

96TJMADF Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v. 09 CR 213 (DC)

5 BERNARD L. MADOFF,
6 Defendant.

7 -----x

New York, N.Y.
June 29, 2009
10:00 a.m.

10 Before:

11 HON. DENNY CHIN,
12 District Judge

14 APPEARANCES

15 LEV L. DASSIN
16 Acting United States Attorney for the
16 Southern District of New York

17 MARC O. LITT
17 LISA A. BARONI
18 BARBARA A. WARD
18 Assistant United States Attorneys

19 DICKSTEIN SHAPIRO LLP
20 Attorneys for Defendant

20 IRA LEE SORKIN
21 DANIEL J. HORWITZ
21 MAURO M. WOLFE
22 NICOLE P. DE BELLO

CONNECTED

23 ALSO PRESENT: KEITH D. KELLY, FBI
24 JULIA SCHULTE HANISH, USDOJ, FBI

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1 (In open court)

2 (Case called)

3 THE COURT: Please be seated. Good morning. Mr.
4 Madoff, would you please stand.

5 Mr. Madoff, you pled guilty on March 12th, 2009 to 11
6 counts of securities fraud, investment advisor fraud, wire and
7 mail fraud, money laundering, making false statements, perjury,
8 filing false documents with the SEC and theft from employee
9 benefit funds You are here this morning to be sentenced for
10 those crimes.

11 Have you reviewed the presentence report?

12 THE DEFENDANT: Yes, I have, your Honor.

13 THE COURT: Did you discuss it with your lawyers?

14 THE DEFENDANT: I have.

15 THE COURT: Mr. Sorkin, have you reviewed the
16 presentence report and discussed it with your client?

17 MR. SORKIN: Yes, your Honor, we have.

18 THE COURT: Do you or your client have any objections
19 to the factual recitations or the guidelines calculation?

20 MR. SORKIN: We do not, your Honor.

21 THE COURT: Thank you. You can be seated.

22 Ms. Baroni, does the government have any objections to
23 the presentence report?

24 MS. BARONI: No, your Honor.

25 THE COURT: Thank you.

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1 I accept and adopt the factual recitations set forth
2 in the presentence report. I accept and adopt the guidelines
3 calculation set forth in the presentence report with one
4 clarification which I will discuss in a moment.

5 The total offense level is 52, the criminal history
6 category is I. The PSR concludes that the guideline range is
7 life imprisonment. That is not quite accurate, however,
8 because the guidelines range cannot be life imprisonment as no
9 count carries the possibility of a life sentence. Rather the
10 most serious counts carry a maximum of 20 years' imprisonment.

11 I look then to Section 5G1.2(d) of the guidelines,
12 which tells us that where there are multiple counts, and the
13 guideline range exceeds the statutory maximum for the most
14 serious count, the court must impose consecutive terms of
15 imprisonment to the extent necessary to achieve the total
16 punishment.

17 There is a little bit of ambiguity, however, as to
18 what is meant by "total punishment" where the guideline
19 calculation calls for life imprisonment, but Second Circuit
20 case law makes clear that in such a situation, the district
21 court is to stack or add up the maximum sentences for all the
22 counts.

23 In *United States v. Evans*, for example, 352 F.3d 65,
24 where the guideline calculation called for life imprisonment
25 but no count carried a life sentence, the court held that the

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1 guideline range is 240 years, the maximum sentences for all the
2 counts added together.

3 Accordingly, here the guideline range is not life
4 imprisonment, but 150 years, the maximum sentences for each of
5 the 11 counts added together. Of course, in light of Booker
6 and the case law that followed, the guideline range is advisory
7 only. While I must give the guideline range fair and
8 respectful consideration, I am not bound by it. In fact, the
9 Probation Department recommends a sentence of 50 years.
10 Instead I must make an individualized assessment based on all
11 the facts and circumstances, including the factors set forth in
12 the statute. In the end, I must impose a sentence that is
13 reasonable.

14 We will proceed as follows:

15 First we will hear from the victims. Then Mr. Sorokin
16 will speak on behalf of Mr. Madoff. Next Mr. Madoff may speak
17 if he wishes. Finally, I will hear from the government.

18 First the victims. I have received several hundred
19 written statements from victims including the e-mails and
20 letters submitted back in March. Every victim who made a
21 timely request to speak will be permitted to speak today except
22 in two instances. Two members of the same family asked to
23 speak, and we will permit one person to speak on behalf of the
24 family. Two victims have now withdrawn their request.
25 Accordingly, we will hear from 9 victims today.

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1 First we will hear from Mr. and Mrs. Ambrosino. The
2 Ambrosinos can step up to the microphone. Go ahead.
3 Mr. Ambrosino, go ahead. Come up to the microphone so everyone
4 can hear you.

5 MR. AMBROSINO: Thank you, your Honor. My name is
6 Dominic Ambrosino and my --

7 THE COURT: Sir, just keep your voice up.

8 MR. AMBROSINO: I thank the court for allowing me to
9 speak today. As a retired New York City Correction Officer, I
10 am very familiar with the inside of a courtroom. However, I
11 never in my wildest dreams ever expected to be sitting in one
12 as a victim of an indescribably heinous crime --

13 THE COURT: Mr. Ambrosino, slow down a touch so our
14 Court Reporter can transcribe what you're saying.

15 MR. AMBROSINO: That dream came true on March 12th as
16 I watched Bernie Madoff stand and be cuffed. However, the
17 dream really started as a nightmare on December 11th. I can
18 remember the exact second my wife told me the news. I
19 immediately knew all the ramifications, but I don't think she
20 did. The fallout from having your entire life savings drop
21 right out from under your nose is truly like nothing you can
22 ever describe. At first it was the obvious, and how will we
23 pay our bills? How can someone do this to us?

24 We worked honestly and we worked so hard. This can't
25 be real. We did nothing wrong.

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1 I don't know if anyone other than another victim can
2 explain what the less obvious effects are, how every decision
3 directly and indirectly hinged on the fact that we had the
4 security of our savings. When I was able to leave the job, we
5 bought a motor home to travel the country. We took out a
6 mortgage since it was better to keep our savings in Madoff. We
7 sold the house my wife lived in for 27 years and also put all
8 those profits -- and they were high -- into our Madoff account.
9 We trusted that the savings and planning would see us through
10 our retirement.

11 We had ideas of traveling the country. It all stopped
12 abruptly on December 11th. As a result, we are left with no
13 permanent house, a depreciating motor home, we are upside down
14 on the loan and an income from my pension that is our life.
15 This pension used to be perceived as spending money before
16 December 11th, and now although it doesn't cover our monthly
17 expenses, we rely on it fully. It is all we have.

18 I sustained a 52 percent hearing loss on my job, and
19 at 49 years' old I can't go back to my previous career so I
20 have taken on a job this summer in Arizona as an construction
21 project coordinator. The job will only last until August.
22 Then I don't know what I am going to do.

23 My wife's foot was run over by a van while in New York
24 City. There was a plea hearing in March. She had a job lined
25 up before the trip. The expenses of the trip were given to us

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1 and we had to let it go since she was in a cast for eight
2 weeks. She is now rehabilitating and still feels pain when she
3 stands for long periods of time.

4 With that background as to who I am, I would like to
5 share some of the specific problems Madoff's crime brought to
6 us. My pension distribution, a one-time decision, and our
7 health insurance plan, also one-time decision, were based on
8 the fact that we had savings and security with Madoff. If I
9 should die, my wife is left without my income or health
10 insurance.

11 We sold our home in New York with the expectation that
12 someday we would have the finances to purchase another one. We
13 have no credit now and can't get a mortgage. We have been
14 forced to take care of people's homes while they are traveling
15 for the summer, as we used to do prior to December 11th.

16 We have through the generosity of friends been able to
17 stay rent free on the RV lots of people in the community. This
18 will come to a screeching halt in October when the owners
19 return for the winter season. We don't know where we'll go at
20 that time. We don't have enough income from my pension to pay
21 monthly rent.

22 The most devastating to us is we lost our freedom. We
23 lost the ability to share our life every day as we explore the
24 country every day. We lost the time to hold hands as we
25 walked. As they say in the commercial, this is priceless.

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1 In closing, I would like to say, Judge Chin,
2 sentencing Bernard L. Madoff to the fullest extent will
3 certainly not eliminate any of the issues I wrote about. It
4 probably won't even gain me satisfaction. As the guard who
5 used to be on the right side of the prison bars, I'll know what
6 Mr. Madoff's experience will be and will know that he is in
7 prison in much the same way he imprisoned us as well as others.

8 He took from us the freedom that we held so preciously
9 close to our lives, the very thing I always valued and never
10 took for granted. In a sense, I would like someone in the
11 court today to tell me how long is my sentence.

12 Thank you very much.

13 THE COURT: Thank you. Next we'll hear from Mr. and
14 Mrs. FitzMaurice.

15 MS. EBEL: No, Judge Chin. I am next.

16 THE COURT: I saw the gentleman standing up next and I
17 thought -- you are Maureen Ebel?

18 MS. EBEL: Yes, I am. I am here with my brother,
19 William Thomas McDonough.

20 THE COURT: All right.

21 MS. EBEL: My name is Maureen Ebel and I am a victim
22 of Bernard L. Madoff.

23 I have lost all of my life's hard-earned savings. I
24 have lost my life savings because our government has failed me
25 and thousands and thousands of other citizens. There are many

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1 levels of government complicity in this crime. The Securities
2 & Exchange Commission, by its total incompetence and criminal
3 negligence, has allowed a psychopath to steal from me and steal
4 from the world.

5 I am a 61-year-old widow and I am now working full
6 time. I have done many things to survive since December 11th,
7 including selling a lot of my possessions and working three
8 jobs at the same time. I have lost a home that my husband and
9 I had owned for 25 years because of this theft.

10 I have lost my ability to care for myself in my old
11 age. I have lost the ability to donate to charity, especially
12 the Leukemia & Lymphoma Society. I have lost my ability to
13 donate my time working for that charity as I had done in the
14 past because now I must work full time in order to eat.

15 I have lost the ability to help future generations of
16 my family get an education. I have lost the ability to help
17 them with their housing needs. It pains me so much to remember
18 my husband getting up in the middle of the night. He was a
19 very fine physician. He would get up in the middle of the
20 night year after year in all kinds of weather to go to the
21 hospital to save someone's life in rain, ice and snow.

22 He would save someone's life so that Bernie Madoff
23 could buy his wife another party rock. I have lost the ability
24 to move around the world freely at this stage in my life using
25 the money my husband and I have worked so hard to earn. We had

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1 worked, saved and planned for our old age so that we could
2 leave something behind and not be a burden when we became sick
3 and old.

4 The emotional toll that this has taken on me has been
5 devastating. I have had great pain and suffering at the hands
6 of Bernie Madoff. My health deteriorated rapidly after
7 December 11th. I could not eat or sleep. I was very agitated
8 and hyperactive. I had all the signs and symptoms of someone
9 undergoing great stress. I suffered rapid weight loss, rapid
10 heart rate, sweating, insomnia and sometimes spells.

11 I had the horrible feeling that I had been pushed into
12 the great black abyss, but I could not indulge these paralyzing
13 feelings too long. I had work to do. While experiencing all
14 these symptoms, I had to sell my home of 25 years, sell my
15 car, sell my possessions and go to work full time. I accepted
16 gifts of money from family and friends to pay for heat,
17 electricity, gasoline and food.

18 I was the recipient of so many kindnesses and saw so
19 much goodness in people. Goodness in people is something that
20 you, Mr. Madoff, have been blind to your whole life, and that
21 goodness is better than all the yachts and all the French homes
22 in all the world put together.

23 Sadly, Mr. Madoff not only defrauded thousands of
24 investors, he mastered the art of manipulating our government.
25 FINRA and the Securities & Exchange Commission became his

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1 tools. They were willing to relax all regulations that would
2 have uncovered his fraud. The justification for relaxing the
3 regulations was to ease the burden on Wall Street firms, the
4 very firm that bankrupted the world economy.

5 THE COURT: Ms. Ebel, this is not the time to
6 criticize the agencies. That is not before me. What is before
7 me is what sentence to impose, so if you would address that,
8 please.

9 MS. EBEL: I will, Judge Chin.

10 Mr. Madoff, I have read you will be making a statement
11 about your guilt and shame. I do not believe you. Judge Chin,
12 Mr. Madoff should stay in jail until every person who enabled
13 him to cause such a massive devastation is brought to justice.
14 He should stay in jail until the families of every one of his
15 victims are able to restore their financial stability. That
16 could easily take 150 years. Thank you.

17 THE COURT: Thank you. Next we'll hear from Mr. and
18 Mrs. FitzMaurice.

19 MR. FITZMAURICE: Thank you, Judge Chin, for allowing
20 us to be heard in your courtroom today.

21 My wife and I here are today representing the
22 thousands of Madoff victims. We have all suffered extensively
23 as a result of his actions. It has been well chronicled that
24 Madoff did not limit his treachery to a few. He stole from the
25 rich, he stole from the poor and he stole from the in-between.

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1 He had no boundaries. He stole from individuals as well as
2 charitable organizations of all types and denominations.

3 My wife and I are not millionaires. He has taken our
4 entire life savings. We have not been overlooked just as many
5 of his other victims. We have worked hard, long and hard for
6 all of our lives to provide for our family and to be in a
7 position to retire someday. I am now forced to work three
8 jobs. My wife is working a full-time job only to make ends
9 meet, to allow us to pay our mortgage and put food on the
10 table.

11 We are 63 years' old. It will be no retirement for us
12 in the next two or three years. There will be no trips to
13 California to visit our one-year-old grandson. There will be
14 no vacations of any type. Again we are too old to recoup the
15 monies that he has taken from us. We can only work as long as
16 our health will hold up and then we will have to sell our home
17 and hope to survive on social security alone.

18 Madoff has shown no remorse. Please do not confuse
19 his prepared statement as remorse. His crime was premeditated
20 and calculated. He was attempting to scam investors only days
21 before his arrest. If he had the opportunity, he would still
22 be stealing from innocent investors. He has not truly
23 cooperated with the authorities to recover the money that
24 rightfully belongs to his investors, whom we are now known as
25 victims.

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1 He cheated his victims out of their money so that he
2 and his wife Ruth and their two sons could live a life of
3 luxury beyond belief. This life is normally reserved for
4 royalty, not for common thieves.

5 Your Honor, we implore you to give him the maximum
6 sentence at a maximum prison for this evil lowlife. This would
7 be true justice. Minimum security prison would only allow
8 Madoff too many freedoms that he does not deserve. He would be
9 leading a life better than a lot of his victims. That is not
10 true justice. His was a violent crime without the use of a
11 tangible weapon.

12 His attorney will argue for a lenient sentence of up
13 to twelve years. That is both insulting and another example of
14 Madoff's arrogance. The scope of the devastation he has
15 wreaked is unparalleled. It is impossible to compare his crime
16 to any past criminal act. The pain he has inflicted will
17 continue for many years. My life will never be the same. I am
18 financially ruined and will worry every day about how I will
19 take care of my wife.

20 Where will we be able to live? How will we pay our
21 bills? How will we get medical insurance?

22 All of his victims worldwide will be waiting to see
23 that true justice is served. True justice is a maximum
24 sentence in a maximum security prison. I have a quotation from
25 my wife, since only one of us could speak. She wants to say:

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1 "I cry every day when I see the look of pain and
2 despair in my husband's eyes. I cry for the life we once had
3 before that monster took it away. Our two sons and
4 daughter-in-law have rallied with constant love and support.
5 You, on the other hand, Mr. Madoff, have two sons that despise
6 you. Your wife, rightfully so, has been vilified and shunned
7 by her friends in the community. You have left your children a
8 legacy of shame. I have a marriage made in heaven. You have a
9 marriage made in hell, and that is where you, Mr. Madoff, are
10 going to return. May God spare you no mercy."

11 THE COURT: Thank you.

12 Next we will hear from Carla Hirschhorn.

13 MS. HIRSCHHORN: Good morning and thank you, your
14 Honor, for allowing me to address you.

15 My husband and I write to you to explain the
16 devastation caused by Bernard L. Madoff to our lives. Since
17 1992 we were invested with Bernard L. Madoff Investment
18 Securities. We have never been rich people. We have worked
19 throughout all our adult lives. Over the years my husband has
20 worked hard to learn a trade as a glazer which afforded him the
21 opportunity to start a small business. I have been a physical
22 therapist and worked through to the day I was graduated from
23 college in 1980. We have both diligently saved our hard-earned
24 money to invest with Bernard Madoff over the years. We used
25 our money to raise our children, purchase our home and put our

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1 savings in Bernard Madoff Securities.

2 On December 11th, 2008, our world crumbled beneath us
3 as news of the Bernard Madoff ponzi scheme became public. This
4 turn of events has been devastating to our family. We lost our
5 entire life savings. This money was being used to provide our
6 children with a college education they have worked so hard to
7 deserve and to provide us with savings for a secure retirement.

8 Since December 11th, 2008 life has been a living hell.
9 It feels like a nightmare that we can't wake from. I am so
10 thankful that my father died two years ago and was spared from
11 having to live in his terminal condition without the money to
12 provide him 24/7 health care which allowed him to die with
13 indignity.

14 My father died and left my mother believing she would
15 be able to live a safe and secure life with the money in her
16 Bernard Madoff accounts. Now all she has to live on is a
17 sparce social security check and a small pension which will
18 last less than one year. She may not have enough money to
19 maintain her home and living expenses.

20 It is our hope and in our prayers she does not become
21 ill and require extraordinary means to sustain her. Our
22 daughter who sits in this courtroom today to witness this
23 horrific event is a junior at college and has worked two jobs
24 since our Madoff accounts were stolen while going to school
25 full time. The stress and worry about her family's financial

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1 situation and health of her parents has been devastating to
2 her. We have no idea how we will continue to pay for college
3 without it being a terrible financial burden and worry on all
4 of us.

5 Immediately after hearing the news of the ponzi
6 scheme, we filed papers for financial aid to sustain our
7 daughter through college. We were informed we were not
8 eligible for any grant money, that our only hope would be to
9 take out loans. However, in this financial environment,
10 without SIPIC insurance and with concern about claw-back
11 litigation, we can't possibly take loans out to send our
12 daughter to college. The turmoil caused by our financial
13 devastation has caused us serious physical and emotional
14 problems from which we need medical treatment.

15 Your Honor, please understand that we, the investors,
16 have been punished by Madoff's crime. We were devastated by
17 the SEC's failure to uncover Madoff's fraud and its continued
18 stamp of approval behind Madoff over the decades of his crime.
19 We have been abandoned by our elected officials which refuse to
20 require the SEC to find income. We have been betrayed by
21 SIPIC, which in order to save money, has invented a new
22 definition of net equity to deprive us of the \$500,000 of
23 insurance of which we were assured.

24 Please, your Honor, do not fail us. Please assure
25 that Madoff is sentenced with the maximum possible time and he

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1 is required to serve his sentence in a maximum security prison.
2 This is not a man who deserves a federal country club.

3 Respectfully, Carla Hirschhorn.

4 THE COURT: Thank you.

5 It is not up to me, by the way, where Mr. Madoff will
6 be designated. A number of people have made that suggestion,
7 but it is up to the Bureau of Prisons.

8 Next we'll hear from Sharon Lissauer.

9 MS. LISSAUER: My name is Sharon Lissauer. Thank you,
10 your Honor, for letting me speak. I am very emotional, so
11 please bear with me if I break down into tears. As everyone
12 knows, this nightmare has begun six and a half months ago and
13 yet it seems like a lifetime.

14 I keep on thinking I am going to wake up from it. It
15 keeps on getting worse. My life and my future have been
16 ruined. I was always so careful with my money, but I entrusted
17 everything I had to Mr. Madoff, my whole life savings from
18 modeling and the inheritance of my mom. She just died last
19 year, and as soon as I got the money, because I just miss her
20 and I trusted Mr. Madoff so much, I gave it all to him, but now
21 I don't have my mom or the money.

22 I know I am not alone. I know he has ruined thousands
23 of people's lives. In the March hearing he said that he was
24 truly sorry, which I don't really believe, but even if it is a
25 little bit true, then I am not asking him, I am begging him, if

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1 he has any money from the offshore accounts or his family has
2 any money obtained from this horrible fraud, that they disgorge
3 it and give it back to the victims so they can have a little
4 bit of their lives back.

5 With respect to his sentencing, I used to think that
6 it didn't matter if he got 150 years, what would that do for
7 the victims? It wouldn't get their money back. But now upon
8 reflection, I think he should spend his whole life in jail
9 because what he has done is just despicable. He has ruined so
10 many people's lives. He killed my spirit and shattered my
11 dreams. He destroyed my trust in people. He destroyed my
12 life, and I have no other assets. I make very little money
13 from modeling and he left me in a very difficult position to
14 pay my bills and support myself. For the first time in my life
15 I am very, very frightened of my future.

16 Thank you, your Honor.

17 THE COURT: Thank you.

18 Next we'll hear from Burt Ross. Mr. Ross.

19 MR. ROSS: Your Honor, my name is Burt Ross and my
20 wife Joan and I lost \$5 million because of the criminal acts of
21 Bernard Madoff. Not only have I lost the inheritance of my
22 father who worked his entire life, not only have I lost the
23 inheritance of my father who worked for his entire life so that
24 his children and his children's children can leave a better
25 life, I have lost our retirement accounts and funds in trust

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1 for our children.

2 The fact is though we are one of the fortunate ones
3 because we still have a roof over our heads, food on our table,
4 unlike so many others who have been forced to sell their homes,
5 who have been forced to sell their homes and pick up the pieces
6 of their lives.

7 Years ago I attended a Friends secondary school where
8 we thought that in each person there was an inner light, that
9 of God and everyone. For the life of me, as far as I have
10 searched, I cannot find that inner light in Bernard Madoff.

11 What can we possibly say about Madoff, that he was a
12 philanthropist, when the money he gave to charities he stole
13 from the very same charities he ultimately devastated; that he
14 was a good family man when he leaves his grandchildren a name
15 that mortifies them, a name which will live in infamy; that he
16 is genuinely remorseful for his conduct when the statement he
17 read in this very court was totally without emotion, when even
18 after confessing he fought to keep assets away from those he
19 hurt, when we all know his only regret was getting caught.

20 Can we say Madoff was a righteous Jew who served on
21 the boards of Jewish institutions when he sank so low, when he
22 sank so low as to steal from Elie Weisel, as if Weisel hasn't
23 already suffered enough in his lifetime.

24 A righteous Jew, when in reality nobody has done more
25 to reinforce the ugly stereotyped that all we care about is

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1 money the fact is there are no people on this earth more
2 charitable? But we will survive. We have survived worse than
3 Madoff.

4 What Bernard L. Madoff did far transcends the loss of
5 money. It involves his betrayal of the virtues people hold
6 dearest -- love, friendship, trust -- and all so he can eat at
7 the finest restaurants, stay at the most luxurious resorts, and
8 travel on yachts and private jets. He has truly earned his
9 reputation for being the most despised person to be in America
10 today.

11 Several hundred years ago the Italian poet Dante in
12 his "The Divine Comedy" recognized fraud as the worst of sins,
13 the ultimate evil more than any other act contrary to God's
14 greatest gift to mankind -- love. In fact, he placed the
15 perpetrators of fraud in the lowest depths of hell, even below
16 those who had committed violent acts. And those who betrayed
17 their benefactors were the worst sinners of all, so in the
18 three mouths of Satan struggle Judas for betraying Jesus
19 Christ, and Brutus and Cassius for betraying Julius Caesar.

20 Please Allow me to take a liberty now by speaking for
21 many of those victims who because of frailty, privacy,
22 distance, or other reasons are unable to bear witness today.
23 We urge your Honor to commit Madoff to prison for the remainder
24 of his natural life, and when he leaves this earth virtually
25 unmourned, may Satan grow a forth mouth where Bernard L. Madoff

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1 deserves to spend the rest of eternity.

2 Thank you.

3 THE COURT: Thank you. Next we'll hear from Michael
4 Schwartz.

5 MR. SCHWARTZ: Can everyone hear me?

6 My name is Michael Schwartz. I am 33 years' old. It
7 was my family's trust fund that helped fund the money for
8 Bernard Madoff's organization. Since I was a teenager, I
9 invested into what I thought was a forthright and legitimate
10 investment firm. During this time I made sure I lived well
11 within my means, nothing extravagant. I viewed my investment
12 as a safety net in case I should hit hard times or perhaps face
13 medical issues.

14 Unfortunately, several months ago, my job was
15 regionalized, eliminated. I was handed a letter of
16 recommendation and sent on my way. It didn't hit me until I
17 got home that the company that you ran had already taken my
18 life savings. At 33, I was wiped out.

19 I am one of the lucky ones by far. I have my health.
20 I am young, I have great friends, got a loving wife.
21 Unfortunately, the money you took from other members of my
22 family wasn't a minor setback. It was quite a bit more. Your
23 Honor, part of the trust fund wasn't set aside for a house in
24 the Hamptons, a large yacht or box seat to the Mets. No, part
25 of that money was set aside to take care of my twin brother who

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1 is mentally disabled, who at 33, he lives at home with my
2 parents and will need care and supervision for the rest of his
3 life.

4 In the final analysis, my family wants to remember
5 that in addition to stealing from retirees, veterans, widows,
6 Bernard Madoff stole from the disabled. Every time he cashed a
7 check and paid for his family's decadent lifestyle, he killed
8 dreams. My parents had a simple dream for my brother, a week
9 at summer camp, someday being able to live in a good, a good
10 group home. Thanks to Bernard Madoff's greed, complete lack of
11 ethics, that dream will be delayed.

12 At the end of the day my twin brother will be taken
13 care of. My family is strong enough to weather this storm but,
14 your Honor, I say this without any malice, Bernard Madoff
15 should no longer be allowed back in society. I only hope that
16 his prison sentence is long enough so that his jail cell
17 becomes his coffin. Thank you.

18 THE COURT: Thank you.

19 We'll hear next from Miriam Siegman.

20 MS. SIEGMAN: I was born a few blocks from this
21 courthouse. I still live here. On a cold winter's day just
22 before my 65th birthday, the man sitting in front of me
23 announced to the world that he had stolen everything I had.
24 After that he refused to say another word to his victims. I am
25 here today to bear witness for myself and others, silent

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1 victims.

2 The streets of my childhood felt safe. The streets I
3 wander now feel threatening. The man sitting in this courtroom
4 robbed me. In an instant his words and deeds beat me to near
5 senselessness. He discarded me like road kill. Victims became
6 the byproduct of his greed. We are what is left over, the
7 remnants of stunning indifference and that of politicians and
8 bureaucrats.

9 Six months have passed. I manage on food stamps. At
10 the end of the month I sometimes scavage in dumpsters. I
11 cannot afford new eyeglasses. I long to go to a concert, but I
12 never do. Sometimes my heartbeats erratically for lack of
13 medication when I cannot pay for it.

14 I shine my shoes each night, afraid they will wear
15 out. My laundry is done by hand in the kitchen sink. I have
16 collected empty cans and dragged them to redemption centers.

17 I do this. People ask how are you? My answer always
18 is I'm fine, but it is not always true. I have lived with
19 fear. It strikes me at all hours. I calculate again and again
20 how long I can hold out.

21 It is only a matter of time. I will be unable to meet
22 my own basic needs, food, shelter, medicine. I feel grief at
23 no longer being able to help support my beloved sister. I feel
24 shame and humiliation asking for help.

25 I also feel overwhelming sadness. I know that another

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1 human being did this to me and to all victims, but I don't know
2 why. What I do understand frightens me. The man who did this
3 had deep contempt for his victims.

4 There are many victims including those we never hear
5 from or see; union members, pipe-fitters, laborers, women who
6 work in nursing homes, bricklayers, firemen, working people.
7 One victim shot himself. The inquest informs us he was a
8 highly decorated former soldier who could not face the shame of
9 his ruin, his last words on a humanitarian mission in
10 Afghanistan. By self-admission, this thief among us knew his
11 victims were facing a kind of death at his hands, yet he
12 continued to play with us as a cat would with a mouse.

13 What shall be the punishment for such a man? What
14 sentence? Carry the burden we carry, feel his shame,
15 humiliation and isolation as I do. Feel it each day wherever
16 you are until life ends.

17 Face an acknowledge the murderous effects of your
18 life's work. I long for the truth that might become of a trial
19 and hope justice had placed a higher premium on truth and
20 expediency. Forgiveness for now, it will have to come from
21 someone other than me.

22 THE COURT: Thank you. Finally we'll hear from Sheryl
23 Weinstein.

24 MS. WEINSTEIN: Hello, your Honor.

25 THE COURT: Good morning.

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1 MS. WEINSTEIN: I was introduced to Bernard Madoff 21
2 years ago at a business meeting. At the time I was the chief
3 financial officer of Hadassah, a charitable women's
4 organization. I now view that day as perhaps the unluckiest
5 day of my life because of the many events set into motion that
6 would eventually have the most profound and devastating effect
7 on me, my husband, my child, my parents, my in-laws and all
8 those who depended upon us for their liveliness.

9 You have read and you appear from many of us, the old,
10 the young, the healthy and infirm about the unimaginable extent
11 of human tragedy and devastation. According to a Time Magazine
12 article, there are over 3 million individuals worldwide who
13 have been directly or indirectly affected. They, the press and
14 the media, speak of us as being greedy and rich. Most of us
15 are just ordinary working people, worker bees, as I like to
16 refer to us.

17 My husband and I are now both in our 60's and have
18 been married for 37 years. We have saved for most of our lives
19 by living beneath our means in order to provide for our
20 retirement. This past Thursday at 2:00 o'clock my husband and
21 I sold our home of 20 years. People are always asking how much
22 did we lose? My reply is that when you lose everything, it
23 really doesn't matter because you have nothing left, and we
24 have lost everything.

25 Many have told us we were lucky -- I no longer know --

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1 to be able to sell in this depressed market although at a
2 greatly reduced amount. We had to sell because four years ago
3 we refinanced our mortgage and gave the excess cash to Bernie
4 Madoff. There was very little left over after all was said and
5 done at the closing.

6 It is difficult to describe how it feels due to
7 circumstances outside of your control to be virtually forced
8 out of your home, to leave unwillingly. Last Tuesday I walked
9 out following the movers with a thought I would be back before
10 the closing, but knowing in the back of my mind that I
11 wouldn't.

12 My husband was the last to be in our home. He shared
13 with me his hesitation of not wanting to leave, of wanting to
14 remain, but realizing that staying was no longer an option. We
15 chose not to go to the closing because it would have been too
16 difficult and painful for either of us to be there. For months
17 after December 11th I would wake in the dark hours of the night
18 and early morning and to my horror realize that there were no
19 calming, soothing words I could say to myself because it wasn't
20 a dream. The monster who visited me was true, a reality.
21 Those same thoughts would occur to me upon waking in the
22 morning and during the day and a deep, heavy depression would
23 surround me and not lift.

24 This went on for many months. I went on after bad
25 dreams, virtually not able to eat. The sight of food was

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1 making me feel sick, unable to escape the reality of my
2 personal devastation. At times I could not even bear to be
3 alone. I would ask my friends to either stay with me at the
4 office even if there was very little work to do. It would
5 prompt me to pick up the phone to call my husband to be
6 reassured I was not alone.

7 This continued until March 12th when Madoff entered
8 his plea of guilty. I began to speak out to the media, and the
9 helpless and hopeless feelings began to retreat and I began to
10 feel empowered. It came together for me while being
11 interviewed by Katie Couric. She asked me wasn't I embarrassed
12 being a CPA losing all my money? At that moment I realized and
13 responded no, I am not embarrassed because I did not lose my
14 money. My money was stolen from me.

15 Ms. Couric said to me you sound angry, and I said yes,
16 you're right. When someone steals from you, you get angry.
17 That was the beginning of my healing process.

18 I felt it was important for somebody who as personally
19 acquainted with Madoff to speak. My family and I are not
20 anonymous people to him. He knows my husband's name is Rob and
21 my son's name is Eric. In fact, Eric worked for him one summer
22 while in college many years ago. Eric would continue to call
23 him over the years to ask for his advice and input. Eric
24 entrusted him with his money that he worked and saved. a few
25 months before all this happened Eric had spoken to him and

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1 thanked him for doing such a good job.

2 I would now like to have the opportunity to share with
3 you my personal feelings about Madoff and to speak to his
4 sentencing.

5 I remember when my son was perhaps a few weeks' old
6 and I would watch him as he slept and he would whimper, not a
7 cry of hunger, but a whimper. Even at a few weeks' old there
8 was something in his subconscious that could frighten him. It
9 amazed me such a young child, an infant can have nightmares.

10 All of us from our earliest ages remember those times
11 when the terror, the monsters and goblins would come visit us
12 in those dark hours. Eventually we would be so frightened that
13 we would awake sometimes calling out to our parents because of
14 the fear.

15 It was calming to have our parents remind us it was
16 only a dream. As we got older, we could wake ourselves and
17 self-assure ourselves it was only a dream. That terror, that
18 monster, that horror, that beast has a name to me, and it is
19 Bernard L. Madoff. I will now attempt to explain to you the
20 nature of this beast who I called Madoff.

21 He walks among us. He dresses like us. He drives and
22 eats and drinks and speaks. Under the facade there is truly a
23 beast. He is a beast that has stolen for his own needs the
24 livelihoods, savings, lives, hopes and dreams and futures of
25 others in total disregard. He has fed upon us to satisfy his

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1 own needs. No matter how much he takes and from whom he takes,
2 he is never satisfied. He is an equal opportunity destroyer.

3 I felt it important for you to know in appearance, he
4 would be just like everybody else and it is for this reason I
5 am asking your Honor to keep him in a cage behind bars because
6 he has lost the privilege of walking and being among us mortal
7 human beings. He should not be given the opportunity to walk
8 into our society again.

9 I would like to suggest that while any man, woman or
10 child that has been affected by his heinous crime still walks
11 this earth, Madoff the beast should not be free to walk among
12 them. You should protect society from the likes of him. I
13 have reread Madoff's March 12th statement to you. Certain
14 quotes jumped out at me. His continuing self-serving
15 references, and I quote, that his proprietary trading in the
16 market making business managed by his brother and two sons was
17 legitimate, profitable and successful in all respects, or that
18 he felt, "compelled to satisfy my clients' expectations at any
19 cost."

20 It sounds as if he is laying the blame on his clients'
21 expectations and never admitting the truth he was stealing from
22 these clients and the lives he ruined. If he was attempting to
23 protect his family, he should not be given that opportunity
24 because we, the victims, did not have the same opportunity to
25 protect our families. Madoff the beast has stolen our ability

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1 to protect our loved ones away from us. He should have no
2 opportunity to protect his family.

3 We, the victims, are greatly disappointed by those
4 agencies that were set up to protect us. SIPIC has now
5 redefined what we are entitled to. The IRS approved their
6 office request to be a custodian of our IRAs and pension funds
7 and the SEC appears to have looked the other way on numerous
8 occasions. This is a human tragedy of historic proportions and
9 we ask -- no, we implore -- that those whose agencies may have
10 failed us in the past through acts of omissions, step up to the
11 plate, fulfill their responsibilities. I thank your Honor for
12 your indulgence and I feel comfortable you will make sure
13 justice is served.

14 Thank you.

15 THE COURT: Thank you.

16 Thanks to all the victims who spoke today and to all
17 those who wrote. I appreciate hearing your views.

18 Mr. Sorkin.

19 MR. SORKIN: Good morning, your Honor.

20 THE COURT: Good morning.

21 MR. SORKIN: Before I speak, would your Honor
22 respectfully acknowledge you have received both the
23 government's sentencing memorandum and two responses?

24 THE COURT: Yes, I have your initial letter. I
25 received yesterday your reply brief. I have the government's

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1 memorandum as well.

2 MR. SORKIN: Thank you.

3 THE COURT: I have read them all.

4 MR. SORKIN: Thank you, your Honor.

5 May I proceed?

6 THE COURT: Yes.

7 MR. SORKIN: Your Honor, I know I speak on behalf of
8 all Mr. Madoff's counsel as well as Mr. Madoff who will speak.
9 We cannot be unmoved by what we heard. There is no way that we
10 cannot be insensitive to the victims' suffering.

11 This is a tragedy as some of the victims have said at
12 every level. There is no doubt Mr. Madoff will speak. We
13 represent a deeply flawed individual, but we represent, your
14 Honor, a human being. We don't represent a statistic. We
15 don't represent a number. We speak to the victims. We have
16 heard what they've had to say and we can only imagine, your
17 Honor, what we would have heard from others.

18 I say again, forgive me for being redundant, we
19 represent a very flawed individual, an individual who appears
20 before this court facing a sentence that is sufficient but not
21 unreasonably necessary to carry out the mandate that this court
22 has to carry out.

23 The magnificence of our legal system, your Honor, is
24 that we do not seek an eye for an eye. To be sure, if it is
25 any consolation to the victims, we have worked hopefully

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1 diligently with the U.S. Attorney's Office in an atmosphere of
2 trying to recover assets. To that extent, your Honor, we have
3 provided the government with what we believe to be the assets
4 that Mr. Madoff has gathered over the years which the victims
5 have referred to, and again if it is any consolation to them,
6 to the extent that the government has left him and his family,
7 his wife impoverished, we are just about there with respect to
8 everything the government believes it can show in order to
9 obtain the appropriate assets for forfeiture.

10 Vengeance is not the goal of punishment. Our system
11 of justice, your Honor, has recognized that justice is and must
12 always be blind and fair -- not blind to the criminal acts that
13 Mr. Madoff pleaded guilty to and certainly not blind to the
14 suffering of the victims, but blind to the extent that it will
15 achieve a sentence that has been set out over the years in the
16 guidelines and the cases interpreting the guidelines, and the
17 guidelines and the courts and the statutes, your Honor, do not
18 speak of vengeance and revenge.

19 There is something bordering on the absurd, and we
20 cited United States versus Ellison on this point, your Honor.
21 For the government to ask for 150 years so that Mr. Madoff gets
22 out of jail at the age of 221 because he is 71 now, he will
23 face supervised release. By the same token, your Honor, it
24 defies reason for the Probation Department to suggest that he
25 be sentenced to 50 years in prison for the very same reasons.

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1 I point out to the court, and forgive me, your Honor,
2 for repeating what is in the letter we sent you most recently,
3 that Mr. Madoff, as he pleaded to, as appears in the
4 presentence report and appears in the information in which the
5 government agrees, for most of the period of time that Mr.
6 Madoff is alleged to have engaged in this ponzi scheme and, in
7 fact, it was a ponzi scheme, it was money in and money out.

8 Most of the money, and I am quoting from the PSR, went
9 for redemptions. People who invested money were given back
10 money. To be sure, it was a fraud. To be sure, it was a ponzi
11 scheme. To be sure, it was a crime, but nevertheless, your
12 Honor, I point out, and in response respectfully to some of the
13 victims, the PSR noted, and I think it is common knowledge in
14 the industry that Mr. Madoff built up this firm on the
15 proprietary trading side to the point in 1991, as the
16 presentence report points out, the proprietary trading side
17 which at the point of his arrest had approximately 200
18 employees separate and apart from the fraudulent advisory
19 business, a hundred traders making markets and in 1991, your
20 Honor, accounted for almost 10 percent of all transactions on
21 the New York Stock Exchange.

22 Sufficient to provide revenue at the same time Mr.
23 Madoff engaged in taking money in and taking money out, most of
24 that money went for redemptions. As we point out in our letter
25 of yesterday, and as the government notes and as the PSR notes,

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1 the loans, the comingling, and we we do dispute this with the
2 government, but I don't think it is a relevant issue, the
3 comingling, the loans.

4 (Continued on next page)

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1 MR. SORKIN: The loans, the commingling, commenced
2 within the last eight to ten years. And as Mr. Madoff will
3 say, things began to collapse. And there was commingling with
4 \$250 million over the last eight or so years, of advisory
5 money, as well as money in, money out of investments.

6 I think it's important to note, your Honor, again that
7 Mr. Madoff stepped forward. He chose not to flee. He chose
8 not to hide money. To the extent money is overseas, we are
9 still actively engaged -- we, his defense counsel -- in
10 assisting the government, at the request of the government, to
11 obtain assets located overseas, as we speak, and we submitted
12 that voluntarily, and we have been trying to help, with
13 Mr. Madoff's authorization, permission, and blessing.

14 Mr. Madoff is 71 years old, your Honor. Based upon
15 his health, which is in the PSR, his family history, his life
16 expectancy, that is why we ask for a sentence of 12 years, just
17 short, based upon the statistics that we have, of a life
18 sentence.

19 We also said, if your Honor is inclined, your Honor
20 obviously makes the decision, 15 to 20 years. So that if
21 Mr. Madoff ever sees the light of day, in his 90s, impoverished
22 and alone, he will have paid a terrible price. He expects,
23 your Honor, to live out his years in prison.

24 The PSR points out, your Honor, as we noted in our
25 letter to you, that the loss in this case is \$13,226,000,000.

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1 The exact numbers are in the PSR. What has not been heard
2 publicly, your Honor, is the fact that over \$1,276,000,000 is
3 held by the SIPC trustee, and we have no control over how that
4 money is disbursed. And I say this for the victims we have
5 heard. Again, we have no control over what the SIPC trustee
6 does with the money that he obtains, nor do we have any control
7 over what the SEC will do, nor do we have any control as to how
8 the government to whom we have forfeited all of the assets but
9 a few, which the government and we have agreed were weighed
10 against the risk of litigation, we have no control how that
11 money is disbursed.

12 Additionally to the \$1,276,000,000, the SIPC trustee,
13 according to the PSR, has recovered \$1,225,000,000, has sent
14 demand letters to individuals for 735 million, and has
15 commenced litigation to seek a clawback from some very large
16 funds to obtain redemptions and interest payments in the amount
17 of \$10,100,000,000. It is our hope, your Honor, our sincerest
18 hope, that all that money is collected, in an amount in excess
19 of \$13,226,000,000, that that will be provided to investors.

20 The frenzy, the media excitement, that Mr. Madoff
21 engaged in a Ponzi scheme involving \$65 billion and that he has
22 ferreted money away, as far as we know, your Honor, that is
23 simply not true, and it is not borne out either by the
24 government or by the PSR, and we take no issue with the PSR.

25 In closing, your Honor, there is no question that this

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1 case has taken an enormous toll, not only on Mr. Madoff and his
2 family, but to the victims to be sure. But it has also taken a
3 toll, your Honor, as Mr. Madoff will say, on the industry that
4 he helped revolutionize, that he helped grow, and now has
5 become the object of disrespect and abomination, and that is a
6 tragedy as well.

7 We ask only, your Honor, that Mr. Madoff be given
8 understanding and fairness, within the parameters of our legal
9 system, and that the sentence that he be given be sufficient,
10 but not greater than necessary, to carry out what this Court
11 must carry out under the rules, statutes and guidelines.

12 Thank you, your Honor.

13 THE COURT: Thank you.

14 Mr. Madoff, if you would like to speak, now is the
15 time.

16 THE DEFENDANT: Your Honor, I cannot offer you an
17 excuse for my behavior. How do you excuse betraying thousands
18 of investors who entrusted me with their life savings? How do
19 you excuse deceiving 200 employees who have spent most of their
20 working life working for me? How do you excuse lying to your
21 brother and two sons who spent their whole adult life helping
22 to build a successful and respectful business? How do you
23 excuse lying and deceiving a wife who stood by you for 50
24 years, and still stands by you? And how do you excuse
25 deceiving an industry that you spent a better part of your life

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1 trying to improve? There is no excuse for that, and I don't
2 ask any forgiveness.

3 Although I may not have intended any harm, I did a
4 great deal of harm. I believed when I started this problem;
5 this crime, that it would be something I would be able to work
6 my way out of, but that became impossible. As hard as I tried,
7 the deeper I dug myself into a hole. I made a terrible
8 mistake, but it wasn't the kind of mistake that I had made time
9 and time again, which is a trading mistake. In my business,
10 when you make a trading error, you're expected to make a
11 trading error, it's accepted. My error was much more serious.
12 I made an error of judgment. I refused to accept the fact,
13 could not accept the fact, that for once in my life I failed.
14 I couldn't admit that failure and that was a tragic mistake.

15 I am responsible for a great deal of suffering and
16 pain. I understand that. I live in a tormented state now
17 knowing of all the pain and suffering that I have created. I
18 have left a legacy of shame, as some of my victims have pointed
19 out, to my family and my grandchildren. That's something I
20 will live with for the rest of my life.

21 People have accused me of being silent and not being
22 sympathetic. That is not true. They have accused my wife of
23 being silent and not being sympathetic. Nothing could be
24 further from the truth. She cries herself to sleep every night
25 knowing of all the pain and suffering I have caused, and I am

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1 tormented by that as well. She was advised to not speak
2 publicly until after my sentencing by our attorneys, and she
3 complied with that. Today she will make a statement about how
4 she feels about my crimes. I ask you to listen to that. She
5 is sincere and all I ask you is to listen to her.

6 Apologizing and saying I am sorry, that's not enough.
7 Nothing I can say will correct the things that I have done. I
8 feel terrible that an industry I spent my life trying to
9 improve is being criticized terribly now, that regulators who I
10 helped work with over the years are being criticized by what I
11 have done. That is a horrible guilt to live with. There is
12 nothing I can do that will make anyone feel better for the pain
13 and suffering I caused them, but I will live with this pain,
14 with this torment for the rest of my life.

15 I apologize to my victims. I will turn and face you.
16 I am sorry. I know that doesn't help you.

17 Your Honor, thank you for listening to me.

18 THE COURT: Thank you.

19 Mr. Sorkin, did I understand Mr. Madoff to say that
20 Mrs. Madoff wanted to speak?

21 MR. SORKIN: No, your Honor. Mrs. Madoff after the
22 sentencing will be giving a statement. And I add what
23 Mr. Madoff said about belaboring it, that she was advised by
24 counsel to wait till after sentence.

25 THE COURT: I thought he was saying she wanted to

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1 speak. Thank you.

2 I will hear from the government.

3 MS. BARONI: This defendant carried out a fraud of
4 unprecedented proportion over the course of more than a
5 generation. For more than 20 years he stole ruthlessly and
6 without remorse. Thousands of people placed their trust in him
7 and he lied repeatedly to all of them. And as the Court heard
8 from all of the victims, in their words and in the letters, he
9 destroyed a lifetime of hard work of thousands of victims. And
10 he used that victims' money to enrich himself and his family,
11 with an opulent lifestyle, homes around the world, yachts,
12 private jets, and tens of millions of dollars of loans to his
13 family, loans of investors' money that has never been repaid.

14 The guideline sentence in this case, as your Honor
15 knows, is 150 years and the government respectfully submits
16 that a sentence of 150 years or a substantial term of
17 imprisonment that will ensure that he spends the rest of his
18 life in jail is appropriate in this case.

19 This was not a crime born of any financial distress or
20 market pressures. It was a calculated, well orchestrated,
21 long-term fraud, that this defendant carried out month after
22 month, year after year, decade after decade. He created
23 literally hundreds and hundreds of thousands of fake documents
24 every year. Every time he told his clients that he was making
25 trades for them he sent them trade confirmations filled with

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1 lies. At every month end he sent them account statements that
2 were nothing but lies. And the defendant knew that his clients
3 made critically important life decisions, as your Honor heard
4 today, based on these lies. Decisions about their children's
5 education, their retirement, how to care for elderly relatives,
6 and how to provide for their families. He knew this, and he
7 stole from them anyway.

8 In doing so, he drove charities, companies, pension
9 plans and families to economic ruin. And even on the most
10 dispassionate view of the evidence, the scale of the fraud,
11 which is at a conservative estimate, your Honor, \$13 billion,
12 when you look at the duration of the fraud, which is more than
13 20 years, when you look at the fact that the defendant could
14 have stopped this fraud and saved the victims' losses, all of
15 these facts justify a guideline sentence of 150 years.

16 And to address briefly some of Mr. Sorkin's arguments,
17 despite Mr. Sorkin's arguments, the defendant here deserves no
18 leniency and certainly does not deserve a sentence of 12 years'
19 imprisonment.

20 Mr. Sorkin tries to argue that the loss amount is
21 actually going to be less than 13 billion because the trustee
22 may recover some assets in clawback proceedings. As your Honor
23 knows, that has nothing to do with the loss amount in this
24 case. Further, the defendant shouldn't get any credit for
25 anything the government or the trustee does after the fraud to

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1 recover money.

2 In asking for 12 years, your Honor, the defendant is
3 asking you to impose a sentence that a defendant would receive
4 in a garden variety fraud case in this district, a case with
5 about \$20 million of losses and far fewer victims. In imposing
6 a 12 year sentence in this case, on the facts and circumstances
7 here, would be profoundly unfair. Not only would it not
8 reflect the seriousness and the scope of the defendant's
9 crimes, but, also, it would not promote the goals of general
10 deterrence going forward.

11 Mr. Sorkin's argument that the defendant should get
12 some credit for coming forward and turning himself in is also
13 entirely meritless. The defendant continued his fraud scheme
14 until the very end, when he knew the scheme was days away from
15 collapse, when he was almost out of money and when he was faced
16 with redemption requests from clients that he knew he could not
17 meet. And even at that point, rather than turning himself in,
18 he tried to take the last of his victims' money. He prepared
19 \$173 million in checks that he planned to give to his family,
20 his friends, and some preferred clients. It was his final
21 effort to put his interests above those of his clients, and had
22 the FBI not arrested him when they did, he might well have
23 succeeded.

24 Your Honor, in sum, for running an investment advisory
25 business that was a complete fraud, for betraying his clients

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1 for decades, and for repeatedly lying to regulators to cover up
2 his fraud, for the staggering harm that he has inflicted on
3 thousands of people, for all of these reasons and all of the
4 reasons your Honor heard so eloquently from the victims, the
5 government respectfully requests that the Court sentence the
6 defendant to 150 years in prison or a substantial term of
7 imprisonment that ensures that he will spend the rest of his
8 life in jail.

9 Thank you.

10 THE COURT: Thank you.

11 I take into account what I have read in the
12 presentence report, the parties' sentencing submissions, and
13 the e-mails and letters from victims. I take into account what
14 I have heard today. I also consider the statutory factors as
15 well as all the facts and circumstances in the case.

16 In his initial letter on behalf of Mr. Madoff, Mr.
17 Sorkin argues that the unified tone of the victims' letters
18 suggests a desire for mob vengeance. He also writes that
19 Mr. Madoff seeks neither mercy nor sympathy, but justice and
20 objectivity.

21 Despite all the emotion in the air, I do not agree
22 with the suggestion that victims and others are seeking mob
23 vengeance. The fact that many have sounded similar themes does
24 not mean that they are acting together as a mob. I do agree
25 that a just and proportionate sentence must be determined,

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1 objectively, and without hysteria or undue emotion.

2 Objectively speaking, the fraud here was staggering.
3 It spanned more than 20 years. Mr. Madoff argues in his reply
4 letter that the fraud did not begin until the 1990s. I guess
5 it's more that the commingling did not begin until the 1990s,
6 but it is clear that the fraud began earlier. And even if it
7 is true that it only started in the 1990s, the fraud exceeded
8 ten years, still an extraordinarily long period of time. The
9 fraud reached thousands of victims.

10 As for the amount of the monetary loss, there appears
11 to be some disagreement. Mr. Madoff disputes that the loss
12 amount is \$65 billion or even \$13 billion. But Mr. Madoff has
13 now acknowledged, however, that some \$170 billion flowed into
14 his business as a result of his fraudulent scheme. The
15 presentence report uses a loss amount of \$13 billion, but as I
16 understand it, that number does not include the losses from
17 moneys invested through the feeder funds. That's what the PSR
18 states. Mr. Madoff argues that the \$13 billion amount should
19 be reduced by the amounts that the SIPC trustee may be able to
20 claw back, but that argument fails. Those clawbacks, if they
21 happened, will result in others who suffered losses. Moreover,
22 Mr. Madoff told his sons that there were \$50 billion in losses.
23 In any event, by any of these monetary measures, the fraud here
24 is unprecedented.

25 Moreover, the offense level of 52 is calculated by

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1 using a chart for loss amount that only goes up to \$400
2 million. By any of these measures, the loss figure here is
3 many times that amount. It's off the chart by many fold.

4 Moreover, as many of the victims have pointed out,
5 this is not just a matter of money. The breach of trust was
6 massive. Investors -- individuals, charities, pension funds,
7 institutional clients -- were repeatedly lied to, as they were
8 told their moneys would be invested in stocks when they were
9 not. Clients were sent these millions of pages of account
10 statements that the government just alluded to confirming
11 trades that were never made, attesting to balances that did not
12 exist. As the victims' letters and e-mails demonstrate, as the
13 statements today demonstrate, investors made important life
14 decisions based on these fictitious account statements -- when
15 to retire, how to care for elderly parents, whether to buy a
16 car or sell a house, how to save for their children's college
17 tuition. Charitable organizations and pension funds made
18 important decisions based on false information about fictitious
19 accounts. Mr. Madoff also repeatedly lied to the SEC and the
20 regulators, in writing and in sworn testimony, by withholding
21 material information, by creating false documents to cover up
22 his scheme.

23 It is true that Mr. Madoff used much of the money to
24 pay back investors who asked along the way to withdraw their
25 accounts. But large sums were also taken by him, for his

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1 personal use and the use of his family, friends, and
2 colleagues. The PSR shows, for example, that Mr. Madoff
3 reported adjusted gross income of more than \$250 million on his
4 tax returns for the ten year period from 1998 through 2007. On
5 numerous occasions, Mr. Madoff used his firm's bank accounts
6 which contained customer funds to pay for his personal expenses
7 and those of his family, including, for example, the purchase
8 of a Manhattan apartment for a relative, the acquisition of two
9 yachts, and the acquisition of four country club memberships at
10 a cost of \$950,000. Billions of dollars more were paid to
11 individuals who generated investments for Mr. Madoff through
12 these feeder funds.

13 Mr. Madoff argues a number of mitigating factors but
14 they are less than compelling. It is true that he essentially
15 turned himself in and confessed to the FBI. But the fact is
16 that with the turn in the economy, he was not able to keep up
17 with the requests of customers to withdraw their funds, and it
18 is apparent that he knew that he was going to be caught soon.
19 It is true that he consented to the entry of a \$170 billion
20 forfeiture order and has cooperated in transferring assets to
21 the government for liquidation for the benefit of victims. But
22 all of this was done only after he was arrested, and there is
23 little that he could have done to fight the forfeiture of these
24 assets. Moreover, the SIPC trustee has advised the Court
25 Mr. Madoff has not been helpful, and I simply do not get the

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1 sense that Mr. Madoff has done all that he could or told all
2 that he knows.

3 Mrs. Madoff has stipulated to the transfer of some \$80
4 million in assets to the government for the benefit of victims,
5 but the record also shows that as it became clear that
6 Mr. Madoff's scheme was unraveling, he made substantial loans
7 to family members, he transferred some \$15 million of firm
8 funds into his wife's personal accounts, and he wrote out the
9 checks that the government has just described.

10 I have taken into account the sentences imposed in
11 other financial fraud cases in this district. But, frankly,
12 none of these other cases is comparable to this case in terms
13 of the scope, duration and enormity of the fraud, and the
14 degree of the betrayal.

15 In terms of mitigating factors in a white-collar fraud
16 case such as this, I would expect to see letters from family
17 and friends and colleagues. But not a single letter has been
18 submitted attesting to Mr. Madoff's good deeds or good
19 character or civic or charitable activities. The absence of
20 such support is telling.

21 We have heard much about a life expectancy analysis.
22 Based on this analysis, Mr. Madoff has a life expectancy of 13
23 years, and he therefore asks for a sentence of 12 years or
24 alternatively 15 to 20 years. If Mr. Sorkin's life expectancy
25 analysis is correct, any sentence above 20 or 25 years would be

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1 largely, if not entirely, symbolic.

2 But the symbolism is important, for at least three
3 reasons. First, retribution. One of the traditional notions
4 of punishment is that an offender should be punished in
5 proportion to his blameworthiness. Here, the message must be
6 sent that Mr. Madoff's crimes were extraordinarily evil, and
7 that this kind of irresponsible manipulation of the system is
8 not merely a bloodless financial crime that takes place just on
9 paper, but that it is instead, as we have heard, one that takes
10 a staggering human toll. The symbolism is important because
11 the message must be sent that in a society governed by the rule
12 of law, Mr. Madoff will get what he deserves, and that he will
13 be punished according to his moral culpability.

14 Second, deterrence. Another important goal of
15 punishment is deterrence, and the symbolism is important here
16 because the strongest possible message must be sent to those
17 who would engage in similar conduct that they will be caught
18 and that they will be punished to the fullest extent of the
19 law.

20 Finally, the symbolism is also important for the
21 victims. The victims include individuals from all walks of
22 life. The victims include charities, both large and small, as
23 well as academic institutions, pension funds, and other
24 entities. Mr. Madoff's very personal betrayal struck at the
25 rich and the not-so-rich, the elderly living on retirement

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1 funds and social security, middle class folks trying to put
2 their kids through college, and ordinary people who worked hard
3 to save their money and who thought they were investing it
4 safely, for themselves and their families.

5 I received letters, and we have heard from, for
6 example, a retired forest worker, a corrections officer, an
7 auto mechanic, a physical therapist, a retired New York City
8 school secretary, who is now 86 years old and widowed, who must
9 deal with the loss of her retirement funds. Their money is
10 gone, leaving only a sense of betrayal.

11 I was particularly struck by one story that I read in
12 the letters. A man invested his family's life savings with
13 Mr. Madoff. Tragically, he died of a heart attack just two
14 weeks later. The widow eventually went in to see Mr. Madoff.
15 He put his arm around her, as she describes it, and in a kindly
16 manner told her not to worry, the money is safe with me. And
17 so not only did the widow leave the money with him, she
18 eventually deposited more funds with him, her 401(k), her
19 pension funds. Now, all the money is gone. She will have to
20 sell her home, and she will not be able to keep her promise to
21 help her granddaughter pay for college.

22 A substantial sentence will not give the victims back
23 their retirement funds or the moneys they saved to send their
24 children or grandchildren to college. It will not give them
25 back their financial security or the freedom from financial

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1 worry. But more is at stake than money, as we have heard. The
2 victims put their trust in Mr. Madoff. That trust was broken
3 in a way that has left many -- victims as well as others --
4 doubting our financial institutions, our financial system, our
5 government's ability to regulate and protect, and sadly, even
6 themselves.

7 I do not agree that the victims are succumbing to the
8 temptation of mob vengeance. Rather, they are doing what they
9 are supposed to be doing -- placing their trust in our system
10 of justice. A substantial sentence, the knowledge that
11 Mr. Madoff has been punished to the fullest extent of the law,
12 may, in some small measure, help these victims in their healing
13 process.

14 Mr. Madoff, please stand.

15 It is the judgment of this Court that the defendant,
16 Bernard L. Madoff, shall be and hereby is sentenced to a term
17 of imprisonment of 150 years, consisting of 20 years on each of
18 Counts 1, 3, 4, 5, 6, and 10, 5 years on each of Counts 2, 8,
19 9, and 11, and 10 years on Count 7, all to run consecutively to
20 each other. As a technical matter, the sentence must be
21 expressed on the judgment in months. 150 years is equivalent
22 to 1,800 months.

23 Although it is academic, for technical reasons, I must
24 also impose supervised release. I impose a term of supervised
25 release of 3 years on each count, all to run concurrently. The

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1 mandatory, standard, and special conditions are imposed, as set
2 forth on pages 58 and 59 of the PSR.

3 I will not impose a fine, as whatever assets
4 Mr. Madoff has, as whatever assets may be found, they shall be
5 applied to restitution for the victims.

6 As previously ordered, I will defer the issue of
7 restitution for 90 days.

8 Finally, I will impose the mandatory special
9 assessment of \$1,100, \$100 for each count.

10 Mr. Sorkin, any requests?

11 MR. SORKIN: Yes, your Honor.

12 As you pointed out to one of the victims, you cannot
13 designate a prison, but we would ask, based upon an analysis
14 that we have done that in 75 percent of the cases
15 recommendations made by the court are followed by the Bureau of
16 Prisons, we respectfully request that your Honor recommend to
17 the Bureau of Prisons that Mr. Madoff be designated to
18 Otisville.

19 THE COURT: I will recommend to the Bureau of Prisons
20 that Mr. Madoff be designated to an appropriate facility in the
21 northeast region of the United States.

22 MR. SORKIN: Thank you.

23 THE COURT: Ms. Baroni?

24 MS. BARONI: Two issues. If you can specifically
25 incorporate by reference the forfeiture order of Friday,

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1 pronounce it as part of the sentence.

2 THE COURT: The forfeiture order is hereby
3 incorporated.

4 MS. BARONI: Special assessment.

5 THE DEFENDANT: I did the special assessment of
6 \$1,100.

7 MS. BARONI: Thank you.

8 THE COURT: Mr. Madoff, please stand one more time.

9 Mr. Madoff, you have the right to appeal at least
10 certain aspects of this judgment and conviction. If you wish
11 to appeal, you must do so within ten days. If you cannot
12 afford an attorney, the court will appoint one for you.

13 We are adjourned.

14 (Adjourned)

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