MADOFF shall fully cooperate with any persons and entities designated by the Office to inspect or examine

the Specific Property, including, but not limited to, appraisers and environmental inspectors. With the exception of the French Assets, RUTH MADOFF shall not encumber or transfer any title or ownership or cause any alteration to the Specific Property except at the direction of the Office, and shall not move or transfer, or cause to be moved or transferred, any such property from its current location, except at the direction of the Office.

5. RUTH MADOFF will take all necessary steps to pass clear title to the Specific Property to the United States, its agent or designee, including, but not limited to, the execution of all documentation necessary to effect the forfeiture or transfer of the Specific Property as may be directed by the United States, its agent or designee, except that RUTH MADOFF's obligation to effect the forfeiture or transfer of the French Assets will be governed by the interlocutory sale orders pertaining to the French Assets, which are designed to maximize recovery for victims.

6. RUTH MADOFF represents that she is aware of no one, other than the defendant or herself, who might have or might assert a property interest in the Specific Property other than the French Assets.

7. The Office shall have the sole discretion to appoint or seek judicial or other approval of manager(s) for the Specific Property.

8. RUTH MADOFF further understands and agrees that, notwithstanding the foregoing, if any of the Specific Property other than the French Assets, as a result of any act or omission of the defendant or RUTH MADOFF, (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (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 divided without difficulty, the Office will seek an

order of forfeiture or will pursue collection by any other remedy available at law of a corresponding portion of the Funds or property traceable to such property as substitute property. RUTH MADOFF specifically consents to the Office's right, upon demand and refusal, to pursue the remedy described in this paragraph, and will not argue, in any such proceeding, that such a remedy is available to the Government only against criminal defendants and may not be used to enforce the terms of this Stipulation and Order.

9. RUTH MADOFF understands, as set forth in paragraph 14 of the Preliminary Order of Forfeiture, that the Court, as to BERNARD L. MADOFF, has ordered the forfeiture as proceeds of the SUA Offenses and/or as property involved in the Money Laundering Offenses of any and all property and other interests belonging to, owed to or controlled in whole or in part by BERNARD L. MADOFF, and all property traceable to such property (excluding the Substitute Assets), including not only the Specific Property but also any and all property or other interests in which BERNARD L. MADOFF has or will acquire an interest (excluding the Substitute Assets), regardless of whether such property or interests are extant or known to the Government or the defendant at the time of the entry of the Preliminary Order of Forfeiture or the final order of forfeiture to be entered against the defendant. RUTH MADOFF understands and agrees to be bound, for all purposes under the U.S. asset forfeiture laws, by the terms of paragraph 14 of the Preliminary Order of Forfeiture as to MADOFF not only with respect to the Specific Property but also with respect to any and all property and other interests belonging to, owed to or controlled in whole or in part by BERNARD L. MADOFF and/or RUTH MADOFF, and any and all property or other interests in which BERNARD L. MADOFF and/or RUTH MADOFF may have or have, individually or jointly, an interest (excluding the Substitute Assets), regardless of whether such

property or interests are extant or known to the Government, the defendant or RUTH MADOFF at the time of the entry of the Preliminary Order of Forfeiture or this Stipulation and Order, and that the intent of this Stipulation and Order is to divest RUTH MADOFF of, and to forfeit to the United States of America, any and all property and other interests belonging to, owed to or controlled in whole or in part by RUTH MADOFF, and all property traceable to such property. RUTH MADOFF understands and agrees that she is hereby barred from challenging, or assisting a third party in challenging, the forfeiture of any such property pursuant to U.S. asset forfeiture laws, at any time, in any manner or forum. RUTH MADOFF further understands and agrees that she is giving up on a final basis any and all claims under the U.S. asset forfeiture laws to any and all property and other interests belonging to, owed to or controlled in whole or in part by BERNARD L. MADOFF, and all property traceable to such property, including not only the Specific Property but also any and all property or other interests in which BERNARD L. MADOFF has or may acquire an interest, it being understood that in compromise of claims she would have pursued, she will receive \$2,500,000 as set forth in paragraph 3 of this Stipulation and Order; and that she is precluded from retaining or seeking to retain or recover any other such property, including, but not limited to, any award of fees or interest in connection with the above-captioned case and any related proceedings that may be brought under the U.S. asset forfeiture laws to effectuate the terms of this Stipulation and Order.

10. RUTH MADOFF is hereby barred from asserting any claim against the United States or any of its agents and employees, including, but not limited to, the Federal Bureau of Investigation ("FBI"), the USMS, and the Office, in connection with, or arising out of, the United

States' seizure or forfeiture of the Specific Property or the transfer of the Specific Property to the United States, its agents and designees.

11. RUTH MADOFF further agrees to hold harmless the United States and any and all of the United States' agents and employees, including, but not limited to, the FBI, the USMS, and the Office, from all claims cognizable under the standards set forth in 21 U.S.C. § 853(n), i.e., claims asserting ownership in a particular, specific asset subject to forfeiture under the Preliminary Order of Forfeiture (other than the French Assets), including, but not limited to, any claim arising out of the United States' release of the Funds to RUTH MADOFF, her agent or designee.

12. The undersigned United States signatory represents that she is signing this Stipulation and Order in her official capacity and that she is authorized to execute this Stipulation and Order.

13. RUTH MADOFF represents that she has been represented in connection with the matters contained in this Stipulation and Order by counsel of her choice who is independent of BERNARD L. MADOFF and his counsel, that she is satisfied with the representation she has received and that she is entering into this Stipulation and Order of her own free will.

14. RUTH MADOFF and her undersigned counsel acknowledge that they have fully discussed and understand every paragraph and clause in this Stipulation and Order and the consequences thereof.

15. This Stipulation and Order may be executed in counterparts, each of which will be deemed an original, and all of which, when taken together, will be deemed the complete Agreement.

16. The Court will have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

17 This Stipulation and Order constitutes the complete agreement between the Parties and may not be amended except by written consent of the Parties.

FOR RUTH MADOFF:

Ruth Madoff

Ruth Madoff

Dated: June 26, 2009

FOR THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK

LEV L. DASSIN
Acting United States Attorney

By: _____

BARBARA A. WARD
SHARON E. FRASE

Assistant United States Attorneys
One St. Andrew's Plaza
New York, NY 10007
Telephone: (212) 637-1048/2329

Dated: June , 2009

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO P.C.
Counsel to Ruth Madoff

By: *Peter A. Chavkin*

PETER A. CHAVKIN, ESQ.
BRIDGET M. ROHDL, ESQ.

Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, P.C.
Chrysler Center, 666 Third Avenue
New York, NY 10017
Telephone: (212) 935-3000

Dated: June 26, 2009

SO ORDERED,

Dated: New York, New York
June , 2009

DENNY CHIN
United States District Judge

17. This Stipulation and Order constitutes the complete agreement between the Parties and may not be amended except by written consent of the Parties.

FOR RUTH MADOFF:

Ruth Madoff

Dated: June , 2009

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO P.C.
Counsel to Ruth Madoff

By: _____
PETER A. CHAVKIN, ESQ.
BRIDGET M. ROHDE, ESQ.
Mintz, Levin, Cohn, Ferris, Glovsky
and Popeo, P.C.
Chrysler Center, 666 Third Avenue
New York, NY 10017
Telephone: (212) 935-3000

Dated: June , 2009

FOR THE OFFICE OF THE UNITED
STATES ATTORNEY FOR THE
SOUTHERN DISTRICT OF NEW YORK:


LEV L. DASSIN
Acting United States Attorney

By: Barward
BARBARA A. WARD
SHARON E. FRASE
Assistant United States Attorneys
One St. Andrew's Plaza
New York, NY 10007
Telephone: (212) 637-1048/2329

Dated: June 26, 2009

SO ORDERED.

Dated: New York, New York
June 26, 2009



DENNY CHIN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. -

BERNARD L. MADOFF, :

Defendant. :

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PRELIMINARY ORDER
OF FORFEITURE
(FINAL AS TO THE DEFENDANT)

09 Cr. 213 (DC)

WHEREAS, Information 09 Cr. 213 (DC) (“Information”), filed March 10, 2009, charged BERNARD L. MADOFF, the defendant (“MADOFF” or the “defendant”), in eleven counts in connection with a scheme to defraud clients of Bernard L. Madoff Investment Securities (“BLMIS”), from at least as early as the 1980s through on or about December 11, 2008, by soliciting billions of dollars of funds under false pretenses, failing to invest investors' funds as promised, and misappropriating and converting investors' funds to MADOFF's own benefit and the benefit of others without the knowledge or authorization of the investors;

WHEREAS, the Information also contains two forfeiture allegations, the first of which concerns the offenses charged in Counts One, Three, Four, and Eleven of the Information, which constitute “specified unlawful activity” as that term is defined in 18 U.S.C. § 1956(c)(7) (the “SUA Offenses”), and which seeks criminal forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, of all property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the SUA Offenses, and all property traceable to such property, and substitute assets, pursuant to 21 U.S.C. § 853(p) (the “First Forfeiture Allegation”);

WHEREAS, the second forfeiture allegation, concerning the money laundering offenses charged in Counts Five through Seven of the Information (the “Money Laundering Offenses”), seeks criminal forfeiture, pursuant to 18 U.S.C. § 982(a)(1), of all property, real and personal, involved in the Money Laundering Offenses, and all property traceable to such property, and substitute assets, pursuant to 21 U.S.C. § 853(p) (the “Second Forfeiture Allegation”);

WHEREAS, the Government filed a notice pursuant to *United States v. Pimentel*, 932 F.2d 1029, 1034 (2d Cir. 1991), advising the defendant of its intent to seek criminal forfeiture (i) as alleged in the First Forfeiture Allegation, of all property constituting or derived from proceeds traceable to the commission of the SUA Offenses, including a money judgment in the amount of \$170,000,000,000, representing the amount of proceeds traceable to the commission of the SUA Offenses, all property constituting or derived from proceeds traceable to the commission of the said offenses, all property traceable to such property, and substitute assets; (ii) as alleged in the Second Forfeiture Allegation, all property involved in the Money Laundering Offenses, including a money judgment in the amount of \$799,000,000, representing the property involved in the Money Laundering Offenses, all property involved in the said offenses, all property traceable to such property, and substitute assets;

WHEREAS, on March 12, 2009, MADOFF pleaded guilty to all eleven counts in the Information;

WHEREAS, on or about March 16 and 17, 2009, the Office of the United States Attorney for the Southern District of New York (the “Office”) filed notices that the property subject to forfeiture includes all right, title and interest of the defendant in certain property identified in the notices;

WHEREAS, the Court will sentence the defendant on June 29, 2009;

WHEREAS, the Government and the defendant stipulate that, if the Government were to apply for an order of criminal forfeiture to be imposed as part of the defendant's sentence, and the Court were to hold a hearing on the Government's claims for forfeiture:

(i) the Government could prove by a preponderance of the evidence that the defendant is liable for a personal money judgment in the amount of \$170,000,000,000, a sum of money representing the amount of property constituting or derived from proceeds traceable to the commission of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and property traceable to such property, as alleged in the First Forfeiture Allegation; and

(ii) the Government could prove by a preponderance of the evidence that the defendant is further liable for a personal money judgment in the amount of \$799,000,000, a sum of money representing the property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information, and property traceable to such property, as alleged in the Second Forfeiture Allegation;

WHEREAS, the Government represents that:

(i) subject to the provisions of paragraph (iii) below, the Government could prove by a preponderance of the evidence that any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, has the requisite nexus to the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information and/or the Money Laundering Offenses charged in Counts Five through Seven of the Information, and is therefore forfeitable to the United States of America as property constituting or

derived from proceeds traceable to the commission of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and/or as property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information;

(ii) subject to the provisions of paragraph (iii) below, the Government could prove by a preponderance of the evidence that the property subject to forfeiture includes, but is not limited to, all right, title and interest of the defendant in the property listed in Exhibit A to this Order (the “Specific Property”);

(iii) based on the readily provable facts available at the present time, the evidence at a hearing on the forfeitability of a portion of the approximately \$14,500,000 combined equity in two assets listed in Exhibit A, to wit, all those shares of capital stock in 133 East 64th Street Corporation attributable to, and the proprietary lease for, Apartment 11A/12, 133 East 64th Street, New York, New York, which are held in the name of RUTH MADOFF and valued at approximately \$7,500,000, and the real property known as 216 Old Montauk Highway, Montauk, New York, held in the name of BERNARD L. MADOFF and RUTH MADOFF as tenants by the entireties and valued at approximately \$7,000,000 (collectively, the “New York Real Property”), would not establish the requisite nexus to either the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information or the Money Laundering Offenses charged in Counts Five through Seven of the Information;

WHEREAS, the defendant stipulates that the property subject to forfeiture as proceeds of the SUA Offenses and/or as property involved in the Money Laundering Offenses includes any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, including, but not limited to, the Specific Property;

provided, however, that the defendant does not concede that the Government could prove that the portion of the approximately \$14,500,000 combined equity in the New York Real Property described in the preceding paragraph, and any and all personal property or other interests belonging to, owed to or controlled in whole or in part by the defendant (including, but not limited to, the Specific Property) that was purchased in or before 1985, and all property traceable to such property, is forfeitable to the United States of America as property constituting or derived from proceeds traceable to the commission of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and/or as property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information;

WHEREAS, the Government and the defendant stipulate that any and all right, title and interest of the defendant in any and all personal property or other interests belonging to, owed to or controlled in whole or in part by the defendant, including, but not limited to, the Specific Property, that was purchased in or before 1985, and all property traceable to such property, and the portion of the approximately \$14,500,000 combined equity in the New York Real Property (collectively, the "Substitute Assets") is nonetheless forfeitable to the United States as a substitute asset of the defendant, pursuant to 21 U.S.C. § 853(p) and 18 U.S.C. § 982(b);

WHEREAS, the defendant consents to the terms of this Order and its entry against him;

WHEREAS, the Government intends to distribute, as soon as practicable, the net proceeds from the sale or other disposition of the property forfeited in this case to victims of the offenses described herein consistent with applicable Department of Justice regulations;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, and Rule 32.2(b)(1) of the Federal Rules of Criminal Procedure, and based on the foregoing, the Court finds by a preponderance of the evidence that the defendant BERNARD L. MADOFF is liable for a personal money judgment in the amount of \$170,000,000,000, a sum of money representing the amount of proceeds obtained as a result of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information.

2. Pursuant to 18 U.S.C. § 981(a)(1)(A) and Rule 32.2(b)(1) of the Federal Rules of Criminal Procedure, and based on the foregoing, the Court finds by a preponderance of the evidence that the defendant BERNARD L. MADOFF is further liable for a personal money judgment in the amount of \$799,000,000, as a sum of money representing the property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information.

3. Pursuant to 18 U.S.C. § 981(a)(1)(A) and (a)(1)(C) and 28 U.S.C. § 2461, and Rule 32.2(b)(1) of the Federal Rules of Criminal Procedure, and based on the foregoing, except as provided in paragraph 5 below, any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, including, but not limited to, the Specific Property, has the requisite nexus to the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information and/or the Money Laundering Offenses charged in Counts Five through Seven of the Information, and is therefore forfeitable and is hereby forfeited to the United States of America as property constituting or derived from proceeds traceable to the commission of the SUA Offenses charged in Counts One, Three, Four, and Eleven of the Information, and/or as property involved in the Money Laundering Offenses charged in Counts Five through Seven of the Information.

4. All of the defendant's right, title and interest in the Specific Property, except as provided in paragraph 5 below, is hereby forfeited to the United States for disposition in accordance with law, subject to the provisions of 21 U.S.C. § 853(n)(1) and 18 U.S.C. § 982(b)(1), and shall be applied to the Money Judgments imposed upon the defendant, as set forth in paragraphs 1 and 2, above, in partial satisfaction thereof.

5. Any and all interest of the defendant in the Substitute Assets is hereby forfeited to the United States pursuant to 21 U.S.C. § 853(p) and 18 U.S.C. § 982(b), and shall be applied to the Money Judgments to be entered against the defendant in partial satisfaction thereof.

6. The United States is hereby authorized to take possession of the Specific Property and the Substitute Assets (hereinafter collectively referred to as the "Subject Property") and to hold such property in its secure custody and control.

7. Pursuant to Rule G(4)(a) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the defendant, claiming interest in the Subject Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier, pursuant to Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

8. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Subject Property, (ii) shall be

signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to 21 U.S.C. § 853(n).

9. The United States may also, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Subject Property, as a substitute for published notice as to those persons so notified.

10. Upon adjudication of all third-party interests, this Court will enter a final order of forfeiture pursuant to 21 U.S.C. § 853(n) and 18 U.S.C. § 982(b)(1), in which all interests will be addressed.

11. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, this Order of Forfeiture shall be final against the defendant BERNARD L. MADOFF, shall be made part of the sentence of the defendant BERNARD L. MADOFF, and shall be included in the judgment of conviction therewith.

12. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture the Office is authorized to conduct any discovery needed to identify, locate or dispose of property subject to forfeiture, including depositions, interrogatories, requests for production of documents and subpoenas, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

13. If any of the Subject Property, 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 party; (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 divided without difficulty, any other property of the defendant up to the value of said property listed above as being subject to forfeiture is forfeitable as substitute property pursuant to 21 U.S.C. § 853(p) and 18 U.S.C. § 982(b).

14. As the defendant has stipulated and the Court has found that the property subject to forfeiture as proceeds of the SUA Offenses and/or as property involved in the Money Laundering Offenses includes any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property (excluding the Substitute Assets), (i) this order of forfeiture entered against the defendant encompasses not only the Specific Property but also any and all property and other interests in which the defendant has or will acquire an interest (excluding the Substitute Assets), regardless of whether such property and other interests are extant or known to the Government or the defendant at the time of the entry of this Preliminary Order of Forfeiture or the final order of forfeiture to be entered against the defendant; and (ii) the defendant is hereby barred from challenging, or assisting a third party in challenging, the forfeiture of any such property at any time in any manner or forum.

15. In executing upon this order of forfeiture, the Government may use all remedies available to it pursuant to 21 U.S.C. § 853 and 18 U.S.C. § 982 and any other applicable federal law. If no such federal law exists, the Government may use all remedies available to it pursuant to the laws of New York State.

16. The Court retains jurisdiction to take additional action, enter further orders, and amend this and any future orders as necessary to implement and enforce this Order.

17. The Clerk of the Court shall forward four certified copies of this order to Assistant U.S. Attorney Barbara A. Ward, One St. Andrews Plaza, New York, New York, 10007.

SO ORDERED.

Dated: New York, New York
June 26, 2009

A handwritten signature in black ink, appearing to read 'Denny Chin', written over a horizontal line.

DENNY CHIN
United States District Judge

EXHIBIT A

1. All shares of capital stock in 133 East 64th Street Corporation (a cooperative housing corporation), attributable to, and the proprietary lease for, Apartment 11A/12 in the building located at 133 East 64th Street, New York, New York, 10021, which may be held in the name of Ruth Madoff and/or Bernard L. Madoff (valued at approximately \$7,500,000), together with its appurtenances, improvements and fixtures and all valuable, insured or salable personal property contained therein, including, but not limited to:
 - a. All furniture, clocks, lamps, lighting fixtures and wall sconces, including those with an insured replacement value of approximately \$1,754,811;
 - b. All musical instruments, including one Steinway piano with an insured replacement value of approximately \$39,000;
 - c. All floor and window coverings, including those with an insurance replacement value of approximately \$382,000;
 - d. All tableware and serving pieces, including that silverware and plate with an insurance replacement value of approximately \$41,580, and that chinaware and glassware with an insured replacement value of approximately \$16,910;
 - e. All paintings, prints, professional photographs, sculpture, and other artwork, including but not limited to that fine art with an insurance replacement value of approximately \$1,634,100;
 - f. All linens and bedding, including but not limited to those with an insured replacement value of approximately \$18,000;
 - g. All decorative objects, including but not limited to those with an insured replacement value of approximately \$160,870;
 - i. All electronics and appliances;
2. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements known as 216 Old Montauk Highway, Montauk, New York, 11954, held in the name of BERNARD L. MADOFF and Ruth Madoff as tenants by the entireties (valued at approximately \$7,000,000), and all insured and salable personal property contained therein;
3. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements known as 410 North

Lake Way, Palm Beach, Florida, 33480, held in the name of Ruth Madoff (valued at approximately \$7,450,000), and all insured and salable personal property contained therein, including, but not limited to:

- a. All furniture, including but not limited to that with an insured replacement value of approximately \$1,175,100;
 - b. All floor and wall coverings, including but not limited to those with an insurance replacement value of approximately \$107,510;
 - c. All tableware and serving pieces, including but not limited to that silverware and metals with an insurance replacement value of approximately \$8,505, and that chinaware and glassware with an insured replacement value of approximately \$16,664;
 - d. All paintings, prints, professional photographs, sculpture, and other artwork, including but not limited to those with an insurance replacement value of approximately \$858,150;
 - e. All decorative objects, including that having an insured replacement value of approximately \$248,158;
 - g. All electronics and appliances;
4. \$1,480,636.69 on deposit in the U.S. Marshals Service Seized Asset Fund, representing the net proceeds from the sale of all that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements known as Chateau des Pins Villa 2, 279 Chemin de la Garoupe, Cap d'Antibes, France, 06600; and all insured and salable personal property contained therein;
 5. One Leopard 23M Sport Yacht known as *Bull*, Hull No. 27, HIN IT ARNA 2327 K 202, approximately 23 meters long, 5.35 meters wide and 1.5 meters draft, and registered in the name of Yacht Bull Corp., George Town, Grand Cayman, Cayman Islands;
 6. Any and all interest held in the name of Yacht Bull Corp., George Town, Grand Cayman, Cayman Islands, in Mooring Number 25, Port Gallice, Pointe du Crouton, Boulevard Baudoin, 06160, Juan-les-Pins, Cap d'Antibes, France;
 7. One 2003 CH Marine Shelter Island Runabout Known as *Sitting Bull*, Hull Identification Number CQI38032F303, approximately 38 feet in length, and all electronics, equipment, appliances, and fixtures and all valuable, insured or salable personal property contained thereon;

8. One 1969 Rybovich Custom Motor Yacht Known as *Bull*, Hull Identification Number 522159, approximately 55 feet in length, and all electronics, equipment, appliances, and fixtures and all valuable, insured or salable personal property contained thereon;
9. One Pathfinder Open Motorboat Known as *Little Bull*, Hull Identification Number MVIPH016C000, approximately 24 feet in length, and all electronics, equipment, appliances, and fixtures and all valuable, insured or salable personal property contained thereon;
10. One 2003 EZLO Trailer, Vehicle Identification Number IZEDAE5G03A003546, Florida License Number J521CF;
11. One 1999 Mercedes Benz CLK Class, vehicle identification number WDBLK65G9XT012137, Florida registration number K556WB, and all electronics, equipment, fixtures and valuable, insured or salable personal property contained therein;
12. One 2004 Volkswagen Touareg, vehicle identification number WVGEM77L34D077975, New York registration number CYC6394, and all electronics, equipment, fixtures and valuable, insured or salable personal property contained therein;
13. One 2001 Mercedes Benz E Class, vehicle identification number WDBJH82J71X043517, New York registration number BAR8009, and all electronics, equipment, fixtures and valuable, insured or salable personal property contained therein;
14. One 2006 Dark Grey Peugeot 206, with vehicle identification number VF32JNFUB47457280 (approximately \$6,900);
15. All funds on deposit in any and all accounts at Wachovia Bank, N.A., held in the name of Ruth Madoff, and any accounts to which said funds have been transferred, and all funds traceable thereto, including but not limited to:
 - a. At least approximately \$13,310,450 on deposit in account no. 1010219632245, f/k/a No. 1010146337325;
 - b. At least approximately \$153,680 on deposit in account no. 1010192443920;
 - c. At least approximately \$34,720 on deposit in account no. 1010219633516;
 - d. At least approximately \$1,150 on deposit in account no. 1010219632779 ;

16. Any and all interest in COHMAD Securities Corporation, 885 Third Avenue, New York, New York, 10022, held in the name of Bernard Madoff, and all property traceable thereto; and
17. Any and all securities, funds and other property on deposit in Account No. 126-01070 in the name of Ruth Madoff at COHMAD Securities Corp., 885 Third Avenue, New York, New York, 10022, including but not limited to, municipal bonds valued at approximately \$46,665,673, and all property traceable thereto;
18. The contents of any and all safe deposit boxes held in the name or for the benefit of Bernard Madoff and/or Ruth Madoff, including, but not limited to, those held at Bank of New York Mellon, 706 Madison Avenue, New York, New York, 10021; and Box No. 151 at Wachovia Bank, N.A., Biltmore Galleria Financial Center, 285 Sunrise Avenue, Palm Beach, Florida, 33480;
19. Any and all ownership interest held in the name of Ruth Madoff and/or Bernard Madoff in the assets of any and all corporations, partnerships or other entities, and/or their subsidiaries, affiliates and joint ventures, including, but not limited to, the following:
 - a. Sterling Equity Partners;
 - b. Sterling American Property III LP;
 - c. Sterling American Property IV LP;
 - d. Sterling American Property V LP;
 - e. Sterling Acquisitions LLC;
 - f. Sterling/Carl Marks Capital;
 - g. Realty Associates Madoff II;
 - h. Hoboken Radiology LLC;
 - i. Delivery Concepts LLC;
 - j. The Clarke's Group LLC;
 - k. PJ Clarke's on the Hudson LLC;
 - l. FINARF Germantown LLC;

- m. Delta Ventures (Israel) and/or Delta Fund 1 LP;
 - n. Viager II LLC;
 - o. Laguardia Corporate Center Associates, LLC;
 - p. EB et al.;
 - q. W.D.I. LLC;
 - r. 4th & Forty, LLC;
 - s. DWD Associates, LLC;
 - t. Duhl & Mayer et al.;
 - u. Madoff La Brea LLC;
 - v. EZ Petshop.com, Inc. d/b/a PetCareRx, Inc.;
 - w. Bank Madoff;
20. Any and all loans or promissory notes in favor of Bernard L. Madoff and/or Ruth Madoff, as lender(s) and/or assignee(s), including but not limited to the following:
- a. A May 24, 1999 unsecured promissory note for \$1,000,080, executed by Allan Gary Klesch in favor of Bernard L. Madoff;
 - b. A March 25, 2000 promissory note for \$1,100,000, executed by Mark Madoff in favor of Ruth Madoff, due March 31, 2001 ("given as a substitution in part of a Note dated December 4, 1994, in the principal sum of \$1,000,000");
 - c. An October 31, 2000 demand promissory note for \$5,491,525.35, executed by Peter B. Madoff as Manager of Madoff Technologies, L.L.C. in favor of Bernard L. Madoff;
 - d. A March 6, 2003 loan or other transfer of funds from Bernard L. Madoff in the amount of \$1,500,000 to David Kugel;
 - e. A November 25, 2003 unsecured promissory note for \$6,800,000, executed by Andrew Madoff in favor of Ruth Madoff, due November 30, 2007;

- f. A March 1, 2004 unsecured promissory note for \$3,200,000, executed by Mark Madoff in favor of Ruth Madoff, due February 29, 2008;
- g. A July 8, 2004 demand promissory note for \$2,000,500, executed by Peter B. Madoff as Manager of Madoff Family Fund LLC in favor of Bernard L. Madoff;
- h. The balance due on a September 7, 2004 loan in the principal amount of approximately \$1,000,000 to Steven Raven;
- i. A May 1, 2005 demand promissory note for \$1,000,000, executed by Peter B. Madoff as Manager of Madoff Family Fund LLC in favor of Bernard L. Madoff;
- j. A June 17, 2005 unsecured promissory note for \$6,000,000, executed by Mark Madoff in favor of Ruth Madoff, due May 31, 2010;
- k. A December 31, 2005 unsecured promissory note for \$5,000,000 (Restatement of Loan Agreement dated December 31, 2001, which in turn memorializes and modifies an unsecured Loan Agreement dated December 28, 1998, for \$5,000,000), executed by Andrew Madoff in favor of Bernard L. Madoff, due December 31, 2010;
- l. A December 31, 2005 unsecured promissory note for \$5,000,000 (Restatement of Loan Agreement dated December 31, 2001, which in turn memorializes and modifies an unsecured Loan Agreement dated December 28, 1998, for \$5,000,000), executed by Mark Madoff in favor of Bernard L. Madoff, due December 31, 2010;
- m. A December 31, 2005 unsecured promissory note for \$2,500,000 executed by Peter B. Madoff in favor of Bernard L. Madoff, due December 31, 2010 (restating a loan agreement dated December 31, 2001);
- n. An August 31, 2007 unsecured loan from Bernard L. Madoff for \$1,000,000 to David Kugel at 6% interest;
- o. A December 12, 2007 unsecured promissory note for \$9,000,000, executed by Peter Madoff in favor of Bernard L. Madoff, due December 31, 2012 at 4.13% interest, and all property traceable thereto, including a 50% interest in BDG Yaphank, LLC and a 50% interest in BDG Leroy, LLC, held in the name of Peter Madoff and/or Essex Realty Development, LLC;

- p. An April 24, 2008 unsecured loan from Bernard L. Madoff for \$132,000 to Seth Hochman;
 - q. A June 16, 2008 unsecured promissory note for \$6,500,000 executed by Mark Madoff and Stephanie Madoff in favor of Bernard L. Madoff, due June 30, 2013;
 - r. A May 8, 2008 loan or other transfer of funds in the amount of \$2,800,000 from Bernard L. Madoff to Marion Madoff;
 - s. A June 27, 2008 loan or other transfer of funds in the amount of \$720,000 from Bernard L. Madoff to Eric Lipkin;
 - t. A September 21, 2008 unsecured promissory note for \$250,000, executed by Andrew Madoff in favor of Bernard L. Madoff, due August 31, 2012;
 - u. An October 6, 2008 unsecured promissory note for \$4,300,000, executed by Andrew Madoff in favor of Bernard L. Madoff, due September 30, 2012; and
 - v. The balance due on a loan made by Bernard L. Madoff in or after 2005 in the principal amount of approximately \$300,000 to Steven Raven;
- 21. Any and all jewelry owned or held in the name of Ruth Madoff, including that with an insurance replacement value of approximately \$2,624,340;
 - 22. Approximately 35 sets of watches and cufflinks owned by Bernard Madoff;
 - 23. One black dyed and sheared women's mink coat purchased from the J. Mendel salon at Bergdorf Goodman on or about November 16, 2003, appraised at \$12,500;
 - 24. One Russian sable fur three-quarter length coat, appraised at \$36,000;
 - 25. All salable apparel, accessories, footwear, leather goods, and luggage not otherwise identified herein;
 - 26. All salable furniture, art, musical instruments, silverware and plate, chinaware, glassware, bedding, linens, decorative objects, electronics, appliances and other personal property not otherwise identified herein;
 - 27. Any and all Social Security payments made to Bernard L. Madoff;

28. Any and all tax refunds paid to Bernard L. Madoff and/or Ruth Madoff attributable to assets and liabilities incurred through calendar year 2008;
29. Any and all income, including but not limited to investment income or dividends, paid to Bernard L. Madoff and/or Ruth Madoff;
30. The contents of Account No. 120-0202690 in the name of Bernard L. Madoff and Ruth Madoff at Bank of New York Mellon (approximately \$22,000);
31. Travelers Life & Annuity life insurance policy no. 3596139, Bernard Madoff, Insured (cash surrender value approximately \$50,000);
32. Travelers Life & Annuity life insurance policy no. 3732336, Bernard Madoff, Insured;
33. Phoenix Life Insurance Company policy no. 1,778,899, Bernard Madoff, Insured;
34. Any and all interest in any and all accounts at financial institutions held in the name of Bernard Madoff and/or Ruth Madoff, and all property traceable thereto, including, but not limited to, any and all accounts held at:
 - a. Lehman Brothers and/or the successor(s) thereto;
 - b. Morgan Stanley;
 - c. Bear Stearns and/or the successor(s) thereto; and
 - d. Fidelity.