

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

STANFORD INTERNATIONAL BANK, LTD., ET AL.,

Defendants.

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Case No.: 3-09-CV-0298-N

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**APPENDIX IN SUPPORT OF MOTION FOR APPROVAL OF REQUEST TO AMEND  
FEE STRUCTURE and HOLDBACK**

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Dated: March 9, 2012

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

On March 9, 2012, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served the Court-appointed Examiner, all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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# EXHIBIT A

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Hearing Date: October 19, 2011  
Hearing Time: 10:00 A.M. EST

Objection Deadline: October 5, 2011  
Time: 4:00 P.M. EST

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Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
And Bernard L. Madoff*

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

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

**SEVENTH APPLICATION OF TRUSTEE AND BAKER & HOSTETLER LLP FOR  
ALLOWANCE OF INTERIM COMPENSATION FOR SERVICES RENDERED AND  
REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES INCURRED FROM  
FEBRUARY 1, 2011 THROUGH MAY 31, 2011**

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TO THE HONORABLE BURTON R. LIFLAND,  
UNITED STATES BANKRUPTCY JUDGE:

Baker & Hostetler LLP (“B&H”), as counsel to Irving H. Picard, Esq., trustee (the “Trustee”) for the substantively consolidated liquidation proceeding of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. § 78aaa *et seq.*,<sup>1</sup> and Bernard L. Madoff (“Madoff”), individually (collectively, “Debtor”), respectfully submits this seventh application (the “Application”) on behalf of the Trustee and itself for an order pursuant to section 78eee(b)(5) of SIPA, sections 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and the Order Pursuant to Section 78eee(b)(5) of SIPA, Sections 105, 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016(a), and Local Bankruptcy Rule 2016-1 Establishing Procedures Governing Interim Monthly Compensation of Trustee and Baker & Hostetler LLP, dated February 25, 2009 (ECF No. 126), as amended on December 17, 2009 and June 1, 2011 (ECF Nos. 1078 and 4125) (collectively, the “Second Amended Compensation Order”), allowing and awarding (i) interim compensation for services performed by the Trustee and B&H for the period commencing February 1, 2011 through and including May 31, 2011 (the “Compensation Period”), and (ii) reimbursement of the Trustee’s and B&H’s actual and necessary expenses incurred during the Compensation Period; and in support thereof, respectfully represents as follows:

**I. PRELIMINARY STATEMENT**

1. The central decision made by the Trustee since he was “charged with sorting out decades of fraud” at BLMIS almost three years ago, and the flashpoint for almost every objection and appeal filed since, has been the calculation of “net equity,” as defined under section 78III(11)

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<sup>1</sup> References hereinafter to provisions of SIPA shall omit “15 U.S.C.”

and read in tandem with section 78fff-2(b) of SIPA.<sup>2</sup> *In re Bernard L. Madoff Investment Sec. LLC*, No. 10-2378, 2011 U.S. App. LEXIS 16884, at \*4 (2d Cir. 2011). After the conclusion of the Compensation Period, but before the submission of this Application, the United States Court of Appeals for the Second Circuit ruled that the Trustee’s use of the Net Investment Method, which calculates “net equity” under the “cash in, cash out” method, is “legally sound in light of the circumstances of this case and the relevant statutory language.” *Id.* at \*5. The result of the Circuit’s affirmance of the Bankruptcy Court’s net equity decision, 424 B.R. 122 (Bankr. S.D.N.Y. 2010), implicates numerous aspects of “the unraveling of weaved-up sins” of Madoff’s Ponzi scheme. *BLMIS*, 2011 U.S. App. LEXIS 16884, at \*25-\*26, n.8.

2. For example, the Second Circuit’s decision confirms what the Bankruptcy Code and SIPA make clear: the Trustee has the power to avoid fraudulent transfers. *Id.* at \*36-\*37, n.11. This Compensation Period found the Trustee and his counsel engaged in the nuts-and-bolts of motion practice in hundreds of avoidance actions, with the ultimate goal of recovering Customer Property, as that term is defined under section 78lll(4) of SIPA,<sup>3</sup> from those who received fraudulent transfers from BLMIS and/or profited from Madoff’s Ponzi scheme.

3. In addition to arguing before the Second Circuit and pursuing the hundreds of avoidance actions before this Court, the United States District Court for the Southern District of New York became a hotbed of activity for the Trustee during this Compensation Period. Over 100 docket numbers were assigned to Madoff-related matters in which the Trustee is involved, including motions for leave to appeal orders of the bankruptcy court, appeals of right from orders

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<sup>2</sup> SIPA §§ 78fff-2(b) and 78lll(11) define “net equity” as “the dollar amount of the account or accounts of a customer” that can be discharged by the Trustee only “insofar as such obligations are [1] ascertainable from the books and records of the debtor or [2] are otherwise established to the satisfaction of the trustee.”

<sup>3</sup> SIPA § 78lll(4) defines “Customer Property” as “cash and securities . . . at any time received, acquired, or held by or for the account of a debtor from or for the securities accounts of a customer, and the proceeds of any such property transferred by the debtor, including property unlawfully converted.”

of the bankruptcy court, and motions to withdraw the reference from the bankruptcy court. Thus far, every Order of this Court has been upheld. In the few cases where motions to withdraw the reference were granted, motions to dismiss are now being adjudicated before the District Court. The Trustee foresees more litigation before the Supreme Court of the United States, the Second Circuit, and District Court, in addition to the Bankruptcy Court, in future compensation periods.

4. The purpose of this liquidation and related litigation is to recover Customer Property for the benefit of BLMIS customers and creditors. Since the last Application, in which the Trustee reported the total recovery of \$7.6 billion to the BLMIS estate, the Trustee has added the settlement with several funds established by the Fairfield Greenwich Group that, among other things, reduced the funds' claims against the BLMIS estate and allows the Trustee to work with the Fairfield funds to pursue assets from the former owners and managers of Fairfield. Along with the \$1.025 billion settlement entered into with the Tremont Group of funds shortly after the close of this Compensation Period, the Fund of Customer Property will exceed \$8.6 billion, which represents just over 50% of the approximately \$17.3 billion in principal that was lost in the Ponzi scheme by customers who filed claims.<sup>4</sup>

5. And shortly, the Trustee will make the first distribution of these recovered funds, releasing more than \$300 million<sup>5</sup> to customers whose claims have not been fully satisfied

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<sup>4</sup> The \$8.6 billion recovery includes settlements executed after the Compensation Period and some not yet approved by the Court.

<sup>5</sup> By virtue of certain settlements that have been approved since the filing and approval of the motion for allocation and distribution (described more fully herein at ¶¶ 56-59), the Trustee has additional funds to distribute to customers with allowed claims.

because their net equity claims as of the Filing Date<sup>6</sup> exceeded the statutory SIPA protection limit of \$500,000.<sup>7</sup>

6. Finally, the Trustee and his counsel have determined or deemed determined all but four of the 16,518 customer claims submitted to him. Two of the four remaining claims were determined after the close of this Compensation Period. The parties relating to the remaining two claims are currently in settlement discussions with the Trustee's counsel.

7. Independent of these efforts, no administration costs, including the compensation of the Trustee and his counsel, will be paid out of any recoveries obtained by the Trustee for the benefit of BLMIS customers. Because the percentage commission schedule for trustees found in section 326(a) of the Bankruptcy Code is not applicable in a SIPA liquidation, *see* section 78fff(b) of SIPA, no applications filed by the Trustee have or will ever include a fee request equal to three (3%) percent (or any other percentage) of the total amount of recoveries made by the Trustee for the benefit of customers of BLMIS. Rather, the fees and expenses of the Trustee and of all counsel to the Trustee (including, but not limited to, B&H, various international special counsel retained by the Trustee (collectively referred to herein as "International Counsel") as described in ¶ 116 of the Fifth Interim Report for the Period Ending March 31, 2011 (ECF No. 4072), as well as Graf & Pitkowitz Rechtsanwälte GmbH ("Graf & Pitkowitz") (ECF No. 3930) and UGGC & Associés (the "UGGC Firm") (ECF No. 4038), both retained during this Compensation Period, and various special counsel to the Trustee (collectively referred to herein as "Counsel"), including Windels Marx Lane & Mittendorf, LLP ("Windels

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<sup>6</sup> In this case, the Filing Date is the date on which the Securities and Exchange Commission commenced its suit against BLMIS, December 11, 2008, which resulted in the appointment of a receiver for the firm. *See* SIPA § 78lll(7)(B) and *infra* ¶ 13.

<sup>7</sup> The Trustee must hold a significant amount of these recoveries in reserve due to appeals and other unresolved issues.

Marx”), Young Conaway Stargatt & Taylor, LLP (“Young Conaway”), and Osborne & Osborne, P.A. (the “Osborne Firm”), retained during this Compensation Period (ECF No. 4018)), and consultants are paid from administrative advances from the Securities Investor Protection Corporation (“SIPC”), as are all administrative costs incurred by the Trustee. The Court affirmed during the hearing regarding the fifth application, “Again, the emphasis is that these fees . . . are not coming from any of the victims, and they’re not coming from the estate.” Fifth App. Hr’g Tr. 32, Dec. 14, 2010.

8. As the Trustee and his Counsel’s fees and expenses are chargeable to the general estate and not to Customer Property, the payment of fees and expenses to the Trustee and any of his Counsel has absolutely no impact on recoveries that the Trustee has obtained and will obtain and that will be allocated to the fund of Customer Property for *pro rata* distribution to BLMIS customers whose claims have been allowed by the Trustee.

9. SIPC plays a specific role regarding compensation in a liquidation proceeding such as this one, where the general estate is insufficient to pay trustee compensation and SIPC is required to advance funds to pay the costs of administration. *See* SIPA §§ 78fff(5) and 78fff-3(b)(2). This Application, as with all other compensation applications, has been carefully reviewed by SIPC, which includes an analysis of the time records and services rendered. Each month, SIPC, the Trustee, and B&H engage in extensive discussions regarding the billings, and the Trustee and B&H make reductions where appropriate and finalize the amounts that appear herein. Thus, the requested fees and expenses in this Application include (i) fees at the Trustee’s and B&H’s hourly billable rates to which a public interest discount of 10% has been applied, as described at ¶ 213, *infra*, and (ii) actual, necessary and reasonable expenses incurred within the Compensation Period.

10. No single document can capture all of the tasks engaged in by the Trustee and B&H since their appointment on December 15, 2008. Hundreds of thousands of hours have been expended in support of the Trustee's efforts to liquidate the estate, determine customer claims, and advance the interests of all claimants by initiating litigations and settlement negotiations for the return of Customer Property, including significant settlements and recoveries that will total over \$8.6 billion, to be distributed by the Trustee. Moreover, the Trustee has vigorously defended the estate with respect to a number of litigations filed against it and against his pursuit of Customer Property. The following discussion and materials attached to this Application cover the major categories of services for which allowance of compensation is sought.

11. As this Court has recognized, "With respect to the kinds of services that have been rendered here, the amounts requested, this is by any stretch of the imagination one of the largest most complex sets of litigation that have come down the pike. It's measured both in quality and quantity in the thousands with deadlines that have come . . . and it is a big stretch for any law firm or any organization to deal with." Sixth Fee App. Hr'g Tr. 45-46.

## II. BACKGROUND

### A. THE SIPA LIQUIDATION

12. On December 11, 2008, Madoff was arrested by federal agents and criminally charged with a multi-billion dollar securities fraud scheme in violation of 15 U.S.C. §§ 78j(b), 78ff, and 17 C.F.R. 240.10b-5 in the United States District Court for the Southern District of New York ("District Court"), captioned *United States v. Madoff*, No. 08-MAG-2735 (the "Criminal Case").<sup>8</sup>

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<sup>8</sup> On March 10, 2009, the Criminal Case was transferred to Judge Denny Chin and assigned a new docket number, No. 09-CR-213 (DC).

13. Also on December 11, 2008 (the “Filing Date” under SIPA), the Securities and Exchange Commission (“SEC”) filed a complaint in the District Court against Madoff and BLMIS, captioned *SEC v. Madoff, et al.*, No. 08-CV-10791 (the “Civil Case”). The complaint alleged that the defendants engaged in fraud through the investment advisor (“IA”) activities of BLMIS.

14. On December 15, 2008, pursuant to section 78eee(a)(4)(A) of SIPA, the SEC consented to a combination of the Civil Case with an application filed by SIPC. Thereafter, pursuant to section 78eee(a)(3) of SIPA, SIPC filed an application in the District Court alleging, *inter alia*, that the Debtor was not able to meet its obligations to securities customers as they came due and, accordingly, its customers needed the protection afforded by SIPA.

15. On that date, the District Court entered the Protective Decree (ECF No. 4), to which BLMIS consented, which, in pertinent part:

- (a) appointed the Trustee to liquidate the business of the Debtor pursuant to section 78eee(b)(3) of SIPA and fixed the Trustee’s bond;
- (b) appointed B&H as counsel to the Trustee pursuant to section 78eee(b)(3) of SIPA; and
- (c) removed the case to the United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court” or “Court”) pursuant to section 78eee(b)(4) of SIPA.

16. By order dated December 23, 2008, this Court approved the Trustee’s bond. (ECF No. 11).

17. On February 4, 2009, after a noticed hearing, the Court entered the Order Regarding Disinterestedness of the Trustee and Counsel to the Trustee (ECF No. 69), finding that the Trustee and B&H are disinterested pursuant to section 78eee(b)(6) of SIPA, section 327(a) of the Bankruptcy Code, and Bankruptcy Rule 2014(a), and are therefore in compliance with the disinterestedness requirement in section 78eee(b)(3) of SIPA, section 327(a) of the

Bankruptcy Code, and Bankruptcy Rule 2014(a). Thus, the Trustee and B&H are qualified to serve in this proceeding.

**B. THE TRUSTEE, COUNSEL, AND CONSULTANTS**

18. The Trustee is a member of B&H.<sup>9</sup> He practices principally in the areas of corporate reorganizations, bankruptcy, and insolvency. He was also a contributing author to Collier on Bankruptcy, 15th Edition Revised.

19. The Trustee was admitted to practice before the Court in 1982. He served as the first United States Trustee for the Southern District of New York in a pilot program from October 1, 1979, the effective date of the Bankruptcy Code, through May 15, 1982. Prior to his tenure as United States Trustee, Mr. Picard was Assistant General Counsel with the SEC in Washington, D.C. for three and a half years during which his responsibilities included, among other things, disclosure and enforcement matters and bankruptcy reorganizations. Before becoming Assistant General Counsel, he spent approximately four years in various legal positions in the SEC's then-Division of Corporate Regulation, where his responsibilities primarily involved bankruptcy reorganizations. Prior thereto, Mr. Picard spent more than six years working in the securities industry.

20. Mr. Picard has previously served as trustee in the following ten SIPA liquidations: Jay W. Kaufmann & Company (Bankr. S.D.N.Y., No TP 84-70064A (BRL)); Norbay Securities, Inc. (Bankr. E.D.N.Y., No. 186-0174-353); Investors Center Inc. (Bankr. E.D.N.Y., No 089-0017-21); Faitos & Co., Inc. (Bankr. E.D.N.Y., No 191-1085-260); U.S. Equity Management Corp. (Bankr. S.D.N.Y., No. 95/1284 (CB)); Euro-Atlantic Securities, Inc., (Bankr. S.D.N.Y. No. 98/9304A (BRL)); Hanover, Sterling & Co., Ltd. (Bankr. S.D.N.Y. No. 96/8396A (REG));

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<sup>9</sup> The Trustee will pay over to B&H the full amount of any interim compensation and disbursements awarded to him. *See* Third App. Hr'g Tr. 85.

Klein Maus & Shire, Inc. (Bankr. S.D.N.Y., No. 00/8193A (AJG)); Montrose Capital Management Ltd. (Bankr. S.D.N.Y., No. 01/8170A (CB)); and Park South Securities, LLC (Bankr. S.D.N.Y. No. 03-8024A (RDD)). He has also served as counsel to SIPC as trustee in two liquidation proceedings.

21. In rendering professional services to the Trustee in this SIPA proceeding, B&H's legal team has been composed of professionals with extensive experience in, among other fields, bankruptcy, securities, tax, corporate law, and litigation, permitting the Trustee to conduct this liquidation efficiently. B&H professionals have worked closely with the Trustee and his other professionals to coordinate assignments in order to avoid duplication of effort, which is beneficial to the customers, creditors, and other interested parties of BLMIS.

22. The Ponzi scheme perpetrated by Madoff through BLMIS was vast in scope, long in duration, and broad in its geographical reach. The Trustee, with the assistance of his Counsel, has undertaken a comprehensive investigation of all of the affairs of BLMIS, Madoff, and hundreds of related individuals and entities. To this end, the Trustee has engaged not only the services of Counsel but also the services of forensic accountants and legal experts, including, but not limited to, AlixPartners LLP ("AlixPartners"), the Trustee's consultant and claims agent, FTI Consulting ("FTI"), and several investigative and industry consultants (collectively referred to herein as "Consultants").

### **C. PRIOR COMPENSATION ORDERS**

23. On August 6, 2009, the Court entered an order approving both the Trustee and B&H's First Interim Applications for Allowance of Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from December 15, 2009 through April 30, 2009. (ECF No. 363). The Court awarded the Trustee an interim allowance of \$607,383.00 for professional services rendered and \$45.00 as reimbursement for actual and

necessary expenses that the Trustee incurred during that period. An additional \$151,845.75 in fees incurred by the Trustee during that period was held back and remained subject to approval by the Court. The Court awarded B&H an interim allowance of \$11,729,855.86 for professional services rendered and \$274,203.03 as reimbursement for actual and necessary expenses B&H incurred during that period. An additional \$2,932,463.97 in fees incurred by B&H during that period was held back and remained subject to approval by the Court. At that time, the holdback amount was twenty percent (20%) of fees incurred by the Trustee and B&H.

24. On December 17, 2009, the Court entered an order approving both the Trustee and B&H's Second Interim Applications for Allowance of Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from May 1, 2009 through September 30, 2009. (ECF No. 1078). The Court awarded the Trustee an interim allowance of \$668,484.00 for professional services rendered and \$921.25 as reimbursement for actual and necessary expenses that the Trustee incurred during that period. An additional \$167,121.00 in fees incurred by the Trustee during that period was held back and remained subject to approval by the Court. The Court awarded B&H an interim allowance of \$17,023,281.48 for professional services rendered and \$280,681.62 as reimbursement for actual and necessary expenses B&H incurred during that period. An additional \$4,255,820.37 in fees incurred by B&H during that period was held back and remained subject to approval by the Court.

25. In that same order, the Court approved a reduction in the holdback from twenty percent (20%) to fifteen percent (15%) of fees incurred. As such, the Court authorized the Trustee to disburse previously deferred funds equal to 5% of total fees requested to date, which amounted to \$79,741.69 for the Trustee and \$1,797,074.52 for B&H.

26. On May 6, 2010, the Court entered an order approving both the Trustee and B&H's Third Interim Applications for Allowance of Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from October 1, 2009 through January 31, 2010. (ECF No. 2251). The Court awarded the Trustee an interim allowance of \$570,852.56 for professional services rendered and \$77.66 as reimbursement for actual and necessary expenses that the Trustee incurred during that period. An additional \$100,739.69 in fees incurred by the Trustee during that period was held back and remained subject to approval by the Court. The Court awarded B&H an interim allowance of \$20,301,472.46 for professional services rendered and \$390,204.89 as reimbursement for actual and necessary expenses B&H incurred during that period. An additional \$3,582,612.79 in fees incurred by B&H during that period was held back and remained subject to approval by the Court.

27. On September 14, 2010, the Court entered an order approving both the Trustee and B&H's Fourth Interim Applications for Allowance of Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from February 1, 2010 through May 31, 2010. (ECF No. 2981). The Court awarded the Trustee an interim allowance of \$511,021.92 for professional services rendered and \$39.63 as reimbursement for actual and necessary expenses that the Trustee incurred during that period. An additional \$90,180.33 in fees incurred by the Trustee during that period was held back and remained subject to approval by the Court. The Court awarded B&H an interim allowance of \$28,884,304.29 for professional services rendered and \$731,371.19 as reimbursement for actual and necessary expenses B&H incurred during that period. An additional \$5,097,230.16 in fees

incurred by B&H during that period was held back and remained subject to approval by the Court.

28. On December 14, 2010, the Court entered an order approving both the Trustee and B&H's Fifth Interim Applications for Allowance of Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from June 1, 2010 through September 30, 2010. (ECF No. 3207). The Court awarded the Trustee an interim allowance of \$581,960.34 for professional services rendered and \$954.41 as reimbursement for actual and necessary expenses that the Trustee incurred during that period. An additional \$102,698.91 in fees incurred by the Trustee during that period was held back and remained subject to approval by the Court. The Court awarded B&H an interim allowance of \$38,522,476.35 for professional services rendered and \$851,332.34 as reimbursement for actual and necessary expenses B&H incurred during that period. An additional \$5,778,371.44 in fees incurred by B&H during that period was held back and remained subject to approval by the Court.

29. In that same order, the Court approved a release from the holdback of \$100,000.00 to the Trustee and \$3,400,000.00 to B&H. As such, the Court authorized the Trustee to disburse these previously deferred funds.

30. The Court stated after reviewing the Fifth Interim Applications and hearing objections thereto, "[U]nder all of the circumstances, and notwithstanding the statutory command that this Court shall approve the fees, I am very well aware of the Herculean effort being utilized in the litigation arena to recoup funds for the benefit of the victims, and notwithstanding how the Court of Appeals, or ultimately the Supreme Court, rules [on the net equity dispute]." Fifth App. Hr'g Tr. 33, Dec. 14, 2010.

31. On June 1, 2011, the Court entered an order approving both the Trustee and B&H's Sixth Interim Applications for Allowance of Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred from October 1, 2010 through January 31, 2011. (ECF No. 4125). The Court awarded the Trustee an interim allowance of \$713,799.00 for professional services rendered and \$31.50 as reimbursement for actual and necessary expenses that the Trustee incurred during that period. An additional \$107,069.87 in fees incurred by the Trustee during that period was held back and remained subject to approval by the Court. The Court awarded B&H an interim allowance of \$43,177,049.10 for professional services rendered and \$1,103,196.25 as reimbursement for actual and necessary expenses B&H incurred during that period. An additional \$6,476,557.36 in fees incurred by B&H during that period was held back and remained subject to approval by the Court.

32. In that same order, the Court approved a reduction in the holdback from fifteen percent (15%) to ten percent (10%) of fees incurred. As such, the Court authorized the Trustee to disburse previously deferred funds equal to 5% of total fees requested to date, which amounted to \$113,304.32 for the Trustee and \$5,375,338.62 for B&H.

33. Objections were filed to each of the six fee applications. (ECF Nos. 351, 1055, 2233, 2943, 3308, 4088). Thereafter, motions were filed for leave to appeal the Court's Orders granting the Trustee and B&H's first, second, third, fifth and sixth fee applications and overruling the related objections. The District Court denied the motions for leave to appeal the first and third fee orders. *Secs. Investor Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC*, No. M-47, 2010 U.S. Dist. LEXIS 3037 (S.D.N.Y. Jan. 11, 2010); *Secs. Investor Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC*, No. M-47, 2010 U.S. Dist. LEXIS 81492 (S.D.N.Y. Aug. 6,

2010). The motions for leave to appeal the second, fifth, and sixth fee orders remain pending before the District Court, No. 11-mc-285, No. 11-265 (DAB).

### **III. SUMMARY OF SERVICES**

34. A SIPA proceeding contemplates the processing of customer claims and the orderly liquidation of the business of a broker-dealer, with the return of Customer Property to the failed brokerage's customers. Accordingly, the Trustee's and B&H's services, which are highlighted here and summarized in greater detail below, are comprised of the specific, critical tasks accomplished in aim of that objective.

#### **A. PROCESSING CUSTOMER CLAIMS**

35. From the very beginning of this proceeding, the Trustee and B&H, together with AlixPartners and FTI, have been processing the customer claims submitted to him. By statute, the Trustee must look at all the books and records of BLMIS in order to determine and evaluate each customer claim. Given the duration and complexity of the fraud engaged in by Madoff, each account has a unique and often extended history, frequently involving multiple transfers between accounts. Each claim, therefore, requires the Trustee to engage in extensive forensic analysis in order to reach an ultimate determination of each customer claim.

36. The Trustee received 16,518 claims filed by a wide variety of individuals and entities who were victims of Madoff's fraud. These claimants include customers who had accounts with BLMIS, in addition to thousands of individuals or entities who invested indirectly in BLMIS through various feeder funds and other entities.

37. As of May 31, 2011, the date on which the Compensation Period ended, the Trustee had determined or deemed determined all but four of the 16,518 customer claims. Of the 16,514 determined or deemed determined claims, 2,426 were allowed, and the Trustee committed to pay approximately \$794.9 million in funds advanced to him by SIPC. These

allowed claims total over \$6.88 billion. The Trustee's efforts in determining and satisfying the remaining claims are ongoing.

38. In an effort to accelerate SIPA protection for individual victims of BLMIS who were suffering hardship, the Trustee and B&H implemented a Hardship Program. As of May 31, 2011, the Trustee had received 394 Hardship Program applications and approved 275. The Trustee began a second phase of the Hardship Program in December 2010, in which the Trustee communicated to defendants in adversary proceedings that while the law requires the pursuit of avoidance actions to recover customer property, he will not pursue actions against BLMIS accountholders suffering proven hardship. As of May 31, 2011, the Trustee had received 204 Hardship Program applications from avoidance action defendants relating to 110 adversary proceedings. After reviewing the facts and circumstances presented in these applications and, in many cases, requesting additional verifying information, the Trustee has or is in the process of dismissing sixty-one avoidance actions against the related defendants. The Trustee has also extended the time for applicants to answer or otherwise respond to avoidance action complaints while their hardship applications are pending. The Trustee urges customers to continue using the Hardship Program Hotline and the Hardship Program if they believe they qualify.

## **B. THE RECOVERY AND RETURN OF CUSTOMER PROPERTY**

### **i. Avoidance actions, procedural orders to ensure efficient litigation thereof, and settlements**

39. The Trustee is seeking the return of billions of dollars to the estate of BLMIS for distribution to customers in accordance with SIPA. In carrying out his investigation into the many layers of complex financial transactions engaged in by Madoff and those who worked for him, the Trustee has issued hundreds of subpoenas, analyzed the myriad documentation received, and conducted numerous follow up activities to enforce the Trustee's rights to the return of

Customer Property. As a result of the investigative efforts of the Trustee, he initiated litigation against feeder funds and certain individuals, many of whom are well known to the public through the press and other media.

40. As of May 31, 2011, the Trustee, through Counsel, filed 1,075 actions seeking to recover approximately \$100 billion in funds from various feeders funds, banks, BLMIS customers, and Madoff family members and friends.

41. The Trustee has also filed several motions before this Court that will govern the treatment of and procedures related to the efficient litigation of these actions. These procedures will ensure compliance with the Bankruptcy Code and SIPA, consistency, and transparency.

42. For example, during this Compensation Period, the Trustee and B&H filed a Motion for an Order Establishing Procedures for an Electronic Data Room in order to allow discovery for all adversary proceedings of certain documents supporting some of the key elements of the Trustee's claims while balancing the privacy interests of BLMIS customers and others. (ECF No. 3869). A hearing on this Motion is scheduled before the Court for October 5, 2011.

43. On March 14, 2011, the Trustee and B&H filed a Motion for Entry of Litigation Protective Order to permit the use of materials produced by any party in the lawsuits initiated by the Trustee that have been or are deemed to comprise or contain confidential material while balancing the privacy interests of any producing party. (ECF No. 3928). The Court entered the Order on June 6, 2011. (ECF No. 4137).

44. The Trustee, B&H attorneys, counsel for WNBC-TV, NBC News, CNBC, and the New York Times Company, and counsel for various interested defendants – including financial institutional and charitable organizations – worked throughout the Compensation Period to

determine whether certain information could remain under seal or redacted in accordance with the procedures established by the Court's November 10, 2010 Order Approving the Litigation Case Management Procedures (the "Litigation Procedures Order"). On April 12, 2011, the Court entered an Order directing the Trustee to unseal certain information related to the financial institutions and maintain the seal on information related to charitable organizations. (ECF No. 4009).

45. On April 26, 2011, certain BLMIS claimants filed a motion to compel the production of a report of the Trustee's investigative activities and financial affairs of BLMIS. (ECF No. 4045). B&H attorneys opposed the motion as a premature and improper discovery demand, and the Court denied the Motion on these grounds on June 21, 2011. The claimants filed a motion for leave to appeal the Court's Order, which was denied by the District Court on August 18, 2011, No. 11-mc-00277 (S.D.N.Y.) (RMB) (ECF No. 5).

46. Without the need for protracted litigation, the Trustee succeeded in recovering billions of dollars by virtue of settlements with a number of parties, including the Fairfield Greenwich Group, the Tremont Group, and Hadassah. Because of the efforts made by the Trustee and Counsel, approximately \$8.6 billion will have been recovered for the benefit of customers, though the \$5 billion settlement with the estate of Jeffrey Picower is the subject of appeal, as described further herein.<sup>10</sup>

47. The Trustee is also engaged in ongoing settlement negotiations with a number of parties, including customers against whom the Trustee has preference claims, which could result in recoveries for the benefit of customers without the delay and expense of litigation.

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<sup>10</sup> The \$8.6 billion recovery includes settlements executed after the Compensation Period and some not yet approved by the Court.

ii. **Injunctions**

48. In an effort to protect the potential fund of Customer Property that is being pursued by the Trustee and Counsel through litigation and settlement efforts, the Trustee has filed complaints and corresponding applications seeking to, among other things, preliminarily enjoin various plaintiffs from continuing to litigate actions or commencing new actions against various individuals and entities related to this liquidation proceeding, including certain Madoff family members, insiders, and international financial institutions.

49. The Trustee has brought these applications on several grounds: (i) the plaintiffs' actions against individuals and entities related to the BLMIS liquidation proceeding violate the automatic stay and other stays in place; (ii) these actions threaten to impede the orderly administration of the BLMIS liquidation and usurp the jurisdiction of this Court by, among other things, undermining the claims administration process and circumventing the Court's determination of the proper formulation of a customer's net equity under SIPA; and (iii) the claims brought by the plaintiffs are duplicative and derivative of the Trustee's own claims and improperly seek to recover fraudulently transferred funds and Customer Property in violation of the stays.

50. During this Compensation Period, the Court issued a decision in *Picard v. Stahl*, Adv. Pro. No. 10-03268 (BRL), preliminarily enjoining several actions brought by BLMIS claimants against the Madoff family defendants pending the completion of the Trustee's litigation against the family members. *Picard v. Stahl*, 443 B.R. 295 (Bankr. S.D.N.Y. 2011). Several appeals have been filed from the Court's Order, Nos. 11-CV-02135, 11-CV-02246, and 11-CV-02392 (AKH).

51. The Trustee filed *Picard v. Repex Ventures, S.A.*, Adv. Pro. No. 11-03477 (BRL), seeking to enjoin three class action lawsuits, consolidated in *Repex Ventures, S.A. v. Madoff*, No.

09-CV-00289 (S.D.N.Y.) (RMB), brought by indirect BLMIS investors against the Herald, Primeo, and Thema feeder funds pending the completion of the Trustee's litigation against these and other financial institutions, feeder funds, and individuals in *Picard v. HSBC Bank plc*, Adv. Pro. No. 09-01364 (BRL). The parties agreed to adjourn the motion and time to respond to the complaint pending the resolution of motions to dismiss filed by the feeder funds in the consolidated class action.

52. The Trustee worked with the defendants in *Picard v. Canavan*, Adv. Pro. No. 10-3200 (BRL), and *Picard v. Dichter-Mad Family Partners*, Adv. Pro. No. 11-01271 (BRL), to resolve voluntarily the two respective preliminary injunction applications. The Trustee is opposing preliminary injunction applications sought in *Picard v. Mendelow*, Adv. Pro. No. 10-04283 (BRL).

53. Two Picower-related preliminary injunctions remain pending before the District Court. First, an appeal of the preliminary injunction application granted by the Court in *Picard v. Fox*, Adv. Pro. No. 10-03114 (BRL), during the prior compensation period has been fully briefed, but not yet heard, No. 10-CV-04652 and No. 10-CV-07101 (JGK). Second, BLMIS claimants filed an appeal of a preliminary injunction entered by the Court pursuant to the terms of the settlement agreement with the estate of Jeffrey Picower. This appeal has also been fully briefed, but not yet heard, Nos. 11-CV-01298 and 11-CV-01328 (JGK), and prevents the Trustee from distributing \$5 billion to BLMIS customers until it is resolved.

54. The Court also denied Robert Jaffe's motion in *Picard v. Cohmad Securities Corp.*, Adv. Pro. No. 10-01305 (BRL), to enjoin third-party lawsuits brought against him. *Picard v. Cohmad Securities Corp.*, 443 B.R. 291 (Bankr. S.D.N.Y. 2011). An appeal was filed, No. 11-CV-01993 (MGC), but voluntarily dismissed by Jaffe.

iii. **The allocation and distribution of customer property**

55. The ultimate purpose of protecting and recovering the fund of Customer Property is to distribute those monies, as SIPA directs, to BLMIS customers and creditors and reimburse SIPC.

56. On May 4, 2011, the Trustee filed a Motion For An Order Approving An Initial Allocation Of Property To The Fund Of Customer Property And Authorizing An Interim Distribution To Customers (the “Allocation Motion”). (ECF No. 4048). The Allocation Motion was unopposed, and the Court entered the Order Approving the Trustee’s Initial Allocation of Property to the Fund of Customer Property and Authorizing An Interim Distribution to Customers (the “Allocation Order”) on July 12, 2011. (ECF No. 4217).

57. Pursuant to the Allocation Order, the Trustee will distribute more than \$300 million to customers relating to 1,230 BLMIS accounts whose claims have not been fully satisfied because their net equity claims as of the Filing Date exceeded the statutory SIPA protection limit of \$500,000. \$300 million is vastly less than the \$7.6 billion recovered by the Trustee when he sought entrance of the Allocation Order; the difference is being held in reserve pending the resolution of numerous appeals, including the Second Circuit’s “net equity” decision, only now resolved in favor of the Trustee and the customers of BLMIS, the appeals relating to the \$5 billion Picower settlement, and the appeal relating to the settlement with the Levy family, discussed *infra* ¶ 107.

58. The result of these appeals is that instead of being able to return almost 45% of the principal that BLMIS customers lost in Madoff’s Ponzi scheme, the Trustee is only able to make an approximate 4.6% distribution of the Customer Fund to them at this time.

59. Even so, the Trustee is returning significant dollars to customers. The initial distribution will be over \$300 million, which is greater than the \$272 million that customers were

going to receive subject to the Trustee's Allocation Motion. This increase is the result of the Trustee's further settlements and recoveries after the Court entered the Allocation Order.

#### **IV. DETAILED DESCRIPTION OF SERVICES**

60. Given the unprecedented fraud perpetrated by Madoff, the issues involved are complex, the discovery is wide-ranging, and the litigation through BLMIS is hotly contested. All of this requires an enormous effort by the Trustee and his Counsel for the benefit of the victims. The following is a more detailed synopsis of the significant services rendered by the Trustee and B&H during the Compensation Period, organized according to the internal B&H matter numbers and task codes.

61. Matters 01 and 02 are the general matter numbers used by B&H and the Trustee, respectively. These matter numbers utilize individual task codes for specific categories of work to permit a more detailed analysis of the fees incurred. For specific litigations or other discrete matters to which a large number of hours are or will be billed, new matter numbers are opened and used, each of which are described in more detail herein.

62. Matter Numbers 03-61 (with the exception of Matter 05, which relates to customer claims) relate to litigation filed against various individuals, feeder funds, and entities.<sup>11</sup> In each of these matters, B&H attorneys perform the following tasks related to the individual actions: conduct legal research; draft internal memoranda; engage in internal meetings with B&H attorneys and the Trustee's Consultants regarding investigation and litigation strategy; draft and file pleadings, motions, and other related litigation documents; and engage in discussions with

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<sup>11</sup> Matter Number 14 has been reserved for future use by B&H professionals. As litigation has developed, Matter Numbers 15 – Herald, 16 – Alpha Prime, and 17 – Primeo have been closed and incorporated with Matter Number 30 – HSBC, and Matter Number 22 – Fox & Marshall has been closed and incorporated with Matter Number 12 – Picower. The reserved and closed matter numbers will no longer be listed in the Application.

counsel for defendant(s). Rather than repeat these tasks, the description of each matter will be limited to matter-specific tasks and case activity that occurred during this Compensation Period.

**A. MATTER 01 – COUNSEL TO THE TRUSTEE**

63. This matter categorizes the time spent by B&H and encompasses the below enumerated tasks.

**i. Trustee Investigation – Task Code 01**

64. This category relates to time spent with respect to the investigation into BLMIS, Madoff, and various assets. During this Compensation Period, B&H attorneys:

- Initiated, participated in, and monitored as many as 170 pending and 81 potential international third-party proceedings and 246 domestic third-party proceedings involving Madoff and/or BLMIS.
- Continued the investigation of banks, feeder funds, auditors, insiders, Madoff friends and family members, former BLMIS employees, and all other Madoff-related parties.
- Continued the investigation of Madoff Securities International Limited (“MSIL”).
- Coordinated efforts with the United States Attorney’s Office for the Southern District of New York (“USAO”), Federal Bureau of Investigation (“FBI”), Financial Industry Regulatory Authority (“FINRA”), SEC, and many other local, federal, and international officials involved in the investigation of Madoff and BLMIS.
- Reviewed copies of records obtained by the FBI and SEC and other information from the USAO and securities regulators.
- Reviewed and responded to information requests from the United States Congress.
- Communicated with the Trustee, SIPC, Windels Marx, Young Conaway, AlixPartners, FTI, and various other consultants regarding IA accounts and records of the transactions, business investments, and ventures between the potential insiders and BLMIS, Madoff, and Madoff family members.
- Discussed and conferenced with SIPC, Windels Marx, Young Conaway, International Counsel, and various government entities regarding investigation and litigation strategy.

- Prepared requests for discovery and negotiated other discovery-related issues with adversaries.
- Organized and reviewed documents received in response to third party inquiries and subpoenas.

ii. **Bankruptcy Court Litigation – Task Code 02**

65. This category relates to time spent conducting legal research, drafting, and filing various pleadings and motions in the main bankruptcy proceeding and the adversary proceedings filed by the Trustee. During this Compensation Period, B&H attorneys:

- Attended the hearing on February 15, 2011 admitting the will of Mark Madoff to probate.
- Prepared for and attended the hearing held on March 3, 2011 before the Second Circuit Court of Appeals on the direct appeal of the Bankruptcy Court’s “Net Equity” decision.
- Drafted the briefing and prepared and attended the hearing held on March 17, 2011 on the motion to aside pursuant to Federal Rules of Civil Procedure 60(b) the \$220 million settlement with the Levy heirs.
- Prepared and filed motions to unseal complaints and exhibits containing confidential information.
- Drafted and prepared for hearing held on June 1, 2011 on the motion for entry of the amended Litigation Protective Order to allow the use of produced material, while protecting the privacy interests of producing parties.
- Drafted the briefing and prepared to attend the hearing held on July 12, 2011 on the motion to allocate recovered funds as Customer Property and distribute unreserved funds to BLMIS customers.
- Drafted and filed various motions, pleadings, amended complaints, motions to dismiss, scheduling orders, pleadings, stipulations, and other documents submitted to the Bankruptcy Court in connection with ongoing motion practice in the main bankruptcy proceeding and avoidance actions.
- Prepared and filed Trustee reports and fee applications for the Trustee, B&H, and various International Counsel; prepared opposition papers to motion for leave to appeal the Court’s Order granting the compensation of Trustee and B&H.
- Researched causes of action under the Bankruptcy Code and other bankruptcy-related legal issues that have been or will be brought by the Trustee.

- Developed case management procedures for avoidance actions.
- Prepared for filing foreign/special counsel retention applications.

**iii. Feeder Funds – Task Code 03**

66. The Trustee has delegated teams of B&H attorneys to identify, investigate, and monitor potential feeder funds in the U.S. and abroad and bring actions against such funds for the recovery of estate assets. Separate matter numbers have been assigned to feeder funds sued by the Trustee, discussed more fully at ¶¶ 98-100, 102, 108-115, 122-126, 143-147, 168-172, *infra*.

**iv. Asset Research and Sale – Task Code 04**

67. This category relates to time spent with respect to the discovery, recovery, and liquidation of various assets for the benefit of the estate. During this Compensation Period, B&H:

- Liquidated certain loan participations owned by BLMIS.
- Conferred with and assisted the Trustee in negotiating and resolving the BLMIS leases.
- Drafted settlement agreement with Yacht Bull relating to Madoff's yacht.
- Conferred and worked with Windels Marx regarding BLM Air Charter and other issues relating to the airplane.
- Monitored Surge, Inc.'s operation of market-making platform and trading activities.

**v. Internal Meetings with Staff – Task Code 05**

68. This category relates to time spent by B&H attorneys in internal meetings regarding the liquidation proceeding, investigation and litigation strategy, as well as training sessions for attorneys and paraprofessionals. Internal meetings and discussions have ensured the effective use of time spent on this matter and avoided the duplication of efforts.

vi. **Billing – Task Code 07**

69. This category relates to time spent by B&H attorneys and paraprofessionals reviewing the monthly B&H billing statements prior to submitting the statements to SIPC to ensure that time was properly billed, correct any errors in time entries, write off certain time and expenses as agreed to by B&H, and other related tasks.

vii. **Case Administration – Task Code 08**

70. This category relates to time spent assisting the efficient administration of the case. During this Compensation Period, B&H:

- Conducted conflict checks.
- Implemented and managed case-wide tracking tools for pleadings, subpoenas, demand letters, responses, and all other case-related documents.
- Created protocols relating to discovery, filings, and external communications.
- Implemented and managed work flows between B&H and Consultants.
- Oversaw administrative aspects of the retention of experts, other professionals, and vendors, and monitored their ongoing activities.
- Maintained case files.
- Calendared and docketed all hearings, return dates, and deadlines in main liquidation proceeding and all other litigations.
- Monitored and tracked dockets of related proceedings.
- Managed and monitored staffing needs.

viii. **Banks – Task Code 09**

71. Primarily as a result of international and domestic feeder fund investigations, the Trustee commenced investigations of numerous banks and other financial institutions involved with BLMIS. Time categorized by this task code relates to the investigations of target banks and the roles played by the banks in the Ponzi scheme, the preparation of letters of inquiry and

subpoenas, the review of responses to letters and subpoenas received from such banks and other third parties, and the preparation of pleadings relating to claims that will be brought against such banks. Separate matter numbers have been assigned to banks sued by the Trustee, discussed more fully at ¶¶ 139-142, 145-147, 150-167, *infra*.

**ix. Court Appearances – Task Code 10**<sup>12</sup>

72. This category relates to time spent by B&H attorneys making court appearances in this Court, other federal courts within the Second Circuit, and various courts abroad.

**x. Press Inquiries and Responses – Task Code 11**

73. This category relates to time spent by B&H assisting the Trustee in responding to press inquiries, preparing and issuing press releases, and preparing for and holding press conferences relating to BLMIS, Madoff, customer claims, and the recovery of funds.

**xi. Document Review – Task Code 12**

74. This category relates to time spent by B&H reviewing documents received from parties and third parties in response to the hundreds of letters and subpoenas issued by the Trustee.

**xii. Discovery - Depositions and Document Productions by the Trustee – Task Code 13**

75. This category relates to time spent by B&H attorneys conducting depositions and preparing and responding to discovery requests issued in the ongoing litigations and by various third parties. During this Compensation Period, B&H:

- Prepared, reviewed, finalized, and served subpoenas.
- Monitored subpoenas issued and documents produced in response, and followed up regarding deficient document productions.

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<sup>12</sup> Many attorneys making court appearances bill their time for appearances to either Task Code 02 – Bankruptcy Court litigation or to the matter number that relates to that specific litigation, rather than to Task Code 10.

- Prepared, reviewed, finalized, and served initial disclosures, case management plans, and motions for filing with the Bankruptcy Court to implement case-wide discovery procedures.
- Prepared, reviewed, finalized, and served discovery requests.
- Processed, uploaded, and analyzed incoming document productions.
- Responded to discovery requests served on the Trustee by defendants and third parties.
- Analyzed, tracked and processed BLMIS data.
- Coordinated with the Trustee's expert witnesses to prepare for trial.
- Researched foreign jurisdiction discovery laws.
- Oversaw work performed by the Trustee's vendors.

**xiii. International – Task Code 14**

76. The fraud Madoff perpetrated through BLMIS has many international implications, involving foreign individuals, feeder funds, and international banking institutions. The Trustee is actively investigating and seeking to recover assets for the BLMIS estate in many different jurisdictions, including England, Gibraltar, Austria, Canada, Bermuda, the British Virgin Islands ("BVI"), the Cayman Islands, the Bahamas, Ireland, France, Luxembourg, Switzerland, and Spain. These investigations utilize a combination of voluntary requests for information and the use of the Trustee's subpoena power. This category relates to the ongoing investigation, the preparation and service of subpoenas against entities in many jurisdictions, and communication with International Counsel regarding the utilization of local laws to obtain necessary discovery. The investigation is made challenging by the broad array of anti-discovery laws, bank secrecy statutes, and other foreign legislation designed to limit discovery. In addition, time categorized by this task code relates to the participation in and monitoring of various BLMIS-related third party actions brought in Europe and the Caribbean.

**xiv. Charities – Task Code 15**

77. This category relates to reviewing financial documents and conducting due diligence of charitable accounts held at BLMIS, sealing and subsequently unsealing complaints filed against charities, and corresponding and meeting with the representatives of these charities to obtain further information concerning transfers from their BLMIS accounts.

**xv. Access – Luxembourg – Task Code 17**

78. This category relates to the monitorship of an action brought in Luxembourg against Access Group, UBS, and the directors of LuxAlpha, a BLMIS feeder fund based in Luxembourg, and conferences with SIPC staff regarding the same.

**B. MATTER 02 – TRUSTEE TIME**

79. This matter categorizes time spent by the Trustee and encompasses the below enumerated tasks.

**i. Case Administration – Task Code 01**

80. This category relates to the wind-down of the Debtor's business and other administrative matters. During this Compensation Period, the Trustee:

- Reviewed communications received by the Trustee, the BLMIS office, or the Claims Processing Center, and prepared the appropriate response or ensured follow-up.
- Maintained brokerage accounts and money management account, and purchased and rolled-over Treasury bills.
- Retained, as necessary, additional consultants, expert witnesses, international counsel, and other advisors.
- Obtained SIPC administrative cash advances, communicated with AlixPartners concerning payment of bills submitted to the Trustee, reviewed and signed monthly SIPC-17 cash receipts and disbursement reports, reviewed monthly projected administrative budgets, and communicated with SIPC staff regarding the same.

- Reviewed monthly invoices of consultants and communicated with SIPC staff regarding the same and arranged for payment.
- Communicated with SIPC financial and operations staff to ensure efficient administration of finances.
- Prepared and revised responses to inquiries of various government agencies regarding BLMIS and the wind-down of the estate, including the Internal Revenue Service, SEC, and New York State Department of Tax & Finance.
- Communicated with B&H attorneys and AlixPartners regarding outstanding issues with vendors and negotiated and resolved outstanding estate obligations.

**ii. Claims Review and Related Matters – Task Code 02**

81. This category relates to customer claims. During this Compensation Period, the

Trustee:

- Reviewed in an ongoing manner and as necessary the submitted customer claim forms and supplements thereto, and reviewed any additional related BLMIS account documentation.
- Communicated with SIPC staff, B&H attorneys, and AlixPartners regarding the customer claims review process, the customer claims database, the reconciliation of IA accounts, and other matters of interest in determining claims and issuing determination letters.
- Reviewed and revised determinations; communicated by phone, letter, and email with customers and their representatives regarding review, allowance, or denial of particular claims (e.g., including the *pro rata* distribution of funds recovered to date); reviewed proposed customer assignments and releases to the extent of claims to be satisfied; and, when necessary, communicated with the B&H claims team and referred certain claims for follow-up and response.
- Engaged in settlement negotiations with customers against whom the Trustee has preference claims, i.e. those customers who withdrew money from a BLMIS account ninety (90) days prior to the Filing Date.

**iii. Trustee Investigation – Task Code 03**

82. This category relates to the Trustee's investigation into BLMIS, Madoff, and various assets. During this Compensation Period, the Trustee:

- Discussed and conferenced both internally with B&H attorneys and externally with SIPC staff, Windels Marx, International Counsel, and various governmental entities regarding investigation and litigation strategy.
- Communicated with B&H attorneys, International Counsel, SIPC staff, Windels Marx, AlixPartners, and FTI regarding the IA accounts and records of the transactions, business investments, and ventures between the potential insiders and BLMIS, Madoff, and Madoff family members.
- Reviewed discovery received in response to issued subpoenas and from other third parties.

iv. **Banks and Feeder Funds – Task Code 04**

83. The Trustee has delegated teams of B&H attorneys to identify, investigate, and monitor banks and feeder funds, and bring actions against such banks and feeder funds for the recovery of estate assets where possible. For further discussion of the feeder fund litigations, please see ¶¶ 98-100, 102, 108-115, 122-126, 139-147, 150-172, *infra*.

v. **Asset Search, Recovery and Sale – Task Code 06**

84. This category relates to time spent with respect to the discovery, recovery, and liquidation of various assets for the benefit of the estate. During this Compensation Period, the Trustee:

- Reviewed claims and supporting affidavits filed in connection with the settlement of various class actions involving securities held by BLMIS in its market making and trading capacities, and conferenced with AlixPartners regarding the same.
- Discussed with B&H attorneys the sale or restructuring of certain loan participations owned by BLMIS and followed up on other loan participation and restructuring matters.
- Discussed with broker the status of the securities remaining in the Trustee's account and sale possibilities.

**vi. Avoidance Actions – Task Code 07**

85. As of May 31, 2011, 1,066 of the 1,075 actions filed by the Trustee and his Counsel are avoidance actions pending against feeder funds, banks, BLMIS customers, Madoff friends and family members, and other Madoff-insiders for the return of Customer Property.

86. This category relates to the investigation and litigation strategy sessions engaged in by the Trustee with B&H attorneys, International Counsel, SIPC, AlixPartners, and FTI, communications with counsel for the defendants to the various avoidance actions, negotiations of potential settlement agreement, and the review of documents related to the various avoidance actions and potential settlements.

**vii. Bankruptcy Court Litigation and Related Matters – Task Code 08**

87. This category relates to the review and filing of various motions and pleadings, and the initiation and prosecution of adversary proceedings in the Bankruptcy Court. During this Compensation Period, the Trustee:

- Reviewed amended complaints, motions, pleadings, proposed orders, and other documents to be submitted to the Bankruptcy Court in connection with all avoidance actions.
- Reviewed the objections filed in response to the Trustee's determination of claims.
- Communicated regularly with the SIPC staff, B&H attorneys, and counsel for various customers who filed actions regarding customer claims, the "net equity" definition, and other issues.
- Monitored the Chapter 11 case of BLM Air Charter and communicated regularly with counsel for BLM Air Charter.
- Time spent by the Trustee in preparing his interim reports, which are required every six (6) months and summarize all activities conducted by the Trustee and all his Counsel within that reporting period, are also billed to this task code.

**viii. Non-Bankruptcy Court Litigation – Task Code 09**

88. B&H attorneys monitor all third-party actions, domestic and international, that may be related to BLMIS or Madoff. This category relates to the Trustee's review of information related to such matters, and correspondence with the teams regarding their ongoing investigations and findings and the status of such third party litigations.

89. The Trustee's time in this category also includes the review and execution of affidavits for foreign litigation, including those in Gibraltar, the British Virgin Islands, and the Cayman Islands.

**ix. Court Appearance – Task Code 10**

90. This category relates to time spent by the Trustee making court appearances as necessary.

**x. Internal Office Meetings with Staff and Out of Office Meetings – Task Codes 11 and 12**

91. This category relates to internal strategy meetings and training sessions between the Trustee and his professionals, as well as additional out-of-office meetings between the Trustee and other parties.

**xi. USAO and SEC/FINRA - Task Codes 13 and 14**

92. This category relates to communications with the various government agencies, such as the USAO, SEC, FINRA, and FBI, involved in the investigation of BLMIS, Madoff, and various assets. During this Compensation Period, the Trustee:

- Coordinated efforts with the USAO, SEC, FINRA, FBI, and other local, federal, and international officials involved in this investigation.
- Obtained copies of records seized by the FBI and SEC, and other information from the USAO, FINRA, and other securities regulators.
- Engaged in telephone conferences, correspondence, and meetings with representatives of the USAO.

**xii. Trustee Report/Fee Application and Related Matters – Task Codes 05 and 16**

93. In addition to the time spent preparing this Application, this category relates to time spent by the Trustee reviewing the monthly statements of the Trustee, B&H, Windels Marx, Young Conaway, the Osborne Firm, and International Counsel to correct any errors in time entries, write off certain time and expenses as agreed to by the Trustee for the benefit of SIPC, and respond to certain adjustments requested by SIPC after its review of each monthly fee statement.

**xiii. Press Inquiries and Responses – Task Code 17**

94. This category relates to time spent by the Trustee responding to press inquiries, preparing and issuing press releases, and preparing for and holding press conferences regarding BLMIS, Madoff, customer claims, and the recovery of funds.

**xiv. Luxembourg Litigation – Task Code 18**

95. This category relates to time spent by the Trustee in monitoring an action brought in Luxembourg against Access Group, UBS, and the directors of LuxAlpha, a BLMIS feeder fund based in Luxembourg.

**C. MATTER 03 – CHAIS<sup>13</sup>**

96. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Stanley Chais, Pamela Chais, and a number of related entities (collectively, the “Chais Defendants”) seeking the return of more than \$1.1 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for accounting, preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Chais Defendants.

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<sup>13</sup> As with Matter 01, the remainder of the B&H matter numbers described herein is used by B&H professionals. The Trustee only utilizes Matter 02.

97. In addition to the tasks outlined above in ¶ 62, during this Compensation period, B&H attorneys reviewed and analyzed the answers filed by the Chais Defendants to the complaint. On February 24, 2011, the Court entered a Decision and Order granting the Trustee's motion to dismiss defendants' counterclaims and denying the motions to dismiss brought by defendants Mari Chais, Mark Chais, William Chais, Emily Chasalow and Wrenn Chais. The Trustee also received leave to file an amended complaint against defendant Michael Chasalow, and B&H attorneys drafted the amended complaint. B&H attorneys prepared for the initial case conference held on June 17, 2011.

**D. MATTER 04 – MERKIN**

98. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Gabriel Capital, L.P., Ariel Fund, Ltd., Ascot Partners, L.P., Gabriel Capital Corporation (together, the "Merkin Funds"), and J. Ezra Merkin (collectively, the "Merkin Defendants") seeking the return of more than \$557 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for accounting, preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Merkin Defendants. With leave of the Court, the Trustee filed a second amended complaint on December 23, 2009 asserting Merkin's personal liability for obligations of the partnerships.

99. In addition to the tasks outlined in ¶ 62, during this Compensation period, B&H attorneys monitored arbitrations and other actions pending against the Merkin Defendants and have engaged in extensive discovery responding to the expansive requests of the Merkin Defendants. The pre-trial conference was held on July 27, 2011.

100. On November 17, 2010, the Court denied the Merkin Defendants' motion to dismiss in favor of the Trustee. Defendant Bart M. Schwartz, as Receiver of Defendants Gabriel

Capital, L.P. and Ariel Fund Limited, filed a motion for leave to appeal, No. 11-mc-00012 (KMW). B&H attorneys submitted briefing in opposition to the appeal and in support of the Court's dismissal, and Judge Woods denied the motion on August 31, 2011, ECF No. 9.

**E. MATTER 05 – CUSTOMER CLAIMS**

101. This matter categorizes time spent by B&H regarding customer claims. During this Compensation Period, B&H attorneys:

- Reviewed customer claim forms and supplements thereto and reviewed any additional related BLMIS IA account documentation.
- Assisted the Trustee in making determinations regarding customer claims, and prepared the Trustee's determination letters and the assignment and release forms for execution by customers.
- Communicated regularly by phone, letter, and email with customers or their representatives regarding claims procedure and process, status of claims review, and other matters of concern to customers.
- Reviewed objections to the Trustee's determination of claims and communicated regularly with the Trustee, SIPC, and counsel for the parties who filed the objections. As of May 31, 2011, approximately 2,315 objections have been filed with the Bankruptcy Court.
- Continued the Trustee's Hardship Program, reviewed Hardship Applications, and communicated regularly with the Trustee, SIPC, and AlixPartners regarding the review and determination of Hardship applicants.
- Reviewed customer accounts and communicated with customers or their representatives regarding possible settlements related to those accounts.
- Communicated regularly with the Trustee, SIPC, and AlixPartners regarding the customer claims review process, the customer claims database, reconciliation of IA accounts, and other matters of interest in determining claims.
- Reviewed schedules of information prepared by AlixPartners and prepared additional reports for the Trustee and SIPC.
- Maintained and updated the Trustee website to provide public access to case filings and important case information.
- Continued the training of B&H attorneys and paraprofessionals to assist the Trustee in reviewing and determining customer claims.

**F. MATTER 06 – VIZCAYA**

102. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Vizcaya Partners Limited (“Vizcaya”) and Banque Jacob Safra (Gibraltar) Ltd. (“Bank Safra”) (collectively, the “Vizcaya Defendants”) seeking the return of \$150 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Vizcaya Defendants. The Trustee amended the complaint to add as additional defendants Asphalia Fund Ltd. (“Asphalia”), Zeus Partners Ltd. (“Zeus”), and Siam Capital Management (“Siam”) seeking the return of an additional \$30 million in fraudulent transfers. The Trustee filed an action against these additional defendants in Gibraltar Supreme Court for an injunction or freezing order, disclosure, and other relief.

103. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys reviewed and analyzed the answers filed by Bank Safra and Zeus to the amended complaint. Asphalia and Siam remain in default, which was entered by the Court on July 13, 2010.

**G. MATTER 07 – MADOFF FAMILY**

104. This matter categorizes time spent by B&H attorneys pursuing the numerous avoidance actions against members of the Madoff family. The action against Peter B. Madoff, the estate of Mark D. Madoff, Andrew H. Madoff, and Shana D. Madoff (collectively, the “Family Defendants”) seeks the return of nearly \$200 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Family Defendants. A motion to dismiss is pending before the Court in this case.

105. The Trustee also commenced an adversary proceeding against Marion Madoff, Peter Madoff's wife, to recover over \$14 million in fictitious salary payments and other fraudulent conveyances. During this Compensation Period, the Trustee granted Ms. Madoff several extensions of time to respond to the complaint.

106. The Trustee commenced two adversary proceedings against members of Mark and Andrew Madoff's families to recover fraudulent conveyances made by Bernard and Ruth Madoff, and various proceedings against relatives of Bernard Madoff beyond his immediate family to recover preferences and fraudulent conveyances. The Trustee also commenced two adversary proceedings against foundations created by and named for Mark and Andrew Madoff and their spouses. These defendants have answered, moved to dismiss the complaints, or have otherwise received extensions of time to respond to the complaints against them.

#### **H. MATTER 08 – NORMAN LEVY**

107. In January 2010, the Trustee reached a \$220 million settlement agreement (the "Levy Settlement") with Jeanne Levy-Church and Francis N. Levy (collectively, the "Levys") to settle the Trustee's potential litigation claims against them regarding certain accounts held by the Levys and their family members. This Court approved the Levy Settlement by Order on February 18, 2010. Exactly one year later, certain BLMIS claimants filed a motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure to set aside the Levy Settlement. (ECF No. 3860). During this Compensation Period, B&H attorneys drafted an opposition to that motion. The Court denied the motion on March 30, 2011, ECF No. 3984, and the claimants appealed. (ECF No. 4005). The matter is before the District Court, 11-CV-3313 (DAB), and B&H attorneys drafted a counter-designation of the record and counter-designation of the issues on appeal, and prepared briefing in support of the Court's Orders.

## **I. MATTER 09 – FAIRFIELD GREENWICH**

108. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Fairfield Sentry Limited, Greenwich Sentry Limited, L.P., and Greenwich Sentry Partners, L.P. (collectively, the “Fairfield Defendants”) seeking the return of approximately \$3.5 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Fairfield Defendants.

109. In addition to the tasks outlined in ¶ 55, during this Compensation Period, B&H attorneys negotiated and finalized a settlement agreement to resolve the Trustee’s claims against Fairfield Sigma, Fairfield Lambda, and Fairfield Sentry, a BVI fund that was Madoff’s single, largest feeder fund.

110. Fairfield Sentry is currently in Liquidation in the BVI and is represented by court-appointed Joint Liquidators. By virtue of the settlement with the Joint Liquidators, the Trustee, among other things: (i) secured a Judgment against Fairfield Sentry, Fairfield Lambda, and Fairfield Sigma in excess of \$3 billion; (ii) reduced Fairfield Sentry’s customer claim from \$960 million to \$230 million; (iii) recovered \$70 million for the fund of Customer Property; and (iv) received an assignment of all claims held by the Joint Liquidators against Fairfield’s management entities and individuals, including founders Walter Noel, Jeffrey Tucker, and Andres Piedrahita, under which the Trustee, along with his own claims against these defendants, will keep the first \$200 million of any recovery obtained by the Joint Liquidators.

111. Equally important, the Trustee and the Joint Liquidators developed a comprehensive, joint-interest, and cooperative approach to any and all future recoveries tied to actions brought by the Trustee and/or by the Joint Liquidators in relation to Fairfield Sigma, Fairfield Lambda, and Fairfield Sentry. Shortly after the close of the Compensation Period, High

Court Judge Edward Alexander Bannister, QC, of the BVI courts approved the settlement agreement by Order.

112. The Trustee also negotiated and reached settlements with the two domestic feeder funds of the Fairfield Greenwich Group—Greenwich Sentry and Greenwich Sentry Partners—both of whom are debtors in Chapter 11 cases pending in this Court. Like the Fairfield Sentry settlement, the Trustee secured a reduction in customer claims of over \$100 million, cooperation on future recoveries, and assignments of claims against the Fairfield management groups. Again, this Court approved these settlements shortly after the Compensation Period ended; the approval of Greenwich Sentry and Greenwich Sentry Partners’ Chapter 11 plan remains pending.

113. The Trustee has worked closely with the Joint Liquidators in connection with their ongoing action against redeemers. In addition, the Trustee continues to investigate and prepare recovery actions against subsequent transferees who received monies from Fairfield Sentry during the six-year period prior to Fairfield Sentry filing for bankruptcy, and expects to file these complaints during the next Compensation Period. The Trustee also continues to investigate, analyze, and evaluate all claims against existing defendants for possible settlement and/or continued litigation.

**J. MATTER 10 – HARLEY**

114. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Harley International (Cayman) Limited (“Harley”) seeking the return of approximately \$1.1 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Harley. Harley is in liquidation in the Cayman Islands.

115. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys pursued collection on the summary and default judgments entered against Harley by this Court on November 10, 2010.

**K. MATTER 11 – COHMAD SECURITIES CORPORATION**

116. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Cohmad Securities Corporation (“Cohmad”), the principals, certain employees of Cohmad, and their family members who held BLMIS IA accounts (collectively, the “Cohmad Defendants”) seeking the return of over \$132 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, disallowance of any claims filed against the estate by the Cohmad Defendants, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Cohmad Defendants. On August 1, 2011, this Court denied the motions to dismiss filed by the Cohmad Defendants.

117. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys filed a stipulation dismissing with prejudice defendants Robert Jaffe and M/A/S Capital Corporation from the adversary proceeding, drafted an opposition to Jaffe’s motion to enforce the settlement order against third parties, and drafted a counter-designation of the record and counter-statement of the issues on appeal in support of the Court’s denial of Jaffe’s motion. Jaffe voluntarily dismissed his appeal, No. 11-CV-01993 (S.D.N.Y.) (MGC), on June 10, 2011.

118. During the last compensation period, the Trustee filed 173 avoidance actions against 737 discrete defendants introduced to BLMIS by Cohmad seeking the return of over \$878 million. During the Compensation Period, B&H attorneys oversaw service of the complaints, engaged in settlement discussions with opposing counsel, evaluated hardship

applications, responded to motions, participated in initial case conferences, and generally engaged in all pre-litigation matters.

**L. MATTER 12 – PICOWER (INCORPORATING FOX & MARSHALL)**

119. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Jeffrey M. Picower and Barbara Picower, both individually and as trustees for various foundations, and other various Picower entities (collectively, the “Picower Defendants”) seeking the return of approximately \$7.2 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Picower Defendants. In December 2010, the Trustee reached a \$5 billion settlement with the Picower Defendants. Pursuant to the same agreement, the Government achieved a \$2.2 billion civil forfeiture from the Picower Defendants.

120. In addition to the tasks outlined in ¶ 62, certain BLMIS claimants filed an appeal of the settlement with the Picower Defendants and permanent injunction approved by the Court, No. 11-CV-01328 (JGK). During this Compensation Period, B&H attorneys drafted and filed a counter-designation of the bankruptcy record on appeal and counter-statement of the issues on appeal, and prepared briefing in support of the Court’s Order.

121. One of the BLMIS claimants that objected to the Trustee’s settlement also sought to intervene in, amend, or rescind the Government’s forfeiture with the Picower Defendants. *United States of America v. \$7,206,157,717 On Deposit at JPMorgan Chase, NA in the Account Numbers Set Forth on Schedule A*, No. 10-CV-09398 (S.D.N.Y.) (TPG). On May 23, 2011, the District Court denied the Fox motion and entered a final judgment of forfeiture in favor of the Government, which was appealed to the Second Circuit on July 18, 2011, No. 11-2898.

**M. MATTER 13 – KINGATE**

122. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Kingate Global Fund Ltd. and Kingate Euro Fund Ltd. (together, the “Kingate Defendants”) seeking the return of approximately \$395 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Kingate Defendants. A second amended complaint was filed on July 21, 2009, which increased the demand to \$874 million.

123. The Kingate Defendants are currently in liquidation in the British Virgin Islands.

124. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys continued to monitor third party actions filed against the Kingate Defendants. In addition, on the basis of a disclosure order granted by the United Kingdom Court, the Trustee and B&H attorneys sought discovery in the United Kingdom and Europe relating to the Kingate Defendants. B&H attorneys continued their review of documents received in response to third party inquiries and subpoenas. The Trustee also filed a motion before the Bankruptcy Court for leave to file a third amended complaint and filed that complaint shortly after the close of the Compensation Period.

**N. MATTER 18 – THYBO**

125. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Thybo Asset Management Limited, Thybo Global Fund Limited, Thybo Return Fund Limited, and Thybo Stable Fund Ltd. (collectively, the “Thybo Defendants”) seeking the return of approximately \$63 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of

the Thybo Defendants. The Trustee filed an amended complaint objecting to Thybo Stable Fund's \$217 million customer claim.

126. As with each of the matters in litigation, B&H attorneys conducted the tasks outlined in ¶ 62 during this Compensation Period. B&H attorneys drafted and filed a second amended complaint against the Thybo Defendants, which was filed on February 10, 2011, and prepared briefing in opposition to a motion to dismiss, which was filed on August 24, 2011. Also on August 24, 2011, the Trustee and Thybo Defendants stipulated to the dismissal without prejudice of those portions of the Trustee's claims regarding tax payments and the equitable subordination of their customer claims; work leading to this stipulation occurred during this Compensation Period

**O. MATTER 19 – RUTH MADOFF**

127. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Ruth Madoff seeking the return of approximately \$44 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, disallowance of Mrs. Madoff's claims against the estate, imposition of a constructive trust, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Mrs. Madoff.

128. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys engaged in continued settlement discussions with counsel for Mrs. Madoff. B&H attorneys also agreed to extend Mrs. Madoff's time to answer or otherwise respond to the Trustee's complaint to October 31, 2011.

**P. MATTER 20 –SHAPIRO**

129. This matter categorizes time spent investigating and negotiating for the return of millions in fictitious profits from one of Madoff's earliest investors, Carl J. Shapiro and

individuals and entities referred to as the “Shapiro family.” In December 2010, the Shapiro Family agreed to forfeit subject to federal civil forfeiture law \$625 million, of which \$550 million would be paid to the Trustee pursuant to the settlement agreement and \$75 million would be paid to the Government.

130. During this Compensation Period, the Trustee requested and reviewed discovery and financial disclosure information for several individuals related to the Shapiro family against whom the Trustee still maintains claims.

**Q. MATTER 21 – AVOIDANCE ACTION INVESTIGATION/LITIGATION**

131. This matter categorizes time spent developing efficient and transparent litigation procedures that apply to the hundreds of avoidance actions filed by the Trustee, coordinating service of process, working to unseal various complaints, preparing preservation letters and discovery requests and reviewing produced documents, communicating formally and informally with counsel for various defendants, reviewing hardship applications, drafting extensions of time to respond to various complaints and adjournments of pre-trial conferences, conducting settlement negotiations and settling with various defendants, developing legal strategies and witnesses that will be relevant to all actions, implementing internal processes to track and manage the avoidance actions, and researching various issues relating to and raised in such avoidance actions.

**R. MATTER 23 – CANAVAN**

132. This matter categorizes time spent by B&H attorneys on the adversary proceeding commenced by the Trustee against three BLMIS claimants, and the Trustee’s related Application for a Temporary Restraining Order, Enforcement of the Automatic Stay, and a Preliminary Injunction. During the last compensation period, B&H attorneys obtained from the claimants a voluntary dismissal without prejudice of their action against SIPC’s Board of Directors and

CEO/President that was pending in the United States District Court for the District of New Jersey.

**S. MATTER 24 – ROBERT LURIA**

133. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Robert Luria and Robert Luria Partners (“Luria Defendants”) seeking the return of approximately eighty thousand dollars under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, disallowance of their claims against the estate, imposition of a constructive trust, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Robert Luria and Robert Luria Partners.

134. In addition to the tasks outlined in ¶ 62, during this Compensation Period, the Court held an initial hearing on the Trustee’s motions to dismiss the Robert Luria Defendants’ counterclaims and strike the fourteenth and fifteenth affirmative defenses. The Court reserved its ruling and suggested that the parties consider consolidating and/or resolving the matter.

**T. MATTER 25 – AMY LURIA**

135. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Amy Luria and Amy Luria Partners LLC (“Amy Luria Defendants”) seeking the return of approximately ninety-five thousand dollars under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, disallowance of their claims against the estate, imposition of a constructive trust, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Amy Luria and Amy Luria Partners LLC.

136. In addition to the tasks outlined in ¶ 62, during this Compensation Period, the Court held an initial hearing on the Trustee’s motions to dismiss the Amy Luria Defendants’

counterclaims and strike the fourteenth and fifteenth affirmative defenses. The Court reserved its ruling and suggested that the parties consider consolidating and/or resolving the matter.

**U. MATTER 26 – RICHARD STAHL**

137. This matter categorizes time spent by B&H attorneys on the adversary proceeding commenced by the Trustee against Richard Stahl (“Stahl”), Reed Abend (“Abend”), and ten other plaintiffs that purport to be similarly situated (collectively, the “Stahl Plaintiffs”), and the Trustee’s related Application for a Temporary Restraining Order, Enforcement of the Automatic Stay, and a Preliminary Injunction (the “Stahl Application”) of actions brought against members of the Madoff family (“Madoff Defendants”) against whom the Trustee has also brought suit (“Madoff Actions”).

138. In addition to the tasks outlined in ¶ 62, during this Compensation period, B&H attorneys sought from the Stahl Plaintiffs a voluntary stay of the Madoff Actions and obtained two such stipulated stays. On February 15, 2011, the Court entered an Order enforcing the automatic stay and enjoining the remaining Stahl Plaintiffs from continuing the four active Madoff Actions against the Madoff Defendants until the conclusion of Trustee’s actions against the Madoff Defendants (“Stahl Order”). Certain of the Stahl Plaintiffs filed appeals of the Stahl Order with the District Court, Nos. 11-CV-02135, 11-CV-02246, and 11-CV-02392 (AKH).

**V. MATTER 27 – JP MORGAN CHASE**

139. This matter categorizes time spent by B&H attorneys pursuing the action against JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., J.P. Morgan Securities LLC, and J.P. Morgan Securities Ltd. (collectively, the “JP Morgan Chase”) seeking the return of approximately \$5.4 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of JP Morgan Chase.

140. In addition to the tasks outlined in ¶ 62, during this Compensation Period, prepared and filed a second redacted complaint against JP Morgan Chase. JP Morgan Chase filed a motion to withdraw the bankruptcy reference, No. 11-CV-00913 (CM), and B&H attorneys opposed the motion. The District Court granted the motion. B&H attorneys also prepared briefing in opposition to JP Morgan Chase's motion to dismiss.

**W. MATTER 28 - WESTPORT**

141. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Robert L. Silverman ("Silverman"), Westport National Bank, a division of Connecticut Community Bank, N.A. ("WNB"), and PSCC Services, Inc. seeking the return of approximately \$28 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of Silverman, WNB, and PSCC Services, Inc.

142. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed a proof of claim in Silverman's individual chapter 11 bankruptcy case pending in the Bankruptcy Court for the District of Connecticut. B&H attorneys participated in the meeting of Silverman's creditors conducted by the United States Trustee pursuant to section 341 of the Bankruptcy Code. The Trustee is Silverman's largest creditor. B&H attorneys also granted WNB several extensions of time to respond to the complaint.

**X. MATTER 29 – RYE/TREMONT**

143. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Tremont Group Holdings, Inc., Tremont Partners, Inc., Tremont (Bermuda) Limited, Rye Select Broad Market Fund, and numerous other entities and individuals (collectively, the "Tremont Defendants") seeking the return of approximately \$2.1 billion under

SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Tremont Defendants.

144. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys negotiated and finalized a settlement with the Tremont Defendants. The Trustee will, among other things, recover in excess of \$1 billion to the fund of Customer Property, and allow almost \$3 billion in customer claims that will allow investors in the Tremont Defendants to recover a substantial portion of their losses. The Court has yet to approve the settlement in full.

**Y. MATTER 30 – HSBC (INCORPORATING PRIMEO, ALPHA PRIME AND HERALD)**

145. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against HSBC Bank PLC, HSBC Securities Services (Luxembourg) S.A., eleven other HSBC-entities (collectively, the “HSBC Defendants”), dozens of feeder funds, and individuals seeking the return of approximately \$86 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the HSBC Defendants.

146. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys extended the time for some of the defendants to respond to the amended complaint and coordinated service of process on the numerous international defendants. B&H attorneys opposed motions to withdraw the reference filed by the HSBC Defendants and UniCredit S.p.A. and Pioneer Alternative Investment Management Limited (“UCG/PAI”), two feeder funds, No. 11-CV-763, 11-CV-836 (JSR). The District Court granted the motion. HSBC and UCG/PAI

subsequently filed separate motions to dismiss the Trustee's common law claims, and B&H attorneys prepared oppositions to those motions.

147. This matter also categorizes time spent by B&H attorneys on the adversary proceeding commenced by the Trustee against three class action lawsuits, consolidated in *Repex Ventures, S.A. v. Madoff*, No. 09-CV-00289 (S.D.N.Y.) (RMB), brought by indirect BLMIS investors against the Herald, Primeo, and Thema feeder funds pending the completion of the Trustee's litigation against these and other financial institutions, feeder funds, and individuals in *Picard v. HSBC Bank plc*, Adv. Pro. No. 09-01364 (BRL), and the Trustee's related Application for a Temporary Restraining Order, Enforcement of the Automatic Stay, and a Preliminary Injunction. The parties agreed to adjourn the application and time to respond to the complaint pending the resolution of motions to dismiss filed by the feeder funds in the consolidated class action.

**Z. MATTER 31 – KATZ/WILPON**

148. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Saul B. Katz, in his individual capacity and as trustee of the Katz 2002 Descendants' Trust, Fred Wilpon, in his individual capacity, as trustee of the Wilpon 2002 Descendants' Trust, and as co-executor of the Estate of Leonard Schreier, and dozens of other entities and individuals (collectively, "Sterling") seeking the return of approximately \$1 billion in fraudulent transfers—which includes approximately \$300 million in fictitious profits and \$700 million in principal—under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Sterling.

149. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys drafted, filed, and served the amended complaint under seal on Sterling and later

unsealed the complaint. The matter was referred to mediation before former-Governor Mario Cuomo and B&H attorneys attended numerous mediation sessions and negotiated in good faith. Sterling filed a motion to dismiss or, in the alternative, for summary judgment, and B&H attorneys responded on May 19, 2011. Sterling filed a motion to withdraw the reference in the District Court, No. 11-CV-03605 (JSR), and B&H attorneys responded, most of which was prepared during this Compensation Period. The reference was withdrawn subsequently, the Bankruptcy Court litigation stayed, and B&H attorneys prepared supplemental briefing on three narrow issues raised by Sterling in their motion to dismiss. The trial is scheduled to begin in the District Court the week of March 5, 2012, and the parties have begun discovery.

**AA. MATTER 32 – LUXALPHA/UBS**

150. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against UBS AG, UBS (Luxembourg) SA, UBS Fund Services (Luxembourg) SA, and numerous other entities and individuals (collectively, “UBS Defendants”) seeking the return of \$2 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of UBS.

151. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys extended the time for some of the defendants to respond to the amended complaint and coordinated service of process on the numerous international defendants. B&H attorneys continued to review produced documents. The UBS Defendants filed a motion to withdraw the bankruptcy reference, No. 11-CV-4212 (CM), on June 17, 2011, and B&H attorneys opposed the motion. The District Court granted the motion on August 3, 2011. B&H attorneys also prepared briefing in opposition to the motion to dismiss.

**BB. MATTER 33 – NOMURA BANK INTERNATIONAL PLC**

152. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Nomura Bank International plc (“Nomura”) seeking the return of approximately \$35 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Nomura.

153. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed a motion to unseal the complaint. B&H attorneys prepared for anticipated motion practice and engaged in settlement negotiations with certain defendants, which are ongoing.

**CC. MATTER 34 - CITIBANK**

154. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Citibank, N.A., Citibank North America, Inc., and Citigroup Global Markets Limited (collectively, “Citibank”) seeking the return of approximately \$425 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Citibank.

155. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed the complaint under seal and agreed to the extension of Citibank’s time to respond to the complaint. B&H attorneys prepared for anticipated motion practice and have engaged in settlement negotiations with certain defendants, which are ongoing.

**DD. MATTER 35 - NATIXIS**

156. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Natixis, Natixis Corporate & Investment Bank (f/n/a Ixis Corporate & Investment

Bank, Natixis Financial Products, Inc., Bloom Asset Holdings Fund, and Tensyr Limited (the “Natixis Defendants”) seeking the return of approximately \$430 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Natixis Defendants.

157. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed the complaint under seal and B&H attorneys granted the Natixis Defendants extensions of time to respond to the complaint. B&H attorneys also prepared for the filing of a motion to dismiss and have engaged in settlement negotiations with certain defendants, which are ongoing.

**EE. MATTER 36 – MERRILL LYNCH**

158. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Merrill Lynch International & Co. C.V. (“Merrill Lynch”) seeking the return of at least \$16 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of Merrill Lynch.

159. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed the complaint under seal, and the Trustee and Merrill Lynch stipulated to an agreement concerning waiver of service and the time by which Merrill Lynch shall respond to the complaint. B&H attorneys also prepared for anticipated motion practice.

**FF. MATTER 37 – ABN AMRO**

160. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against ABN AMRO Bank N.V. (ABN Bank is presently known as The Royal Bank of Scotland, N.V.) and ABN AMRO Incorporated (together, “ABN”) and Rye Select Broad Market

XL Fund, LP and Rye Select Broad Market XL Portfolio Limited (together, “Tremont XL Funds”) seeking the return of approximately \$671 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of ABN and the Tremont XL Funds.

161. In addition to the tasks outlined in ¶ 62, during this Compensation Period, the B&H attorneys granted the Tremont XL Funds’ several extensions of time to respond to the complaint and prepared for anticipated motion practice.

**GG. MATTER 38 – BANCO BILBAO**

162. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Banco Bilbao Vizcaya Argentaria, S.A. (“BBVA”) seeking the return of approximately \$48 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of BBVA.

163. In addition to the tasks outlined in ¶ 62, during this Compensation Period, the Court unsealed the complaint and B&H attorneys granted BBVA several extensions of time to respond to the complaint. B&H attorneys also prepared for anticipated motion practice.

**HH. MATTER 39 - FORTIS**

164. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against ABN AMRO Bank (Ireland) Ltd. (f/k/a Fortis Prime Fund Solutions Bank (Ireland) Ltd.), ABN AMRO Custodial Services (Ireland) Ltd. (f/n/a Fortis Prime Fund Solutions Custodial Services (Ireland) Ltd.) (together, “Fortis”) and Rye Select Broad Market XL Fund, LP and Rye Select Broad Market XL Portfolio Limited (collectively, the “Fortis Defendants”)

seeking the return of approximately \$267 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Fortis Defendants.

165. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted the Fortis Defendants numerous extensions of time to respond to the complaint. B&H attorneys also prepared for anticipated motion practice and engaged in settlement negotiations with certain defendants, which are ongoing.

## **II. MATTER 40 – MEDICI/KOHN**

166. This matter categorizes time spent by B&H attorneys pursuing the avoidance and civil action against Sonja Kohn A/K/A Sonja Blau Kôhn A/K/A Sonja Blau A/K/A Sinja Kôhn A/K/A Sinja Blau A/K/A Sinja Türk, and numerous other financial institutions, entities, and individuals (the “Kohn Defendants”) seeking the return of approximately \$19.6 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961, *et seq.*, and other applicable law, for preferences, fraudulent conveyances, and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Kohn Defendants.

167. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed the an amended complaint against the Kohn Defendants and, for some defendants, extended the time to respond to the complaint, as well as coordinated service of process on the numerous international defendants. The Kohn Defendants filed a motion to withdraw the bankruptcy reference, No. 11-CV-01181 (JSR), and B&H attorneys opposed the motion. The District Court granted the motion. B&H attorneys also prepared an opposition to the motion to dismiss.

**JJ. MATTER 41 - WHITECHAPEL**

168. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Whitechapel Management Limited and Granadilla Holdings Limited (“Whitechapel Defendants”) seeking the return of approximately \$10 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Whitechapel Defendants.

169. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted the Whitechapel Defendants extensions of time to respond to the complaint. B&H attorneys also began the process of obtaining a disclosure order in the British Virgin Islands.

**KK. MATTER 42 - EQUITY TRADING**

170. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Equity Trading Portfolio Limited, Equity Trading Fund Limited, and BNP Paribas Arbitrage (“Equity Trading Defendants”) seeking the return of approximately \$16 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Equity Trading Defendants.

171. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys worked with special local counsel Higgs & Johnson to effect service on the foreign defendants. B&H attorneys negotiated with Equity Trading Defendants to unseal the complaint, which was approved by Stipulated Order on August 29, 2011. B&H attorneys also granted the Equity Trading Defendants several extensions of time to respond to the complaint, and the pretrial conference is scheduled to be held on November 30, 2011.

**LL. MATTER 43 – DEFENDER LIMITED**

172. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Defender Limited, Reliance Management (BVI) Limited, Reliance Management (Gibraltar) Limited, Reliance International Research LLC, Tim Brockmann, and Justin Lowe (“Defender Defendants”) seeking the return of over \$93 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Defender Defendants.

173. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted the Defender Defendants extensions of time to respond to the complaint.

**MM. MATTER 44 – MACCABEE**

174. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against John Greenberger Maccabee and Sherry Morse Maccabee Living Trust, John Greenberger Maccabee, Individually and as Trustee of the John Greenberger Maccabee and Sherry Morse Maccabee Living Trust, Sherry Morse Maccabee, Individually and as Trustee of the John Greenberger Maccabee and Sherry Morse Maccabee Living Trust (“Maccabee Defendants”) seeking the return of approximately \$1.5 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Maccabee Defendants.

175. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys unsealed the complaint and extended the Maccabee Defendants’ time to respond to the

complaint. The Maccabee Defendants filed a motion to withdraw the bankruptcy reference, No. 11-CV-04937 (JSR), and B&H attorneys have prepared an opposition to the motion.

**NN. MATTER 45 – LEVEY**

176. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against the Frances Levey Revocable Living Trust, Wendy Kapner Revocable Trust, Wendy Kapner as trustee of Frances Levey Revocable Living Trust, grantor and trustee of Wendy Kapner Revocable Trust and individually, Joel Levey, as trustee of Wendy Kapner Revocable Trust, and James L. Kapner (“Levey Defendants”) seeking the return of approximately \$6.8 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Levey Defendants.

177. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys have engaged in settlement discussions with counsel for the Levey Defendants, which have since come to an end, and extended the time to respond to the complaint. B&H attorneys conducted a deposition of one of the Levey Defendants and attended the initial case conference.

**OO. MATTER 46 – GLANTZ**

178. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Richard M. Glantz, individually, as Trustee of the Richard M. Glantz 1991 Living Trust, The Edward R. Glantz Living Trust, The Thelma Glantz Living Trust, The Jerald Ostrin Trust, The Scott Ostrin Trust, The Glantz-Ostrin Trust I, and The Glantz-Ostrin Trust II, and as Executor of The Estate of Edward R. Glantz and the Estate of Thelma Glantz, Elaine Ostrin, individually and as Trustee of The Edward R. Glantz Living Trust, Jerald Ostrin, Scott Ostrin, The Richard M. Glantz 1991 Living Trust, The Edward R. Glantz Living Trust, The Estate of

Edward R. Glantz, The Thelma Glantz Living Trust, The Estate of Thelma Glantz, The Jerald Ostrin Trust, The Scott Ostrin Trust, The Glantz-Ostrin Trust I, The Glantz-Ostrin Trust II, Roberta Cohen, Taj Inayat A/K/A Taj Inayat-Khan A/K/A Carolyn Taj Glantz A/K/A Carolyn Buckmaster, Raleigh Dow Buckmaster, Sr., Barbara Buckmaster, Raleigh Dow Buckmaster, Jr., Drew Buckmaster, Owen Buckmaster, Joellen Buckmaster, Mirza Inayat Khan, Zia Inayat Khan, Zia's Children Education Trust, Nathan Johnson, individually and as Trustee of Zia's Children Education Trust, Christopher L. Dingman, Amanda Savasky, Austin Bosarge, Grace & Company, EJS Associates, L.P., Jelris & Associates, L.P., The Glantz Family Foundation, Inc., Merlin & Associates, Ltd., Enhancement Group, Lakeview Investment, LP, Vista Management Co., Buckmaster Farms, L.P., NTC & Co. LLP, as Former Custodian for an Individual Retirement Account for the Benefit of Richard M. Glantz, and NTC & Co. LLP, as Former Custodian for an Individual Retirement Account for the Benefit of Edward R. Glantz (the "Glantz Defendants") seeking the return of more than \$113 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Glantz Defendants.

179. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys received hardship applications from various defendants and analyzed their financial information. The Trustee has dismissed certain defendants from the adversary proceeding based upon their hardship applications, and some hardship applications remain under review. B&H attorneys have agreed to grant the remaining Glantz Defendants additional time to respond to the complaint.

**PP. MATTER 47 – BONVENTRE**

180. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Daniel Bonventre and Barbara Bonventre (“Bonventre Defendants”) seeking the return of approximately \$12.6 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Bonventre Defendants.

181. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted the Bonventre Defendants several extensions of time to respond to the complaint up to and including December 29, 2011, as the action was stayed pending the criminal case against the Bonventre Defendants. B&H attorneys have received and reviewed the list of documents requested by the Bonventre Defendants.

**QQ. MATTER 48 – BONGIORNO**

182. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Annette Bongiorno and Rudy Bongiorno (“Bongiorno Defendants”) seeking the return of approximately \$22 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Bongiorno Defendants.

183. The action was stayed through December 2011 because of the pending criminal case against Annette Bongiorno.

**RR. MATTER 49 – GREENBERGER**

184. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Robert Greenberger and Phyllis Greenberger (“Greenberger Defendants”) seeking

the return of over \$500 thousand under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Greenberger Defendants.

185. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys entered into a stipulation to unseal the complaint. B&H attorneys and the Greenberger Defendants engaged in settlement discussions, which were ultimately unsuccessful. During that time, the Greenberger Defendants were granted several extensions of time to respond to the complaint. B&H attorneys prepared for and attended the initial case conference held on May 9, 2011. The Greenberger Defendants filed a motion to withdraw the bankruptcy reference, No. 11-CV-04928 (JSR), and B&H attorneys have prepared an opposition to the motion.

**SS. MATTER 50 – PITZ**

186. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Enrica Cotellessa-Pitz and Thomas Pitz (“Pitz Defendants”) seeking the return of over \$3 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Pitz Defendants.

187. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys have engaged in ongoing settlement discussions with the Pitz Defendants.

**TT. MATTER 51 – CRUPI**

188. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Jo Ann Crupi, individually, and in her capacity as beneficiary of Pensco Trust Company Custodian FBO Jo Ann Crupi, and as beneficiary of the Judith G. Bowen and Jo Ann Crupi Trust, Judith Bowen, individually, and in her capacity as beneficiary of NTC & Co. FBO

Judith Bowen, as beneficiary of the Judith G. Bowen and Jo Ann Crupi Trust, and as beneficiary of the Judith G. Bowen Tr, Guston & Guston, LLP, as custodian of Guston & Guston, LLP Attorney Trust Account, Debra E. Guston, as trustee for the Judith G. Bowen and Jo Ann Crupi Trust, and as trustee for the Judith G. Bowen Trust, and Pensco Trust Company, as former custodian of an Individual Retirement Account for the benefit of Jo Ann Crupi (“Crupi Defendants”) seeking the return of over \$8 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Crupi Defendants.

189. The adversary proceeding was stayed through December 2011 because of pending criminal case against the Crupi Defendants.

#### **UU. MATTER 52 – FRIEDMAN**

190. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against S. Donald Friedman, Sandra Friedman, Broadway-Elmhurst Co. LLC, Ari Friedman, and NTC & Co. LLP, as former custodian of an Individual Retirement Account for the benefit of S. Donald Friedman (“Friedman Defendants”) seeking the return of more than \$154 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Friedman Defendants.

191. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared and filed an amended complaint under seal, a simultaneous motion to unseal the amended complaint, and reviewed the answers filed by several of the Friedman Defendants.

**VV. MATTER 53 – MAGNIFY**

192. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Magnify Inc., Premero Investments Ltd. II, Premero Investments Ltd., Strand International Investments Ltd., The Yeshaya Horowitz Association, Yair Green, Kurt Brunner, Osnat Dodelson, Special Situations Cayman Fund LP, Express Enterprises Inc., R.H. Book LLC, and Robert H. Book (“Magnify Defendants”) seeking the return of over \$154 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Magnify Defendants.

193. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted the Magnify Defendants several extensions to respond to the complaint. Defendant Special Situations Cayman Fund LP filed an answer with cross-claims, and B&H attorneys reviewed and prepared a response to the cross claims.

**WW. MATTER 54 – MENDELOW**

194. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Steven B. Mendelow, NTC & Co. LLP, as former custodian of an Individual Retirement Account for the benefit of Steven B. Mendelow, Nancy Mendelow, NTC & Co. LLP as former custodian of an Individual Retirement Account for the benefit of Nancy Mendelow, Cara Mendelow, Pamela Christian, C&P Associates, Ltd., and C&P Associates, Inc. (“Mendelow Defendants”) seeking the return of over \$20 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Mendelow Defendants.

195. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys have entered into settlement discussions with the Mendelow Defendants. Mendelow filed a motion to enforce the automatic stay against a third-party action filed against him in New York State Supreme Court. The B&H attorneys prepared and filed a response to Mendelow's motion, and a hearing is scheduled before the Court on September 27, 2011.

**XX. MATTER 55 – KUGEL**

196. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against David L. Kugel, individually, as partner of David L. Kugel Partnership, as partner of David Kugel Partnership II, as trustee of Phyllis Kugel Revocable Living Trust and as trustee of David Kugel Trust, Phyllis Kugel, individually, as partner of the David L. Kugel Partnership, as partner of the David Kugel Partnership II, as trustee of the Phyllis Kugel Revocable Living Trust, and as trustee, David L. Kugel Partnership, David Kugel Partnership II, Craig Kugel, individually, as trustee of the David and Phyllis Irrevocable Trust, as trustee of the Phyllis Kugel Revocable Living Trust, and as trustee of the David Kugel Trust, Heather Kugel, NTC & Co. LLP, as former custodian of an Individual Retirement Account for the benefit of David L. Kugel, Delta Fund I, L.P., Delta Ventures (Cayman), Ltd., The David and Phyllis Kugel Irrevocable Trust, The Phyllis Kugel Revocable Living Trust, The David Kugel Trust, Cynthia Kugel, [C.K.1], and [C.K.2] ("Kugel Defendants") seeking the return of more than \$22 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Kugel Defendants.

197. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted several extensions of time for the Kugel Defendants to respond to the

complaint. The Kugel Defendants filed a motion to withdraw the bankruptcy reference, No. 11-CV-04227 (JSR), but withdrew the motion on September 9, 2011.

**YY. MATTER 56 – LIPKIN**

198. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Irwin Lipkin, Carole Lipkin, Eric Lipkin, Erika Lipkin, individually, and in her capacity as Custodian UGMA/NJ for [C.L.], [D.L.], and [S.L.], [C.L.], by and through Erika Lipkin, parent and Custodian, [D.L.], by and through Erika Lipkin, parent and Custodian, [S.L.], by and through Erika Lipkin, parent and Custodian, Marc Lipkin, Russell Lipkin, and Karen Yokomizo Lipkin (“Lipkin Defendants”) seeking the return of approximately \$9 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Lipkin Defendants.

199. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys reviewed and analyzed the answers filed by the Lipkin Defendants. In June 2011, defendant Eric Lipkin pled guilty to criminal charges.

**ZZ. MATTER 57 – PEREZ/O’HARA**

200. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Jerome O’Hara, Bernadette O’Hara, O’Hara Family Partnership, Elizabeth Sarro, NTC & CO., LLP, as former custodian of an Individual Retirement Account for the benefit of Bernadette O’Hara, George Perez, and Jeanette Perez (“Perez/O’Hara Defendants”) seeking the return of over \$6 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Perez/O’Hara Defendants.

201. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys agreed to several extensions of time for the Perez/O’Hara Defendants to respond to the complaint. The proceeding against Jerome O’Hara and George Perez was stayed through December 2011 because of pending criminal case against them.

**AAA. MATTER 58 – PJ ADMINISTRATORS**

202. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against American Securities Management, L.P., formerly known as American Securities, L.P., PJ Associates Group, L.P., doing business as PJ Administrator, L.L.C., PJ Associates Group GP Corp., PJ Administrator, L.L.C., formerly known as PJ Associates Group, L.P., American Securities Opportunity Fund, L.P., and Defendants XYZ 1 Through 187 (“PJ Defendants”) seeking the return of approximately \$91 million, including approximately \$10 million in fictitious profits, under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the PJ Defendants.

203. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys granted the PJ Defendants several extensions of time to respond to the original complaint and served an amended complaint.

**BBB. MATTER 59 – STANLEY SHAPIRO**

204. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against ABC Trust 1 [Redacted - Filed Under Seal], ABC Trust 2 [Redacted - Filed Under Seal], ABC Trust 3 [Redacted - Filed Under Seal], ABC Trust 4 [Redacted - Filed Under Seal], ABC Trust 5 [Redacted - Filed Under Seal], Jane Doe 1 [Redacted - Filed Under Seal], Jane Doe 2 [Redacted - Filed Under Seal], Jane Doe 3 [Redacted - Filed Under Seal], John Doe 1

[Redacted - Filed Under Seal], John Doe 2 [Redacted - Filed Under Seal], John Doe 3 [Redacted - Filed Under Seal], XYZ Co. 1 [Redacted - Filed Under Seal] / First Amended Complaint against Stanley Shapiro, individually, as general partner of S&R Investment Co., as trustee for LAD Trust, as trustee for David Shapiro 1989 Trust, as amended, and trustee for Leslie Shapiro 1985 Trust, as amended; Renee Shapiro, individually, as general partner of S&R Investment Co., as trustee for LAD Trust, as trustee for David Shapiro 1989 Trust, as amended, and as trustee for Leslie Shapiro 1985 Trust, as amended; S&R Investment Co.; LAD Trust; David Shapiro, individually and as trustee for Trust f/b/o [W.P.S.] & [J.G.S.]; Rachel Shapiro; David Shapiro 1989 Trust, as amended, Trust f/b/o [W.P.S.] & [J.G.S.]; Leslie Shapiro Citron; Leslie Shapiro 1985 Trust, as amended; Trust f/b/o [A.J.C.], [K.F.C.], and [L.C.C.], as amended, and Kenneth Citron, individually and as trustee for Trust f/b/o [A.J.C.], [K.F.C.], and [L.C.C.], as amended (“Shapiro Defendants”) seeking the return of over \$61.7 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Shapiro Defendants.

205. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys prepared, filed, and served the amended complaint. B&H attorneys have also engaged in settlement negotiations with the Shapiro Defendants, which are ongoing. The Shapiro Defendants filed a motion to withdraw the bankruptcy reference, No. 11-CV-05835 (JSR), to which B&H attorneys have prepared an opposition.

**CCC. MATTER 60 – AVELLINO & BIENES**

206. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Frank J. Avellino, individually, and as Trustee for Frank J. Avellino Revocable Trust Number One As Amended And Restated January 26, 1990, Frank J. Avellino Grantor

Retained Annuity Trust Under Agreement Dated June 24, 1992, Frank J. Avellino Grantor Retained Annuity Trust Agreement Number 2 Under Agreement Dated June 24, 1992, Frank J. Avellino Revocable Trust Number One Under Declaration of Trust Number One Dated June 10, 1988, Heather Carroll Lowles Trust U/A Dated June 29, 1990, Tiffany Joy Lowles Trust U/A Dated June 29, 1990, Melanie Ann Lowles Trust U/A Dated June 29, 1990, Taylor Ashley McEvoy Trust U/A Dated June 24, 1992, Madison Alyssa McEvoy Trust U/A Dated June 29, 1990, Grantor Retained Annuity Trust, Avellino Family Trust, Avellino & Bienes Pension Plan & Trust, Michael S. Bienes, individually, and as Trustee for Glenn J. Dydo Irrevocable Trust U/A August 12, 1988, Avellino & Bienes Pension Plan & Trust, Nancy C. Avellino, individually, and as Trustee for Nancy Carroll Avellino Revocable Trust Under Trust Agreement Dated May 18, 1992, the Rachel Anne Rosenthal Trust U/A Dated June 29, 1990, the Rachel Rosenthal Trust #3, the Rachel Rosenthal Trust #2 U/A Dated June 24, 1992, Heather Carroll Lowles Trust U/A Dated June 29, 1990, Tiffany Joy Lowles Trust U/A Dated June 29, 1990, Melanie Ann Lowles Trust U/A Dated June 29, 1990, Taylor Ashley McEvoy Trust U/A Dated June 24, 1992, Madison Alyssa McEvoy Trust U/A Dated June 29, 1990, Dianne K. Bienes, individually, and as Trustee for Dianne K. Bienes Grantor Retained Annuity Trust 10/31/1997, Thomas G. Avellino, Avellino & Bienes, Avellino Family Trust, Avellino & Bienes Pension Plan & Trust, Grosvenor Partners, Ltd., Mayfair Ventures, G.P., St. James Associates, Strattham Partners, Ascent, Inc., Kenn Jordan Associates, Mayfair Bookkeeping Services, Inc., 27 Cliff, LLC, Glenn J. Dydo, Sandra Dydo, Joseph Avellino, Michael McEvoy, Lorraine McEvoy, The Avellino Family Foundation, Inc., Optus Software, Inc., Rachel A. Rosenthal, Heather C. Lowles, Tiffany J. Lowles, Melanie A. Lowles, Taylor A. Mcevoy, Madison A Mcevoy, Devon Paxson, Roslyck Paxson, Frank J. Avellino Revocable Trust Number One As Amended And

Restated January 26, 1990, Frank J. Avellino Grantor Retained Annuity Trust Under Agreement Dated June 24, 1992, Frank J. Avellino Grantor Retained Annuity Trust Agreement Number 2 Under Agreement Dated June 24, 1992, Frank J. Avellino Revocable Trust Number One Under Declaration of Trust Number One Dated June 10, 1988, Nancy Carroll Avellino Revocable Trust Under Trust Agreement Dated May 18, 1992, the Rachel Anne Rosenthal Trust U/A Dated June 29, 1990, the Rachel Rosenthal Trust #3, the Rachel Rosenthal Trust #2 U/A Dated June 24, 1992, Glenn J. Dydo Irrevocable Trust U/A August 12, 1988, Irrevocable Trust U/A August 12, 1988 Dianne K. Bienes Grantor Retained Annuity Trust 10/31/1997, Heather Carroll Lowles Trust U/A Dated June 29, 1990, Iffany Joy Lowles Trust U/A Dated June 29, 1990, Melanie Ann Lowles Trust U/A Dated June 29, 1990, Taylor Ashley McEvoy Trust U/A Dated June 24, 1992, and Madison Alyssa McEvoy Trust U/A Dated June 29, 1990 (“A&B Defendants”) seeking the return of over \$904 million under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the A&B Defendants.

207. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys agreed to extend the time for the A&B Defendants to respond to the complaint. Two defendants filed answers, which B&H attorneys have reviewed. B&H attorneys received hardship applications from defendants Noble Avellino, Sterling Avellino, and Joseph Avellino and, after analysis of their financial information, determined to dismiss these defendants from the adversary proceeding. Shortly after the end of the Compensation Period, the remaining A&B Defendants filed a motion to dismiss the complaint and a motion to withdraw the reference, No. 11-CV-03882 (JSR), to which B&H attorneys have prepared and filed oppositions.

**DDD. MATTER 61 – MAXAM**

208. This matter categorizes time spent by B&H attorneys pursuing the avoidance action against Maxam Absolute Return Fund, L.P., Maxam Absolute Return Fund, Ltd., Maxam Capital Management, LLC, Maxam Capital GP LLC Sandra L. Manzke Revocable Trust, Sandra L. Manzke, as Trustee and individually, Suzanne Hammond, Walker Manzke, and April Bukofser Manzke (“Maxam Defendants”) seeking the return of approximately \$2.1 billion under SIPA, the Bankruptcy Code, the New York Fraudulent Conveyance Act, and other applicable law, for fraudulent conveyances and damages in connection with certain transfers of property by BLMIS to or for the benefit of the Maxam Defendants.

209. In addition to the tasks outlined in ¶ 62, during this Compensation Period, B&H attorneys filed an unsealed copy of the complaint and granted several extensions of time to respond to the complaint. The Maxam Defendants filed a motion to withdraw the reference, No. 11-CV-03261 (JSR), and B&H prepared an opposition. The parties agreed to continue discovery before the Bankruptcy Court, despite the motion to withdraw the reference.

**V. COMPENSATION REQUESTED**

210. This Application has been prepared in accordance with the Amended Guidelines for Fees and Disbursements of Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on April 19, 1995 (the “Local Guidelines”) and the Second Amended Compensation Order. Pursuant to the Local Guidelines, the declaration of David J. Sheehan, Esq., regarding compliance with the same is attached hereto as Exhibit A.

211. The Trustee expended 783.40 hours in the rendition of professional services and B&H expended 117,501.80 hours in the rendition of professional and paraprofessional services on behalf of the Trustee during the Compensation Period, resulting in an average hourly discounted rate of \$765.00 for Trustee and \$453.80 for B&H for fees incurred.

212. Prior to filing this Application, in accordance with the Second Amended Compensation Order, the Trustee and B&H provided to SIPC: (i) monthly fee statements setting forth the Trustee's and B&H's fees for services rendered and expenses incurred during the Compensation Period beginning February 1, 2011 through May 31, 2011, and (ii) a draft of this Application. In connection with four monthly statements each submitted by the Trustee and B&H and this Application, the Trustee voluntarily adjusted his fees by writing off \$115,260.00 (in addition to the 10% public interest discount, as discussed below). B&H voluntarily adjusted its fees by writing off \$853,698.00 (in addition to the 10% public interest discount, as discussed below) and wrote off expenses customarily charged to other clients in the amount of \$326,828.39.

213. At SIPC's request, the Trustee's and B&H's fees in this case reflect a 10% public interest discount from their standard rates. This discount has resulted in an additional voluntary reduction during the Compensation Period of \$66,589.00 for the Trustee and \$4,969,731.85 for B&H. The requested fees are reasonable based on the customary compensation charged by comparably skilled practitioners in Chapter 11 cases and comparable bankruptcy and non-bankruptcy cases in a competitive national legal market.

214. Pursuant to the Second Amended Compensation Order, on March 18, 2011, the Trustee and B&H provided SIPC with their statements of fees and expenses incurred in connection with this case regarding the period from February 1, 2011 through February 28, 2011 (the "February Fee Statements"). The Trustee's February Fee Statement reflected fees of \$179,520.00 and \$479.80. B&H's February Fee Statement reflected fees of \$11,306,432.00 and \$254,388.38 in expenses. SIPC's staff made certain adjustments and suggestions, which were adopted by the Trustee and B&H. After such adjustments, the Trustee's February Fee Statement

reflected fees of \$161,568.00, and B&H's February Fee Statement reflected fees of \$10,175,788.80. After subtracting the Court-ordered 10% holdback, SIPC advanced \$145,411.20 for services rendered by the Trustee and \$479.80 for expenses incurred by the Trustee, \$9,158,209.92 for services rendered by B&H and \$254,388.38 for expenses incurred by B&H.

215. Pursuant to the Second Amended Compensation Order, on April 21, 2011, the Trustee and B&H provided SIPC with their statements of fees and expenses incurred in connection with this case regarding the period from March 1, 2011 through March 31, 2011 (the "March Fee Statements"). The Trustee's March Fee Statement reflected fees of \$198,390.00 and no expenses. B&H's March Fee Statement reflected fees of \$13,160,148.50 and \$503,964.51 in expenses. SIPC's staff made certain adjustments and suggestions, which were adopted by the Trustee and B&H. After such adjustments, the Trustee's March Fee Statement reflected fees of \$178,551.00, and B&H's March Fee Statement reflected fees of \$11,844,133.65. After subtracting the Court-ordered 10% holdback, SIPC advanced \$160,695.90 for services rendered by the Trustee and \$10,659,720.29 for services rendered by B&H, and \$503,964.51 for expenses incurred by B&H.

216. Pursuant to the Second Amended Compensation Order, on May 20, 2011, the Trustee and B&H provided SIPC with their statements of fees and expenses incurred in connection with this case regarding the period from April 1, 2010 through April 30, 2010 (the "April Fee Statements"). The Trustee's April Fee Statement reflected fees of \$122,145.00 and no expenses. B&H's April Fee Statement reflected fees of \$12,146,242.50 and \$262,967.49 in expenses. SIPC's staff made certain adjustments and suggestions, which were adopted by the Trustee and B&H. After such adjustments, the Trustee's April Fee Statement reflected fees of

\$109,930.50, and B&H's April Fee Statement reflected fees of \$10,931,618.25. After subtracting the Court-ordered 10% holdback, SIPC advanced \$98,937.45 for services rendered by the Trustee, \$9,838,456.43 for services rendered by B&H, and \$262,967.49 for expenses incurred by B&H.

217. Pursuant to the Second Amended Compensation Order, on June 21, 2011, the Trustee and B&H provided SIPC with their statements of fees and expenses incurred in connection with this case regarding the period from May 1, 2011 through May 31, 2011 (the "May Fee Statements"). The Trustee's May Fee Statement reflected fees of \$165,835.00 and no expenses. B&H's May Fee Statement reflected fees of \$13,084,495.50 and \$249,635.93 in expenses. SIPC's staff made certain adjustments and suggestions, which were adopted by the Trustee and B&H. After such adjustments, the Trustee's May Fee Statement reflected fees of \$149,251.50, and B&H's May Fee Statement reflected fees of \$11,776,045.95. After subtracting the Court-ordered 10% holdback, SIPC advanced \$134,326.35 for services rendered by the Trustee, \$10,598,441.36 for services rendered by B&H, and \$249,635.93 for expenses incurred by B&H.

218. Exhibit B annexed hereto is a summary by task code of total hours expended and total fees for services rendered by the Trustee during the Compensation Period.

219. Exhibit C annexed hereto provides a schedule of the Trustee's total expenses incurred during the Compensation Period for which reimbursement is requested. The requested expenses are customarily charged to and paid by B&H's bankruptcy and non-bankruptcy clients.

220. Exhibit D annexed hereto provides a schedule of B&H professionals and paraprofessionals who have provided services for the Debtor during the Compensation Period, the capacity in which each individual is employed by B&H, the year in which each attorney was

licensed to practice law, the hourly billing rate charged by B&H for services provided by each individual, the aggregate number of hours billed by each individual, and the total compensation requested for each individual, prior to the 10% discount. The 10% discount (\$4,969,731.85, as described above in ¶ 213) is taken off the total cumulative amount billed, as reflected on Exhibit D.

221. Exhibit E annexed hereto is a summary of services performed by B&H during the Compensation Period organized by B&H task code and matter number.

222. Exhibit F annexed hereto provides a schedule of the expenses for which reimbursement is requested by B&H. The requested expenses are customarily charged to and paid by B&H's bankruptcy and non-bankruptcy clients. B&H has not charged for a number of categories of expenses regularly charged to and paid by B&H's clients, including certain inter-office travel and related expenses (lodging, meals, airfare and other transportation). These expenses amount to a voluntary reduction of \$326,828.39 (*see* ¶ 212).

223. Exhibit G annexed hereto is a proposed order.

224. There is no agreement or understanding among the Trustee, B&H, and any other person, other than members of B&H, for sharing of compensation to be received for services rendered in this case. No agreement or understanding prohibited by 18 U.S.C. § 155 has been made or will be made by the Trustee or B&H.

225. To the extent that time or disbursement charges for services rendered or disbursements incurred relate to the Compensation Period, but were not classified or processed prior to the preparation of this Application, the Trustee, and B&H reserve the right to request additional compensation for such services and reimbursement of such expenses in a future application.

**VI. THE REQUEST FOR INTERIM COMPENSATION SHOULD BE GRANTED**

226. Section 78eee(b)(5)(A) of SIPA provides in pertinent part that, upon appropriate application and after a hearing, “[t]he court shall grant reasonable compensation for services rendered and reimbursement for proper costs and expenses incurred . . . by a trustee, and by the attorney for such a trustee . . .” Section 78eee(b)(5)(C) of SIPA specifically establishes SIPC’s role in connection with applications for compensation and the consideration the Court should give to SIPC’s recommendation concerning fees. That section provides as follows:

In any case in which such allowances are to be paid by SIPC without reasonable expectation of recoupment thereof as provided in this chapter and there is no difference between the amounts requested and the amounts recommended by SIPC, the court shall award the amounts recommended by SIPC. In determining the amount of allowances in all other cases, the court shall give due consideration to the nature, extent, and value of the services rendered, and shall place considerable reliance on the recommendation of SIPC.

SIPA § 78eee(b)(5)(C).

227. To the extent the general estate is insufficient to pay such allowances as an expense of administration, SIPA § 78eee(b)(5)(E) requires SIPC to advance the funds necessary to pay the compensation of the Trustee and B&H (*see* SIPA § 78fff-3(b)(2)).

228. The Trustee has determined that, at this time, he has no reasonable expectation that the general estate will be sufficient to make a distribution to general creditors or pay administrative expenses. The Trustee has been advised by SIPC that it concurs in this belief of the Trustee. Accordingly, any fees and expenses allowed by this Court will be paid from advances by SIPC without any reasonable expectation by SIPC of recoupment thereof.

229. Therefore, with respect to this Application, the Trustee and B&H request that consistent with section 78eee(b)(5)(C) of SIPA, the Court “shall award the amounts recommended by SIPC.” *See In re Bell & Beckwith*, 112 B.R. 876 (Bankr. N.D. Ohio 1990).

SIPC will file its recommendation to the Court with respect to this Application prior to the hearing scheduled to be held on October 19, 2011.

230. The Trustee and B&H submit that the request for interim allowance of compensation and expenses made by this Application is reasonable and complies with the provisions of the Bankruptcy Code governing applications for compensation and reimbursement of expenses, pursuant to SIPA § 78eee(b)(5).

### CONCLUSION

231. The Trustee and B&H respectfully submit that the services rendered during the Compensation Period and accomplishments to date merit the approval of the fees and disbursements requested herein, and respectfully requests that the Court enter Orders as follows: (i) allowing and awarding \$599,301.00 (of which \$539,370.90 is to be paid currently and \$59,930.10 is to be deferred through the conclusion of the liquidation period or until further order of the Court) as an interim payment for professional services rendered by the Trustee during the Compensation Period, and \$479.80 as reimbursement of the actual and necessary costs and expenses incurred by the Trustee in connection with the rendition of such services; (ii) allowing and awarding \$44,727,586.65 (of which \$40,254,828.00 is to be paid currently and \$4,472,758.65 is to be deferred through the conclusion of the liquidation period or until further order of the Court) as an interim payment for professional services rendered by B&H during the Compensation Period, and \$1,270,956.31 as reimbursement of the actual and necessary costs and expenses incurred by B&H in connection with the rendition of such services; and (iii) granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
September 21, 2011

Respectfully submitted,

**BAKER & HOSTETLER LLP**

By: /s/ David J. Sheehan

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*Attorneys for Irving H. Picard, Esq. Trustee  
for the Substantively Consolidated SIPA  
Liquidation of Bernard L. Madoff Investment  
Securities LLC And Bernard L. Madoff*

**EXHIBIT A**

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

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

**DECLARATION OF DAVID J. SHEEHAN**

STATE OF NEW YORK )

ss:

COUNTY OF NEW YORK )

David J. Sheehan hereby declared as follows:

1. I am an attorney admitted to the bar of this Court and a partner of the firm of Baker & Hostetler LLP (“B&H”). I submit this affidavit in support of the seventh application of Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation proceeding of Bernard L. Madoff Investment Securities LLC (“BLMIS” or “Debtor”) and Bernard L. Madoff (“Madoff”), and B&H, as counsel to the Trustee, for allowance of interim compensation for services performed and reimbursement of actual and necessary expenses incurred during the period commencing February 1, 2011 through and including May 31, 2011

(the “Compensation Period”), pursuant to 15 U.S.C. § 78eee(b)(5),<sup>1</sup> sections 330 and 331 of the Bankruptcy Code, Rule 2016(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Order Pursuant to Section 78eee(b)(5) of SIPA, Sections 105, 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016(a) and Local Bankruptcy Rule 2016-1 Establishing Procedures Governing Interim Monthly Compensation of Trustee and Baker & Hostetler LLP, dated February 25, 2009 (ECF No. 126), as amended on December 17, 2009 and June 1, 2011 (ECF Nos. 1078 and 4025) (collectively, the “Second Amended Compensation Order”).

2. On December 11, 2008 (the “Filing Date”),<sup>2</sup> the Securities and Exchange Commission (“SEC”) filed a complaint in the United States District Court for the Southern District of New York (“District Court”) against defendants Madoff and captioned *SEC v. Madoff, et al.*, No. 08-CV-10791 (the “Civil Case”). The complaint alleged that the defendants engaged in fraud through investment advisor (or “IA”) activities of BLMIS.

3. On December 15, 2008, pursuant to section 78eee(a)(4)(A) of SIPA, the SEC consented to a combination of the Civil Case with an application filed by the Securities Investor Protection Corporation (“SIPC”). Thereafter, pursuant to section 78eee(a)(3) of SIPA, SIPC filed an application in the District Court alleging, *inter alia*, that the Debtor was not able to meet its obligations to securities customers as they came due and, accordingly, its customers needed the protection afforded by SIPA.

4. Accordingly, on December 15, 2008, the District Court entered the order (the “Protective Decree”) (ECF No. 4), to which BLMIS consented, which, in pertinent part:

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<sup>1</sup> The Securities Investor Protection Act (“SIPA”) is found at 15 U.S.C. 78aaa *et seq.* For convenience, subsequent references to SIPA will omit “15 U.S.C. \_\_\_\_.”

<sup>2</sup> In this case, the Filing Date is the date on which the SEC commenced its suit against BLMIS, December 11, 2008, which resulted in the appointment of a receiver for the firm. *See* Section 78lll(7)(B) of SIPA.

- a. appointed the Trustee for the liquidation of the business of the Debtor pursuant to section 78eee(b)(3) of SIPA;
- b. appointed B&H as counsel to the Trustee pursuant to section 78eee(b)(3) of SIPA; and
- c. removed the case to the Bankruptcy Court pursuant to section 78eee(b)(4) of SIPA.

5. I submit this declaration pursuant to Bankruptcy Rule 2016(a) in support of the seventh application (the "Application") for allowance of compensation in the amounts of (i) allowing and awarding \$599,301.00 (of which \$539,370.90 is to be paid currently and \$59,930.10 is to be deferred through the conclusion of the liquidation period or until further order of the Court) as an interim payment for professional services rendered by the Trustee during the Compensation Period, and \$479.80 as reimbursement of the actual and necessary costs and expenses incurred by the Trustee in connection with the rendition of such services; (ii) allowing and awarding \$44,727,586.65 (of which \$40,254,828.00 is to be paid currently and \$4,472,758.65 is to be deferred through the conclusion of the liquidation period or until further order of the Court) as an interim payment for professional services rendered by B&H during the Compensation Period, and \$1,270,956.31 as reimbursement of the actual and necessary costs and expenses incurred by B&H in connection with the rendition of such services; and (iii) granting such other and further relief as the Court may deem just and proper.

6. As the lead partner at B&H staffed on this matter, I am familiar with such services and with these proceedings. These statements are correct to the best of my knowledge and belief, based upon conversations I have conducted with the Trustee, the partners and associates of B&H and upon records kept by B&H in the normal course of business.

7. I hereby certify that (i) I have read the Application; and (ii) to the best of my knowledge, information, and belief formed after reasonable inquiry, the Application complies

with the guidelines for fee applications under Bankruptcy Rule 2016(a) and the Second Amended Compensation Order.

8. The Trustee's and B&H's fees in this case reflect a 10% public interest discount from standard rates. This discount has resulted in an additional voluntary reduction during the Compensation Period of \$66,589.00 for the Trustee and \$4,969,731.85 for B&H. In addition, the Trustee voluntarily adjusted his fees by writing off \$115,260.00. B&H voluntarily adjusted its fees by writing off \$853,698.00 and wrote off expenses customarily charged to other clients in the amount of \$326,828.39. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable bankruptcy and non-bankruptcy cases in a competitive national legal market.

9. I hereby certify that members of SIPC have been provided with a copy of this Application.

10. I hereby certify that members of SIPC have been provided with monthly statements of fees and disbursements accrued during the Compensation Period in accordance with the Compensation Order.

11. I hereby certify that (i) in providing reimbursable non-legal services to the estate, B&H does not make a profit on such services; and (ii) in seeking reimbursement for a service which B&H justifiably purchased or contracted from a third party, B&H requests reimbursement only for the amount billed to B&H by the third-party vendors and paid by B&H to such vendors.

12. In connection with this Application, B&H has not charged for a number of categories of expenses regularly charged to and paid by B&H's clients including certain inter-

office travel and related expenses (lodging, meals, airfare and other transportation). These amounts combine to a voluntary reduction of \$326,828.39.

13. Pursuant to the Compensation Order, payment of a percentage of the approved compensation—initially twenty percent (20%) and subsequently reduced to fifteen percent (15%) and then ten percent (10%)—is deferred through the conclusion of the liquidation period or until further order of the Court (the “Holdback”).

14. To date, the amount of the Holdback for the Trustee’s and B&H’s fees is \$486,538.65 and \$22,023,415.34, respectively.

15. The Trustee nor B&H has not made any previous application for allowance of fees for professional services rendered during the Compensation Period.

16. There is no agreement or understanding between the Trustee, B&H and any other person, other than members of B&H, for sharing of compensation to be received for services rendered in this case.

17. No agreement or understanding prohibited by 18 U.S.C. § 155 has been made or shall be made by the Trustee or B&H.

By: /s/ David J. Sheehan  
David J. Sheehan

EXHIBIT B

COMPENSATION BY WORK TASK CODE FOR SERVICES  
 RENDERED BY TRUSTEE FOR SEVENTH INTERIM  
 PERIOD OF FEBRUARY 1, 2011 THROUGH MAY 31, 2011

Task Code	Task Code Description	Hours	Amount
01	Case Administration	102.20	86,870.00
02	Claims Review and Related Matters	115.30	98,005.00
03	Trustee Investigation	30.50	25,925.00
04	Banks and Feeder Funds	9.00	7,650.00
05	Trustee Report	7.20	6,120.00
06	Asset Search, Recovery and Sale	27.20	23,120.00
07	Avoidance Actions	84.90	72,165.00
08	Bankruptcy Court Litigation and Related Matters	230.80	196,180.00
09	Non-Bankruptcy Court Litigation	32.80	27,880.00
11	Internal Office Meetings with Staff	1.50	1,275.00
13	USAO	8.90	7,565.00
14	SEC/FINRA	4.40	3,740.00
16	Fee Application and Related Matters	26.70	22,695.00
17	Press Inquiries and Responses	101.20	86,020.00
18	Luxembourg Litigation	0.80	680.00
	<b>Less 10% Public Interest Discount</b>		(66,589.00)
	<b>Grand Total</b>	783.40	599,301.00

**Current Application**

Interim Compensation Requested	\$ 599,301.00
Interim Compensation Paid	(539,370.90)
Interim Compensation Deferred	<u>\$ 59,930.10</u>

**Prior Applications**

Interim Compensation Requested	\$ 4,266,085.50
Interim Compensation Paid	(3,839,476.95)
Interim Compensation Deferred	<u>\$ 426,608.55</u>

EXHIBIT C

EXPENSE SUMMARY BY TRUSTEE FOR SEVENTH  
INTERIM PERIOD OF FEBRUARY 1, 2011 THROUGH MAY 31, 2011

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Code Description	Amount
Telephone (E105)	\$ 38.80
Out-of-Town Travel (E110)	\$ 441.00
Grand Total	\$ 479.80

**Prior Applications**

Reimbursement of Expenses Requested and Rewarded \$ 2,069.45

EXHIBIT D  
SUMMARY OF SEVENTH INTERIM FEE APPLICATION  
OF BAKER & HOSTETLER LLP FOR SERVICES RENDERED  
FROM FEBRUARY 1, 2011 THROUGH MAY 31, 2011

SUMMARY CLASS	NAME	YEAR		TOTAL HOURS	TOTAL
		ADMITTED	HOURLY RATE	BILLED	COMPENSATION
Partners and of Counsel	Lieberstein, Eugene	1965	460.00	104.20	47,932.00
	Toomajian, William M	1968	695.00	0.80	556.00
	Sheehan, David J.	1968	850.00	970.40	824,840.00
	Colombo, Louis A	1973	575.00	223.60	128,570.00
	Matthias, Michael R	1973	610.00	314.80	192,028.00
	Moscow, John W	1973	760.00	301.10	228,836.00
	Hutchinson, Jr, Joseph F	1974	650.00	0.80	520.00
	Eyre, Paul P	1975	710.00	26.70	18,957.00
	Bash, Brian A	1975	660.00	294.90	194,634.00
	Long, Thomas L	1976	675.00	785.10	529,942.50
	Markowitz, Laurence S	1977	695.00	4.00	2,780.00
	Kuntz, William F	1978	630.00	3.50	2,205.00
	Gibson, Wendy J	1979	475.00	17.20	8,170.00
	Johnson, Pamela Gale	1980	580.00	16.90	9,802.00
	Gallagher, Thomas S.	1980	610.00	0.20	122.00
	McDonald, Tom	1981	710.00	27.20	19,312.00
	Powers, Marc D	1981	750.00	320.70	240,525.00
	Chockley III, Frederick W	1982	690.00	383.90	264,891.00
	Bittance, Mary M	1982	470.00	331.90	155,993.00
	Ponto, Geraldine E.	1982	780.00	870.90	679,302.00
	Drogen, Andrew M	1983	580.00	7.40	4,292.00
	Hannon, John P	1983	660.00	450.00	297,000.00
	Lucchesi, Thomas R	1984	595.00	3.50	2,082.50
	McGowan Jr, John J	1984	540.00	90.20	48,708.00
	Nieto, Pamela D.	1984	400.00	73.50	29,400.00
	Robertson, Kevin G	1984	590.00	0.90	531.00
	Smith, Elizabeth A	1985	760.00	204.40	155,344.00
	Quiat, Laurin D	1985	530.00	60.90	32,277.00
	Lazear, Sherri B	1985	495.00	3.90	1,930.50
	McDonald, Heather J	1986	535.00	530.30	283,710.50
	Kane, William K.	1986	625.00	9.00	5,625.00
	Tobin, Donna A.	1987	635.00	314.00	199,390.00
	Reich, Andrew W	1987	540.00	479.30	258,822.00
	Siegal, John	1987	735.00	173.20	127,302.00
	Ferguson, Gerald J	1988	685.00	1.40	959.00
	Burke, John J	1988	620.00	436.20	270,444.00
	Carney, John J	1990	850.00	1.00	850.00
	DeLancey, Leah E	1990	575.00	0.90	517.50
	Douthett, Breaden M	1991	360.00	161.40	58,104.00
	Hanselman, Suzanne K	1991	490.00	3.90	1,911.00
	Goldberg, Steven H	1991	845.00	393.50	332,507.50
	Resnick, Lauren J	1991	850.00	416.40	353,940.00
	Hunt, Dean D	1991	560.00	301.40	168,784.00
	Warren, Thomas D	1992	625.00	434.20	271,375.00
	Hirschfield, Marc E.	1992	800.00	635.90	508,720.00
	Selby, Judy A.	1992	725.00	754.20	546,795.00
	Lehrer, Richard M.	1993	645.00	225.00	145,125.00
	Barr, Jonathan R.	1993	725.00	9.60	6,960.00
	Kornfeld, Mark A.	1993	775.00	902.50	699,437.50
	Griffin, Regina L.	1993	785.00	302.30	237,305.50
Slater, Lourdes M.	1993	700.00	682.50	477,750.00	
Renner, Deborah H.	1993	775.00	858.00	664,950.00	
Jacobs, Tonya A	1994	495.00	472.60	233,937.00	
Dolatly, George C.	1994	705.00	353.80	249,429.00	
Scaletta, Anthony J	1995	410.00	173.00	70,930.00	
Culbertson, William J	1995	390.00	161.50	62,985.00	
Procell, Karen W.	1995	410.00	313.70	128,617.00	
Fuller, Lars H.	1995	360.00	45.30	16,308.00	
Brennan, Terry M	1995	430.00	189.30	81,399.00	

SUMMARY CLASS	NAME	YEAR		TOTAL	TOTAL
		ADMITTED	HOURLY RATE	HOURS BILLED	COMPENSATION
	Cole, Tracy L	1996	660.00	567.00	374,220.00
	Munn, Demetri E	1996	420.00	130.40	54,768.00
	Julian, Matthew Porter	1997	390.00	4.70	1,833.00
	Scully, Elizabeth A	1997	550.00	294.70	162,085.00
	Murphy, Keith R.	1997	785.00	833.60	654,376.00
	Enockson, Paul S	1997	430.00	213.50	91,805.00
	New, Jonathan B.	1998	785.00	305.70	239,974.50
	Perdion, Jason P	1998	375.00	220.00	82,500.00
	Rollinson, James H	1998	380.00	444.20	168,796.00
	Wang, Ona T	1998	660.00	186.60	123,156.00
	Rose, Jorian L.	1998	710.00	23.70	16,827.00
	Warshavsky, Oren J.	1998	725.00	988.10	716,372.50
	Wall, Brett A	1998	410.00	397.90	163,139.00
	Pergament, Benjamin D	1999	560.00	435.50	243,880.00
	Fischbach, Ryan D	1999	430.00	89.60	38,528.00
	Farley, Ryan P.	1999	675.00	40.30	27,202.50
	Pector, Michelle D	2000	450.00	12.60	5,670.00
	Schlegelmilch, Stephan J	2000	360.00	29.80	10,728.00
	Ware, Nathan F	2000	375.00	44.00	16,500.00
	Bohorquez Jr, Fernando A	2000	615.00	872.50	536,587.50
	Cremona, Nicholas J.	2000	710.00	104.80	74,408.00
	Oppenheim, Adam B.	2001	650.00	533.00	346,450.00
	Fokas, Jimmy	2001	675.00	222.60	150,255.00
	Zeballos, Gonzalo S.	2001	700.00	578.90	405,230.00
	Wall, Andrea C	2001	355.00	330.00	117,150.00
	Snarr, Michael S	2001	495.00	80.40	39,798.00
	Burgan, Kelly S	2001	415.00	27.60	11,454.00
	Pfeifer, Timothy S.	2001	650.00	902.30	586,495.00
	Skapof, Marc	2001	650.00	699.40	454,610.00
	Alaverdi, Laura L	2001	450.00	56.60	25,470.00
	Weiser, Scott R.	2001	565.00	421.20	237,978.00
	Fanter, G Karl	2002	325.00	0.30	97.50
	Wearsch, Thomas M	2002	495.00	575.50	284,872.50
	Allan, Natanya H	2002	495.00	5.00	2,475.00
	DeMinico, Michael P	2003	310.00	210.20	65,162.00
	Jenson, Karin Scholz	2003	380.00	350.20	133,076.00
	Wilde, Michael C	2003	310.00	294.20	91,202.00
	Weber, William J	2005	515.00	10.90	5,613.50
	Conley, Sylvia J	2006	530.00	546.30	289,539.00
	Partners and of Counsel Total		697.75	27,955.00	17,736,039.50
Associates	Meisels, Naomi P.	1984	525.00	49.10	25,777.50
	Bieler, Philip	1994	425.00	690.80	293,590.00
	Sarlson, Katherine G	1994	217.50	778.80	169,254.00
	Papp, Edward Daniel	1997	310.00	87.20	27,032.00
	Fish, Eric R.	1998	560.00	635.50	355,880.00
	Feigi, Diane L	1998	250.00	13.30	3,325.00
	Kates, Elyssa S.	2000	525.00	360.70	189,367.50
	Bell, Stacey A.	2001	575.00	249.60	143,520.00
	Shivnarain, Dwayne A.	2001	500.00	605.20	302,600.00
	Esser, Brian K	2001	585.00	439.60	257,166.00
	Beckerlegge, Robertson D	2001	515.00	702.00	361,530.00
	North, Geoffrey A.	2002	530.00	792.90	420,237.00
	Garg, Anjula	2002	530.00	53.80	28,514.00
	Jacobs, Edward J.	2003	530.00	371.50	196,895.00
	Cheema, Bik	2003	485.00	661.60	320,876.00
	Oliver, Jason S.	2003	500.00	167.60	83,800.00
	Malek, Sammi	2003	530.00	386.60	204,898.00
	Wlodek, Heather	2003	440.00	635.90	279,796.00
	Hochmuth, Farrell A	2003	415.00	177.30	73,579.50
	Cohen, Dennis O	2004	500.00	27.60	13,800.00
	Kitchen, David E	2004	340.00	433.10	147,254.00
	Gall, Michael K.	2004	295.00	0.90	265.50
	Karttunen, Timo	2004	465.00	478.60	222,549.00
	Powell, Michael L	2004	425.00	182.90	77,732.50
	Gabriel, Jessie M	2004	325.00	702.60	228,345.00

SUMMARY CLASS	NAME	YEAR		TOTAL	TOTAL
		ADMITTED	HOURLY RATE	HOURS BILLED	COMPENSATION
	Campbell, Deanna M	2004	295.00	1.30	383.50
	Kolm, Julie A.	2004	440.00	240.00	105,600.00
	Glasser, Michael P.	2004	440.00	396.20	174,328.00
	Obhof, Larry J.	2004	310.00	106.80	33,108.00
	Smith, Adam J	2004	450.00	576.70	259,515.00
	Kitaev, Erica G.	2004	325.00	361.10	117,357.50
	Smith, Rachel M	2004	375.00	92.90	34,837.50
	Leeper, Kurt A	2005	285.00	233.00	66,405.00
	Madbak, Hanna F.	2005	490.00	459.60	225,204.00
	White, Nicholas L	2005	285.00	314.60	89,661.00
	Allen, Brian F.	2005	430.00	657.10	282,553.00
	Thorpe, Courtni E	2005	285.00	93.90	26,761.50
	Canerday, Michelle R	2005	325.00	26.00	8,450.00
	Benavides, Michelle	2005	375.00	38.50	14,437.50
	Proano, David F	2005	295.00	52.10	15,369.50
	Hartman, Ruth E	2005	295.00	270.30	79,738.50
	Raley, Matthew R	2005	375.00	13.30	4,987.50
	Estreich, Jonathan D.	2005	425.00	93.30	39,652.50
	Rodriguez, Alberto	2005	450.00	218.90	98,505.00
	Bodenheimer, Henry C.	2005	445.00	703.30	312,968.50
	Chow, Teresa C.	2005	370.00	134.80	49,876.00
	Benda, Jennifer E	2005	350.00	0.50	175.00
	Stump, Jacob R.	2005	290.00	186.10	53,969.00
	Nevin, Douglas M	2006	445.00	103.10	45,879.50
	Lange, Gretchen L	2006	275.00	139.50	38,362.50
	Heim, Kathryn M.	2006	445.00	478.90	213,110.50
	Shoshany, Lindsey A.	2006	415.00	645.90	268,048.50
	Olson, Stephen T	2006	375.00	65.30	24,487.50
	Yates, Shana M.	2006	285.00	9.50	2,707.50
	Feil, Matthew D.	2006	465.00	876.90	407,758.50
	Hatcher, Mark	2006	260.00	66.50	17,290.00
	Carlisle, Marie L.	2006	350.00	279.20	97,720.00
	DeGaetano, Melissa A	2006	275.00	84.10	23,127.50
	Kosack, Melissa L.	2006	450.00	775.30	348,885.00
	Tobin, Sarah M	2006	350.00	123.50	43,225.00
	Petrelli III, John W	2006	350.00	74.80	26,180.00
	Vanderwal, Amy E.	2006	490.00	515.20	252,448.00
	Leveque, Christopher P.	2007	315.00	0.50	157.50
	Ritz, Kenneth A.	2007	415.00	589.30	244,559.50
	Goldmark, Jena B.	2007	415.00	664.60	275,809.00
	Nann, Alissa M.	2007	475.00	236.70	112,432.50
	Roesch, Matthew C	2007	250.00	374.70	93,675.00
	Bobb, Matthew I.	2007	415.00	649.30	269,459.50
	Serrano, Marco G.	2007	490.00	303.70	148,813.00
	Jacobson, Michael B	2007	400.00	238.50	95,400.00
	Barker Brown, Erin R	2007	250.00	288.50	72,125.00
	Casey IV, James P.	2007	325.00	1.00	325.00
	Figura, James D.	2007	315.00	114.40	36,036.00
	Klidonas, George	2007	355.00	644.90	228,939.50
	Lawrence, Kelvin M	2007	250.00	353.20	88,300.00
	McGibbon, Joanna S.	2007	415.00	622.70	258,420.50
	Lee, Joon	2007	415.00	118.80	49,302.00
	Howard, Emily A.	2007	415.00	466.30	193,514.50
	Biegelman, Daniel R.	2007	415.00	475.80	197,457.00
	Brown, Seanna R.	2007	500.00	865.30	432,650.00
	Liburd, Essence	2007	425.00	325.60	138,380.00
	Nelson, Maritza S	2007	250.00	274.90	68,725.00
	Lugo, Alissa	2007	265.00	25.10	6,651.50
	Calvani, Torello H.	2007	500.00	698.90	349,450.00
	Walrath, Jennifer M	2007	420.00	128.20	53,844.00
	Karp, Brian S.	2007	445.00	218.30	97,143.50
	Garvin, Naima J.	2007	500.00	162.00	81,000.00
	Moody, Matthew J.	2008	415.00	720.40	298,966.00
	Ramos-Mrosovsky, Carlos	2008	400.00	266.50	106,600.00
	Zunno, Kathryn M.	2008	500.00	728.30	364,150.00

SUMMARY CLASS	NAME	YEAR		TOTAL	TOTAL
		ADMITTED	HOURLY RATE	HOURS BILLED	COMPENSATION
	Woltering, Catherine E.	2008	240.00	787.90	189,096.00
	Rovine, Jacquyn	2008	400.00	807.40	322,960.00
	Luke, Tarsha L	2008	400.00	229.50	91,800.00
	Kaplan, Deborah A	2008	400.00	347.40	138,960.00
	McCurrach, Elizabeth G.	2008	415.00	719.20	298,468.00
	Kaplan, Michelle R.	2008	400.00	681.00	272,400.00
	Murdock-Park, Erin K.	2008	240.00	25.60	6,144.00
	Sim, Chee Mei	2008	240.00	165.10	39,624.00
	Nixon, Christy A.	2008	375.00	295.10	110,662.50
	Day, James W.	2008	400.00	525.00	210,000.00
	O'Neal, Stephen T.	2008	225.00	321.90	72,427.50
	Stanek, Christopher J.	2008	240.00	68.50	16,440.00
	Esmont, Joseph M.	2008	240.00	20.80	4,992.00
	Stanley, Trevor M.	2008	380.00	262.30	99,674.00
	Mtengule, Mwanga W.	2008	415.00	509.30	211,359.50
	Stark, Anthony M.	2008	415.00	779.10	323,326.50
	Carbajal, Natacha	2008	400.00	685.00	274,000.00
	Thomas, Joshua C.	2008	305.00	424.10	129,350.50
	Goldstein, Robyn R.	2008	305.00	793.90	242,139.50
	Walgenbach, Emilie J.	2008	415.00	710.70	294,940.50
	Osburn, Alexis C.	2008	240.00	78.60	18,864.00
	Whittlesey, Gillian L.	2008	350.00	14.50	5,075.00
	Amin, Tina U	2008	275.00	298.30	82,032.50
	Clarkson, Daniel E.	2008	415.00	498.40	206,836.00
	Howe, Mary E.	2009	375.00	537.90	201,712.50
	Shelenkova, Marianna A.	2009	400.00	10.30	4,120.00
	Marck, Michelle K	2009	400.00	526.40	210,560.00
	Campbell, Patrick T	2009	400.00	194.70	77,880.00
	Oliker, Ashley L.	2009	230.00	605.50	139,265.00
	D'Andrea, Lindsey	2009	230.00	630.85	145,095.50
	Gentile, Dominic A.	2009	400.00	674.80	269,920.00
	Molina, Marco	2009	400.00	858.40	343,360.00
	Bogucki, Scott J.	2009	400.00	754.00	301,600.00
	Law, Karen	2009	290.00	209.30	60,697.00
	McKnight, Katherine L.	2009	380.00	280.50	106,590.00
	Budd, Ashley J.	2009	225.00	323.60	72,810.00
	Shapiro, Peter B.	2009	400.00	803.30	321,320.00
	Murray, Kelli A.	2009	245.00	96.40	23,618.00
	Hilsheimer, Lauren M.	2009	230.00	682.15	156,894.50
	Vessells, Jennifer A.	2009	230.00	666.90	153,387.00
	Hangawatte, Udyogi A.	2009	360.00	460.60	165,816.00
	Collins, Tarique N.	2009	415.00	775.50	321,832.50
	Maynard, Kim M.	2009	355.00	388.70	137,988.50
	Harker, Francesca M.	2009	375.00	28.10	10,537.50
	Schweller, Jessie A.	2009	400.00	720.30	288,120.00
	Winquist, Justin T.	2009	260.00	236.90	61,594.00
	Ozturk, Ferve E.	2009	400.00	959.20	383,680.00
	Witt, Sara L.	2009	230.00	84.10	19,343.00
	Scott, Justin T.	2010	285.00	418.30	119,215.50
	James, Christopher T.	2010	285.00	308.70	87,979.50
	Taddeo, Luisa	2010	225.00	315.90	71,077.50
	Fein, Amanda E.	2010	355.00	631.20	224,076.00
	Johnson, Andrew T.	2010	220.00	205.20	45,144.00
	McMillan, David M.	2010	390.00	731.70	285,363.00
	Burgos, Jocelyn	2010	400.00	582.70	233,080.00
	Castillon, Jesus J.	2010	285.00	318.40	90,744.00
	Flynn, Alison	2010	400.00	348.70	139,480.00
	Young, Michelle L.	2010	335.00	501.40	167,969.00
	Vasel, Denise D.	2010	355.00	725.10	257,410.50
	Choi, David	2010	400.00	300.90	120,360.00
	Rog, Joshua B.	2010	400.00	894.70	357,880.00
	Mosier, A. Mackenna	2010	400.00	760.80	304,320.00
	Hansford, Melissa L.	2010	225.00	296.50	66,712.50
	Blanton, Jack D.	2010	220.00	218.20	48,004.00
	Koch, Jacqueline R.	2010	300.00	235.70	70,710.00

SUMMARY CLASS	NAME	YEAR		TOTAL	TOTAL
		ADMITTED	HOURLY RATE	HOURS BILLED	COMPENSATION
	Cook, Nora K.	2010	225.00	324.50	73,012.50
	Wasko, Lindsay J.	2010	225.00	349.60	78,660.00
	Prabucki, Kenneth	2010	220.00	124.30	27,346.00
	Rouach, Sophie	2010	415.00	520.80	216,132.00
	Clegg, Sammantha E.	2010	390.00	677.70	264,303.00
	Crist, John W.	2010	225.00	286.80	64,530.00
	Schlueter, Andrew C.	2010	225.00	305.70	68,782.50
	Salehpour, Morvareed Z.	2010	275.00	22.50	6,187.50
	Craig, M. Kristin	2010	275.00	0.20	55.00
	Chandler, Tara R.	2010	225.00	358.30	80,617.50
	Portnoy, Lesley F.	2010	355.00	357.10	126,770.50
	Abraham, Asha	2010	390.00	277.10	108,069.00
	Maytal, Anat	2010	390.00	737.20	287,508.00
	Schichnes, Jessica	2010	390.00	610.00	237,900.00
	Krishna, Ganesh	2011	390.00	855.10	333,489.00
	Nutt, Jessica E.	2011	390.00	302.40	117,936.00
	Cabico, Jason D.	2011	335.00	297.70	99,729.50
	Wangsgard, Kendall E.	2011	335.00	217.30	72,795.50
	Ball, Stephen L.	2011	335.00	249.60	83,616.00
	Wells, Carrie T.	2011	225.00	337.70	75,982.50
	Feldstein, Robyn M	2011	390.00	97.80	38,142.00
	Schechter, Jody E.	2011	315.00	273.30	86,089.50
	Samuels, Nicole P.	2011	320.00	15.50	4,960.00
	Nowakowski, Jonathan	2011	390.00	101.90	39,741.00
	Liao, Nina C.	2011	320.00	112.50	36,000.00
	Oliva, Frank M.	2011	390.00	341.90	133,341.00
	Zuberi, Madiha M.	2011	390.00	837.00	326,430.00
	Rice, David W.	#N/A	390.00	660.50	257,595.00
	deVries, Alan C.	#N/A	155.56	114.60	17,192.00
	Rose, Nicholas M.	#N/A	335.00	718.70	240,764.50
	Gallagher, Christopher B.	#N/A	390.00	306.50	119,535.00
	Babka, Sarah R.	#N/A	390.00	567.40	221,286.00
	Economides, Constantine P.	#N/A	390.00	649.90	253,461.00
Associates Total			386.90	71,109.30	27,219,739.50
Paralegals, Clerks, Library Staff and Other Non-Legal Staff					
	Maxwell, Sarah A	#N/A	165.00	351.50	57,997.50
	Alexander, Rebecca S.	#N/A	165.00	565.30	93,274.50
	McCann, Donald S	#N/A	175.00	5.90	1,032.50
	Battaglia, Patricia J.	#N/A	205.00	136.20	27,921.00
	Mearns, Erin F.	#N/A	220.00	142.50	31,350.00
	Bitman, Oleg	#N/A	245.00	576.00	141,120.00
	Medina, Rebecca J.	#N/A	160.00	378.00	60,480.00
	Bliss, Stephanie L.	#N/A	210.00	173.90	36,519.00
	Monge, Tirsia	#N/A	285.00	532.40	151,734.00
	Cabrera, Ramon C	#N/A	225.00	403.10	90,697.50
	Montalvo, Jason M.	#N/A	300.00	407.70	122,310.00
	Charlotten, Magdalena	#N/A	245.00	103.80	25,431.00
	Montani, Christine A.	#N/A	285.00	599.10	170,743.50
	Clabaugh, Marci D	#N/A	235.00	3.50	822.50
	Music, Tricia L.	#N/A	205.00	2.00	410.00
	Craig, Robert E	#N/A	425.00	52.90	22,482.50
	Nunes, Silas T	#N/A	260.00	674.10	175,266.00
	Fetzer, Jeffrey L	#N/A	200.00	134.10	26,820.00
	Oliver-Weeks, Marcella J.	#N/A	275.00	134.20	36,905.00
	Fredle, Vicki M	#N/A	185.00	42.70	7,899.50
	Ostrander, John C.	#N/A	200.00	499.80	99,960.00
	Gardner, Bronson R	#N/A	200.00	136.30	27,260.00
	Paremoud, Jana	#N/A	225.00	180.70	40,657.50
	Heller, Julie M.	#N/A	360.00	478.20	172,152.00
	Plessinger, Matthew J.	#N/A	150.00	3.00	450.00
	Iskhakova, Yuliya	#N/A	260.00	621.00	161,460.00
	Ravick, Jacob H.	#N/A	160.00	4.60	736.00
	Koblenz, Esther E.	#N/A	200.00	0.90	180.00

SUMMARY CLASS	NAME	YEAR ADMITTED	HOURLY RATE	TOTAL HOURS BILLED	TOTAL COMPENSATION
	Rawles, Michael M	#N/A	195.00	4.30	838.50
	Lee, Magali L.	#N/A	255.00	846.40	215,832.00
	Remus, Amanda	#N/A	275.00	796.50	219,037.50
	Little, Lynn M.	#N/A	285.00	119.50	34,057.50
	Reynolds, Julie L.	#N/A	200.00	100.60	20,120.00
	Martin, Sasha L.	#N/A	245.00	557.60	136,612.00
	Rivera, Eileen G.	#N/A	165.00	628.70	103,735.50
	Bekier, James M.	#N/A	360.00	740.80	266,688.00
	Russ, Mary C.	#N/A	120.00	61.90	7,428.00
	Bromley, Gabriela M.	#N/A	115.00	2.00	230.00
	Samarasekera, Dilip	#N/A	200.00	207.80	41,560.00
	Chiofalo, Frank A.	#N/A	225.00	606.10	136,372.50
	Schnarre, Nicole L.	#N/A	360.00	641.00	230,760.00
	Creagan, Carol A	#N/A	175.00	150.20	26,285.00
	Smith, Damian	#N/A	250.00	7.80	1,950.00
	Gage, Carly R.	#N/A	300.00	1.50	450.00
	Stone, Adrian	#N/A	245.00	71.20	17,444.00
	Hill, Kristina S	#N/A	145.00	5.40	783.00
	Stute, David J.	#N/A	165.00	158.60	26,169.00
	Landrio, Nikki M.	#N/A	310.00	835.80	259,098.00
	Sulhan, Barbara J	#N/A	175.00	92.50	16,187.50
	Llewellyn, Cameron E.	#N/A	255.00	8.50	2,167.50
	Sweet, Karen R	#N/A	205.00	370.80	76,014.00
	Blaber, Theresa A	#N/A	275.00	151.20	41,580.00
	Thompson, Aaron J.	#N/A	190.00	3.40	646.00
	Cohen, Justin H.	#N/A	317.50	78.20	25,518.00
	Tolbert, Amelia M.	#N/A	135.00	10.40	1,404.00
	Halwes, Shannon L.	#N/A	185.00	156.70	28,989.50
	Van Dyke, Dawn M	#N/A	225.00	5.80	1,305.00
	Lipkis, Shelly S.	#N/A	215.00	31.20	6,708.00
	Villamayor, Fidentino L.	#N/A	300.00	598.10	179,430.00
	Chamberlain, David R	#N/A	175.00	142.00	24,850.00
	von Collande, Constance M.	#N/A	260.00	639.90	166,374.00
	Jones, Michael K.	#N/A	135.00	201.00	27,135.00
	Wallace, Dawn L.	#N/A	275.00	480.00	132,000.00
	Fishelman, Benjamin D.	#N/A	350.00	457.30	160,055.00
	Wasserman, Gabor M.	#N/A	335.00	432.40	144,854.00
	Allemant-Salas, Gonzalo	#N/A	300.00	447.00	134,100.00
	Wilkins, Kerrick T.	#N/A	175.00	244.00	42,700.00
Paralegals, Clerks, Library Staff and Other Non-Legal Staff Total			257.45	18,437.50	4,741,539.50

PROFESSIONALS	BLENDED RATE	TOTAL HOURS BILLED	TOTAL COMPENSATION
Partners and of Counsel Total	\$ 697.75	\$ 27,955.00	\$ 17,736,039.50
Associates Total	386.90	71,109.30	27,219,739.50
Paralegals, Clerks, Library Staff and Other Non-Legal Staff Total	257.45	18,437.50	4,741,539.50
Blended Attorney Rate	453.80		
Total Fees Incurred		117,501.80	49,697,318.50

Less 10% Public Interest Discount (4,969,731.85)

**Grand Total** \$ 44,727,586.65

COMPENSATION BY WORK TASK CODE FOR SERVICES  
 RENDERED BY BAKER & HOSTETLER LLP FOR SEVENTH INTERIM  
 PERIOD OF FEBRUARY 1, 2011 THROUGH MAY 31, 2011

Task/Matter	Task/Matter Name	HOURS		AMOUNT	
		Sum of tbillhrs	Sum of tbilldol		
01	Trustee Investigation	724.70	345,946.50		
02	Bankruptcy Court Litigation and Related Matters	2,135.00	975,911.50		
03	Feeder Funds	1,986.80	905,576.50		
04	Asset Search Recovery and Sale	174.70	104,809.50		
05	Internal Office Meetings with Staff	530.90	268,858.50		
07	Billing	256.70	101,559.00		
08	Case Administration	1,421.80	410,271.00		
09	Banks	506.30	320,528.50		
10	Court Appearances	3.40	1,870.00		
11	Press Inquires and Responses	625.70	213,907.00		
12	Document Review	2,805.50	1,017,531.00		
13	Discovery - Depositions and Document Productions	6,006.50	2,406,035.50		
14	International	2,281.00	1,093,042.00		
15	Charities	18.30	12,132.50		
17	Access - Luxembourg	750.60	296,386.50		
000003	Stanley Chais	947.20	323,878.00		
000004	J. Ezra Merkin	8,006.90	3,075,078.50		
000005	Customer Claims (2009 - 2011)	5,695.60	2,110,634.00		
000006	Vizcaya	2,193.60	985,380.50		
000007	Madoff Family	2,674.30	1,125,135.50		
000008	Norman Levy	209.50	108,144.50		
000009	Fairfield Greenwich	3,028.50	1,085,158.50		
000010	Harley	261.10	139,612.00		
000011	Cohmad Securities Corporation	3,436.90	1,491,415.50		
000012	Picower	519.20	255,109.50		
000013	Kingate	2,946.90	1,436,426.00		
000018	Thybo	216.60	95,724.50		
000019	Ruth Madoff	6.20	3,799.00		
000020	Carl Shapiro	44.60	22,049.50		
000021	Avoidance Action Investigation/Litigation 2010-2012	24,823.00	9,515,373.50		
000022	Fox and Marshall	49.10	22,693.50		
000023	Canavan, Goldsmith and Kalman	35.40	11,626.00		
000024	Robert Luria	61.90	31,075.50		
000025	Amy Luria	84.80	52,082.50		
000026	Richard Stahl	586.90	255,167.00		
000027	JPMorgan Chase	3,337.40	1,316,139.00		
000028	Westport	87.70	43,196.00		
000029	Rye/Tremont	1,025.20	488,231.00		
000030	HSBC	11,049.30	5,316,931.00		
000031	Katz/Wilpon	8,432.60	4,109,799.50		
000032	LuxAlpha/UBS	3,049.40	1,400,099.50		
000033	Nomura Bank International PLC	101.90	45,331.50		
000034	Citibank	1,777.00	744,347.00		
000035	Natixis	326.40	131,660.50		
000036	Merrill Lynch	149.00	74,556.50		
000037	ABN AMRO	120.00	51,731.50		
000038	Banco Bilbao	223.70	106,873.00		
000039	Fortis	377.10	154,960.50		
000040	Medici Enterprise	4,388.00	1,913,290.50		
000041	Whitechapel	141.70	65,124.50		
000042	Equity Trading	254.20	107,876.50		
000043	Defender	544.80	248,056.50		
000044	Maccabee	41.10	23,193.50		
000045	Levey	152.10	86,093.50		
000046	Glantz	407.20	202,257.50		
000047	Bonaventre	50.80	18,515.00		
000048	Bongiorno	59.70	23,705.00		
000049	Greenberger	119.50	72,587.00		
000050	Pitz	157.70	54,019.50		
000051	Crupi	134.70	43,324.00		
000052	Donald Friedman	1,053.30	490,682.00		
000053	Magnify	266.80	113,268.50		
000054	Mendelow	454.50	255,199.50		
000055	Kugel	377.10	163,925.00		
000056	Lipkin	172.30	62,655.00		
000057	Perez/O'Hara	48.10	24,795.00		
000058	PJ Administrators	1,293.30	537,824.00		
000059	Stanley Shapiro	399.30	194,228.00		
000060	Avellino & Bienes	872.80	392,913.00		
Grand Total		117,501.80	49,697,318.50		

Less 10% Public Interest Discount (4,969,731.85)

**Grand Total** \$ 44,727,586.65

**Current Application**

Interim Compensation Requested \$ 44,727,586.65  
 Interim Compensation Paid (40,254,828.00)  
 Interim Compensation Deferred \$ 4,472,758.65

**Prior Applications**

Interim Compensation Requested \$ 175,506,566.84  
 Interim Compensation Paid (157,955,910.15)  
 Interim Compensation Deferred \$ 17,550,656.69

EXHIBIT F

EXPENSE SUMMARY BY BAKER & HOSTETLER LLP FOR SEVENTH  
INTERIM PERIOD OF FEBRUARY 1, 2011 THROUGH MAY 31, 2011

E101	Copying (E101)	\$ 117,588.20
E102	Outside Printing (E102)	25,498.38
E104	Facsimile (E104)	77.95
E105	Telephone (E105)	3,024.21
E106	Online Research (E106)	255,192.38
E107	Delivery Services/ Messengers (E107)	23,554.65
E108	Postage (E108)	193.05
E109	Local Travel (E109)	72,682.89
E110	Out-of-Town Travel (E110)	257,686.52
E111	Business Meals, etc. (E111)	34,991.02
E112	Court Fees (E112)	7,067.12
E113	Subpoena Fees (E113)	3,101.81
E115	Deposition Transcripts (E115)	2,871.48
E116	Trial Transcripts (E116)	3,078.55
E119	Experts (E119)	655.08
E123	Other Professionals (E123)	19,859.37
E124	Other (E124)	6,278.95
E125	Translation Costs (E125)	437,554.70
Grand Total		\$1,270,956.31

**Prior Applications**

Reimbursement of Expenses Requested and Rewarded \$3,630,989.32

# **EXHIBIT B**

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
Four Times Square  
New York, New York 10036  
(212) 735-3000  
J. Gregory Milmo  
Kenneth S. Ziman  
J. Eric Ivester

Proposed Counsel for Debtors and  
Debtors-in-Possession

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

-----x  
: In re : Chapter 11  
: :  
: MF GLOBAL HOLDINGS LTD., et al.,<sup>1</sup> : Case No. 11-15059 (MG)  
: :  
: : Jointly Administered  
: Debtors. :  
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**JOINT APPLICATION OF DEBTORS AND THE CHAPTER 11 TRUSTEE FOR AN ORDER UNDER 11 U.S.C. §§ 327(a) AND 329, FED. R. BANKR. P. 2014 AND 2016, AND S.D.N.Y. LBR 2014-1 AND 2016-1 AUTHORIZING EMPLOYMENT AND RETENTION OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP AND AFFILIATES AS BANKRUPTCY COUNSEL *NUNC PRO TUNC* TO THE PETITION DATE THROUGH NOVEMBER 28, 2011 AND THEREAFTER AS SPECIAL COUNSEL THROUGH MARCH 31, 2012**

The debtors in the above-captioned cases (the "Debtors") and Louis J. Freeh as chapter 11 trustee (the "Chapter 11 Trustee" and collectively with the Debtors, the "Applicants"), in the chapter 11 cases of MF Global Holdings Ltd. and MF Global Finance USA Inc. (the "Initial Debtors"), hereby apply (the "Application") for entry of an

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: MF Global Holdings Ltd. (EIN: 98-0551260); MF Global Finance USA Inc. (EIN: 98-0554890); MF Global Capital LLC (EIN: 13-3262825); MF Global FX Clear LLC (EIN: 20-3863678); and MF Global Market Services LLC (EIN: 02-0692193).

order, under sections 327(a) and 329 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), authorizing the employment and retention of Skadden, Arps, Slate, Meagher & Flom LLP and its affiliated law practice entities (collectively, "Skadden, Arps" or the "Firm"), *nunc pro tunc* to the Petition Date (as defined herein), under a general retainer as the Debtors' bankruptcy counsel through November 28, 2011 and thereafter as special counsel to the Chapter 11 Trustee through March 31, 2012, as more fully described below. In support of the Application, the Applicants rely upon and incorporate by reference (i) the Declaration of Bradley I. Abelow in Support of Chapter 11 Petitions and First-Day Pleadings (the "Abelow Declaration"), filed with the Court on the Petition Date and (ii) the Declaration of J. Gregory Milmoie in Support of Joint Application for an Order Under 11 U.S.C. §§ 327(a) and 329, Fed. R. Bankr. P. 2014 and 2016, and S.D.N.Y. LBR 2014-1 and 2016-1 Authorizing Employment and Retention of Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates as Bankruptcy Counsel *Nunc Pro Tunc* to the Petition Date and Thereafter as Special Counsel Through March 31, 2012 (the "Milmoie Declaration"), attached hereto as Exhibit B. In further support of the Application, the Applicants respectfully represent:

#### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this Application under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Application in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory and legal predicates for the relief requested herein are Bankruptcy Code sections 327(a) and 329, Bankruptcy Rules 2014 and 2016 and Local Rules 2014-1 and 2016-1.

### **BACKGROUND**

3. On October 31, 2011 (the "Petition Date"), the Initial Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. The factual background regarding the Initial Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of these bankruptcy cases, is set forth in detail in the Abelow Declaration.

4. On November 22, 2011, the Court granted the Emergency Joint Motion of the Debtors and the Statutory Creditors' Committee for an Order Directing the Appointment of a Chapter 11 Trustee and on November 28, 2011, the Court approved the appointment of Louis J. Freeh as Chapter 11 Trustee in the chapter 11 cases of the Initial Debtors. (Docket No. 170).

5. On December 19, 2011, chapter 11 petitions were filed for MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC (the "Subsequent Debtors"). On December 21, 2011, the Court entered orders for relief with respect to each of the Subsequent Debtors and directed that the chapter 11 cases of the Subsequent Debtors be jointly administered with those of the Initial Debtors. (Docket No. 298).

6. On December 27, 2011, the Court approved the appointment of Louis J. Freeh as Chapter 11 Trustee in the chapter 11 cases of the Subsequent Debtors,

and by this Application, Skadden, Arps also seeks to represent Mr. Freeh in connection with those jointly administered proceedings.

### **RELIEF REQUESTED**

7. By this Application, the Debtors and the Chapter 11 Trustee request entry of an order pursuant to Bankruptcy Code sections 327(a) and 329 authorizing them to employ and retain Skadden, Arps, *nunc pro tunc* to the Petition Date through November 28, 2011 as the Debtors' bankruptcy counsel under a general retainer to perform the legal services that were necessary during the early days of these cases, and thereafter as special counsel, through March 31, 2012, to assist the Chapter 11 Trustee in performing his duties, in accordance with the provisions of the Engagement Agreement (defined below), this Application, and the proposed order submitted herewith, as is more fully described herein.

### **BASIS FOR RELIEF**

8. Pursuant to an engagement agreement dated October 28, 2011, a copy of which is attached to the Milmo Declaration as Exhibit 1 (the "Engagement Agreement"), the Debtors retained Skadden, Arps in connection with their efforts to respond to their financial circumstances, including, among other things, to assist them with a restructuring of their financial affairs and capital structure, and, as necessary, preparation of documents related to, and representation in, any reorganization cases filed under chapter 11 of the Bankruptcy Code.

9. The Debtors selected Skadden, Arps as their restructuring counsel because of the Firm's experience and knowledge in the field of debtors' and creditors' rights and business reorganizations under chapter 11 of the Bankruptcy Code, its

experience with businesses similar to the Debtors and its ability to act quickly in a crisis. Skadden, Arps worked closely with the Debtors on an around-the-clock basis to restructure the Debtors' business, and when those efforts failed, to file these cases and deal with the numerous issues that resulted therefrom. Additional information regarding Skadden, Arps' qualifications is more fully set forth in the Milmo Declaration.

10. Since entering into the Engagement Agreement, the Company and Skadden, Arps have worked closely on the Company's restructuring efforts. In doing so, Skadden, Arps has become familiar with the Debtors' capital structure; the terms of the Debtors' debt; the operation of the Debtors' businesses; and many of the potential legal issues that might arise in the context of these cases. Skadden, Arps has provided advice and assisted the Company in all aspects of its restructuring efforts and the preparation and prosecution of these cases.

### **SERVICES RENDERED**

11. Among other things, Skadden, Arps:
- (a) advised the Debtors with respect to their powers and duties as debtors and debtors-in-possession in the continued management and operation of their businesses and properties;
  - (b) drafted the first-day motions and other documents and pleadings necessary for the prosecution of the cases to date;
  - (c) attended meetings and negotiating with representatives of creditors and other parties in interest, and advised and consulted on the conduct of the cases, including all of the legal and administrative requirements of operating in chapter 11;
  - (d) interfaced with the SIPC Trustee and court-appointed administrators for the Debtors' direct and indirect subsidiaries, which are in the SIPA proceeding or in administration proceedings around the world;
  - (e) assisted the Debtors in seeking to obtain debtor-in-possession financing;

- (f) took all necessary action to protect and preserve the Debtors' estates, including, where no conflict existed, the prosecution of actions on their behalf, the defense of any actions commenced against those estates, negotiations concerning litigation in which the Debtors may be involved, and objections to claims filed against the estates;
- (g) prepared, on behalf of the Debtors, motions, applications, answers, orders, reports, and papers necessary to the administration of the estates;
- (h) advised the Debtors in connection with sales of assets;
- (i) performed other necessary legal services and provided other necessary legal advice to the Debtors in connection with these chapter 11 cases; and
- (j) appeared before this Court and the United States Trustee with respect to the interests of the Debtors' estates.

12. It was necessary and essential that the Debtors employed attorneys to render the foregoing professional services.

13. Following his appointment, the Chapter 11 Trustee expressed the desire to appoint counsel of his choosing as bankruptcy counsel, but wishes to continue to employ Skadden, Arps for a limited period post-appointment both to capture the knowledge and insights into the cases that Skadden, Arps had gained during its tenure as Debtors' proposed bankruptcy counsel and to ensure a seamless transition to his professionals. As noted above, the Debtors and the Chapter 11 Trustee believe that Skadden, Arps is well-qualified to act on the Debtors' behalf in these cases. It is currently contemplated that Skadden, Arps' role will wind down and conclude in the near term as the Chapter 11 Trustee retains general bankruptcy counsel and such counsel becomes familiar with the cases. Subject to this Court's approval of this Application, Skadden, Arps has indicated that it is willing to perform the following services in this manner:

- (a) Assist the Chapter 11 Trustee with respect to matters pertaining to the surrender of the leased premises at 717 Fifth Avenue, including interfacing with the landlord;
- (b) Assist the Chapter 11 Trustee and the Chapter 11 Trustee's other professionals with respect to tax refund matters; and
- (c) Provide assistance and advice as requested with respect to matters where Skadden, Arps acquired material knowledge during its representation of the Debtors.

14. The retention of Skadden, Arps as special counsel to the Chapter 11 Trustee will terminate on March 31, 2012, provided that the Applicants may extend the retention beyond such date with Court approval.

15. Skadden, Arps understands that the Applicants are planning to file retention applications for other professionals in these cases. Skadden, Arps will take all appropriate steps on its part to avoid unnecessary and wasteful duplication of efforts by any other professionals retained in these cases.

#### **DISINTERESTEDNESS OF PROFESSIONALS**

16. To the best of the Debtors' knowledge, and except as otherwise set forth in this Application and in the accompanying Milmo Declaration, the members, counsel, and associates of Skadden, Arps, (a) do not have any connection with any of the Chapter 11 Trustee, the Debtors, their affiliates, their creditors, or any other parties in interest, or their respective attorneys and accountants, the United States Trustee for Region 2<sup>2</sup> or any person employed in the office of the same, or any judge in the United States Bankruptcy Court for the Southern District of New York or any person employed

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<sup>2</sup> Elisabetta Gasparini, a former associate in the Firm's Corporate Restructuring Group, is currently a trial attorney at the U.S. Trustee's Office in Manhattan, New York (Region 2).

in the office of the same<sup>3</sup>, (b) are "disinterested persons," as that term is defined in Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b), and (c) do not hold or represent any interest adverse to the estates.

17. Except as set forth in the Milmo Declaration, Skadden, Arps has in the past represented, currently represents, and likely in the future will represent certain parties in interest in these cases in matters unrelated to the Debtors, the Debtors' chapter 11 cases, or such entities' claims against or interests in the Debtors.

18. The Applicants understand that except as otherwise set forth in the Milmo Declaration:

- (a) Neither Skadden, Arps nor any attorney at the Firm holds or represents an interest adverse to the Debtors' estates.
- (b) Neither Skadden, Arps nor any attorney at the Firm is or was a creditor or an insider of the Debtors, except that Skadden, Arps previously has rendered legal services to the Debtors for which it has been compensated as disclosed below.
- (c) Neither Skadden, Arps nor any attorney at the Firm is or was, within two years before the Petition Date, a director, officer, or employee of the Debtors.
- (d) Skadden, Arps does not have an interest materially adverse to the interest of the estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors, or for any other reason.

19. In view of the foregoing, the Applicants believe that Skadden, Arps is a "disinterested person" within the meaning of Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b).

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<sup>3</sup> Susan Arbeit, Adi Habbu, Clair James, and Max Polonsky are corporate restructuring associates currently employed by Skadden, Arps in its New York office. They were recently employed as law clerks in the United States Bankruptcy Court for the Southern District of New York. Stacy Lutkus and Raquelle Kaye, former corporate restructuring associates at Skadden, Arps, are law clerks in the United States Bankruptcy Court for the Southern District of New York.

20. Skadden, Arps has informed the Applicants that during its involvement in these cases, Skadden, Arps will continue to conduct periodic conflicts analyses to determine whether it is performing or has performed services for any significant parties in interest in these cases and that Skadden, Arps will promptly update the Milmo Declaration to disclose any material developments regarding the Debtors or any other pertinent relationships that come to Skadden, Arps' attention.

### **PROFESSIONAL COMPENSATION**

21. Skadden, Arps will accept as compensation for its work during the chapter 11 cases such sums as may be allowed by the Court on the basis of the professional time spent, the rates charged for such services, the necessity of such services to the administration of the estates, the reasonableness of the time within which the services were performed in relation to the results achieved, and the complexity, importance, and nature of the problems, issues or tasks addressed in these cases. Additionally, Skadden, Arps will seek compensation for all time and expenses associated with its retention as a section 327(a) professional, including the preparation of this Application, the Milmo Declaration and related documents, as well as any monthly fee statements and/or interim and final fee applications.

22. Skadden, Arps' fees for professional services are based upon hourly rates, which are periodically adjusted. Under the Engagement Agreement, Skadden, Arps and the Debtors agreed that Skadden, Arps' standard bundled rate structure would apply to these cases, which was modified pursuant to an agreement with the Chapter 11 Trustee as described below. A copy of Skadden, Arps' bundled rate structure is attached to the Engagement Agreement. Therefore, Skadden, Arps will not

be seeking to be separately compensated for certain staff, clerical and resource charges. The hourly rates under the bundled rate structure range from \$795 to \$1095 per hour for partners and of counsel, \$770 to \$860 per hour for counsel and special counsel, \$365 to \$710 per hour for associates, and \$195 to \$295 per hour for legal assistants and support staff. These hourly rates are subject to periodic increases in the normal course of business, often due to the increased experience of a particular professional.<sup>4</sup> Pursuant to an agreement with the Chapter 11 Trustee, Skadden, Arps has agreed to reduce the aggregate amount of compensation requested for professional services rendered on and after November 28, 2011 by 10%.

23. On October 28, 2011, the Debtors delivered to Skadden, Arps a \$500,000.00 retainer to be held as on account cash for the advance payment of pre-petition professional fees and expenses incurred and charged by Skadden, Arps for the restructuring-related work (the "Retainer").

24. Prior to the commencement of these cases, the Firm invoiced the Debtors the sum of \$450,000 for estimated fees and expenses incurred prior to the Petition Date and applied a portion of the Retainer in payment of such amount (leaving a Retainer in the amount of \$50,000).

25. The actual amount of the fees and expenses owed to the Firm as a result of the services rendered by it to the Debtors prior to the Petition Date was \$623,773, leaving an unsecured claim against the Debtors of \$123,773 after application of the remaining \$50,000 Retainer. Skadden, Arps agrees to waive such claim in the

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<sup>4</sup> In the event the hourly rates set forth herein are adjusted during the pendency of these chapter 11 cases, Skadden, Arps will provide the Bankruptcy Court and the Office of the U.S. Trustee with written notice of such new hourly fees.

event an order is entered approving its retention as counsel as requested by this Application.

26. Consistent with the Firm's policy with respect to its other clients, Skadden, Arps has charged and will continue to charge the Debtors for all other services provided and for other charges and disbursements incurred in the rendition of such services. These charges and disbursements include (without limitation) costs for photocopying, electronic data management services, including scanning and document imaging, travel, travel-related expenses, business meals, computerized research, messengers, couriers, postage, witness fees, and other fees related to trials and hearings at the rates set forth in the Policy Statement Concerning Charges and Disbursements Under Standard Bundled Rate Structure, which is attached as Schedule 1 to the Engagement Agreement.

27. During the course of these cases, Skadden, Arps will apply to the Court for allowance of compensation for professional services rendered and reimbursement of expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the United States Trustee Fee Guidelines, and any orders entered in these cases governing professional compensation and reimbursement for services rendered and charges and disbursements incurred. Such applications will constitute a request for interim payment against the Firm's reasonable fees and expenses to be determined at the conclusion of these cases.

28. Other than as set forth above and in the Milmoie Declaration, no arrangement is proposed between the Applicants and Skadden, Arps for compensation to be paid in these cases. Except for such sharing arrangements among Skadden, Arps, its

affiliated law practice entities, and their respective members, Skadden, Arps has no agreement with any other entity to share any compensation received, nor will any be made, except as permitted under Bankruptcy Code section 504(b)(1).

29. The work undertaken by the Firm since the Petition Date has greatly assisted the Trustee in gaining an understanding of the facts and circumstances of the cases and has allowed for a smooth transition. The Applicants submit that the engagement and retention of Skadden, Arps on the terms and conditions set forth herein and in the Engagement Agreement and this Application is necessary and in the best interests of the Debtors, their estates, and their creditors and should be approved.

#### **NOTICE**

30. Notice of this Application has been provided to: (a) the United States Trustee for the Southern District of New York; (b) the United States Attorney for the Southern District of New York; (c) the Securities and Exchange Commission; (d) the Internal Revenue Service; (e) counsel for the agents under the Debtors' prepetition credit facilities; and (f) counsel to the statutory committee of unsecured creditors appointed in these chapter 11 cases and (g) all other persons requesting notice in these cases. The Applicants submit that, under the circumstances, no other or further notice is necessary.

#### **NO PRIOR REQUEST**

31. No previous request for the relief sought herein has been made to this Court or to any other court.

**CONCLUSION**

WHEREFORE, the Applicants respectfully request that the Court enter an order, substantially in the form annexed hereto as Exhibit A, granting the relief requested in the Application and such other and further relief as may be just and proper.

Dated: January 23, 2012

MF GLOBAL HOLDINGS, LTD.  
MF GLOBAL FINANCE USA, INC.

By: /s/ Louis J. Freeh  
Name: Louis J. Freeh  
Title: Chapter 11 Trustee

EXHIBIT A

Proposed Order

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

-----x  
:   
In re : Chapter 11  
:   
MF GLOBAL HOLDINGS LTD., et al.,<sup>1</sup> : Case No. 11-15059 (MG)  
:   
: Jointly Administered  
Debtors. :   
-----x

**ORDER AUTHORIZING THE EMPLOYMENT AND  
RETENTION OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
AND AFFILIATES AS BANKRUPTCY COUNSEL *NUNC PRO TUNC*  
TO THE PETITION DATE THROUGH NOVEMBER 28, 2011  
AND THEREAFTER AS SPECIAL COUNSEL THROUGH MARCH 31, 2012**

Upon consideration of the Joint Application (the "Application") of Debtors and the Chapter 11 Trustee for an Order under 11 U.S.C. §§ 327(a) and 329, Fed. R. Bankr. P. 2014 and 2016, and S.D.N.Y. LBR 2014-1 and 2016-1 Authorizing Employment and Retention of Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates as Bankruptcy Counsel *Nunc Pro Tunc* to the Petition Date through November 28, 2011 and Thereafter as Special Counsel Through March 31, 2012, pursuant to Bankruptcy Code section 327(a), authorizing the Debtors and the Chapter 11 Trustee to employ and retain the law firm of Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden, Arps") *nunc pro tunc* to the Petition Date through November 28, 2011 as the Debtors' bankruptcy counsel and thereafter as special counsel, through March 31, 2012, to assist the Chapter 11 Trustee in performing his duties; and the Trustee having submitted the Abelow Affidavit and the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: MF Global Holdings Ltd. (EIN: 98-0551260); MF Global Finance USA Inc. (EIN: 98-0554890); MF Global Capital LLC (EIN: 13-3262825); MF Global FX Clear LLC (EIN: 20-3863678); and MF Global Market Services LLC (EIN: 02-0692193).

Milmoe Declaration in support of the Application; and the Court being satisfied based on the representations made in the Application, Abelow Affidavit, and the Milmoe Declaration that the partners, "of counsel", associates and paraprofessionals of Skadden, Arps who will be engaged in the Debtors' chapter 11 cases represent no interest adverse to the Debtors' estates with respect to the matters upon which Skadden, Arps is to be engaged, and that they are disinterested persons as that term is defined under Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b); and having considered the statements of counsel and the evidence presented at the hearing before the Court (the "Hearing") with respect to the Application; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it further appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and it further appearing that notice of the Application as set forth therein is sufficient under the circumstances, and that no further notice need be provided; and it further appearing that the relief requested in the Application is in the best interests of the Debtors, their estates and their creditors; and after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED, that the Application is GRANTED to the extent provided herein; and it is further

ORDERED, that to the extent the Application, the Engagement Agreement, or the Milmoe Declaration is inconsistent with this Order, the terms of this Order shall govern; and it is further

ORDERED, that pursuant to Bankruptcy Code section 327(a) and Bankruptcy Rules 2014 and 2016, and subject to the terms of this Order, the Debtors and the Chapter

11 Trustee are authorized to employ and retain Skadden Arps *nunc pro tunc* to the Petition Date through November 28, 2011 as the Debtors' bankruptcy counsel and thereafter as special counsel to the Chapter 11 Trustee, through and including March 31, 2012, to perform the services described therein:

- (a) Assist the Chapter 11 Trustee with respect to matters pertaining to the surrender of the leased premises at 717 Fifth Avenue, including interfacing with the landlord;
- (b) Assist the Chapter 11 Trustee and the Chapter 11 Trustee's other professionals with respect to tax refund matters; and
- (c) Provide assistance and advice as requested with respect to matters where Skadden, Arps acquired material knowledge during its representation of the Debtors; and it is further

ORDERED, that the retention of Skadden, Arps as special counsel to the Chapter 11 Trustee shall terminate on March 31, 2012 , provided that the Applicants may extend the retention beyond such date with Court approval; and it is further

ORDERED, that Skadden, Arps shall be compensated in accordance with and will file interim and final fee applications for allowance of its compensation and expenses and shall be subject to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Amended Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals, dated November 25, 2009, the Amended Guidelines for Fees and Disbursements for Professionals in the Southern District of New York, dated November 25, 2009 (the "Amended Guidelines") and the United States Trustee Fee Guidelines (the "Fee Guidelines"), and any orders entered in these cases governing professional compensation and reimbursement for services rendered and charges and disbursements incurred; and it is further

ORDERED, that Skadden, Arps shall be reimbursed only for reasonable and necessary expenses as provided by the Amended Guidelines and the Fee Guidelines; and it is further

ORDERED, that prior to any increases in rates as set forth in paragraph 21 of the Application, Skadden, Arps shall file a supplemental affidavit with the Court and give ten business days' notice to the Chapter 11 Trustee, the United States Trustee and any official committee, which supplemental affidavit shall explain the basis for the requested rate increases in accordance with section 330(a)(3)(F) of the Bankruptcy Code and indicate whether the client has received notice of and approved the proposed rate increase; and it is further

ORDERED, that Skadden, Arps is authorized to apply the balance of the Retainer against its final reconciled invoice for pre-petition professional fees and expenses and Skadden, Arps has agreed to waive its pre-petition claim against the Debtors; and it is further

ORDERED, that Skadden, Arps shall use its best efforts to avoid any duplication of services provided by any of the Chapter 11 Trustee's other retained professionals in these chapter 11 cases; and it is further

ORDERED, that the United States Trustee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application; and it is further

ORDERED, that, notwithstanding any provision to the contrary in the Application or the Engagement Agreement, the Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York  
January \_\_\_\_, 2012

THE HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Milmoe Declaration

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
Four Times Square  
New York, New York 10036  
(212) 735-3000  
J. Gregory Milmoe  
Kenneth S. Ziman  
J. Eric Ivester

Proposed Counsel for Debtors and  
Debtors-in-Possession

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

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In re : Chapter 11  
: MF GLOBAL HOLDINGS LTD., et al.,<sup>1</sup> : Case No. 11-15059 (MG)  
: :  
: Jointly Administered  
Debtors. :  
-----x

**DECLARATION OF J. GREGORY MILMOE IN SUPPORT OF JOINT  
APPLICATION OF DEBTORS AND THE CHAPTER 11 TRUSTEE FOR ORDER  
UNDER 11 U.S.C. §§ 327(a) AND 329, FED. R. BANKR. P. 2014 AND 2016, AND  
S.D.N.Y. LBR 2014-1 AND 2016-1 AUTHORIZING EMPLOYMENT AND  
RETENTION OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP AND  
AFFILIATES AS BANKRUPTCY COUNSEL *NUNC PRO TUNC* TO THE  
PETITION DATE THROUGH NOVEMBER 28, 2011 AND  
THEREAFTER AS SPECIAL COUNSEL THROUGH MARCH 31, 2012**

I, J. Gregory Milmoe, hereby declare that the following is true and correct  
to the best of my knowledge, information, and belief:

1. I am a member of the firm of Skadden, Arps, Slate, Meagher &  
Flom LLP ("Skadden, Arps" or the "Firm"), which maintains offices for the practice of

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: MF Global Holdings Ltd. (EIN: 98-0551260); MF Global Finance USA Inc. (EIN: 98-0554890); MF Global Capital LLC (EIN: 13-3262825); MF Global FX Clear LLC (EIN: 20-3863678); and MF Global Market Services LLC (EIN: 02-0692193).

law at, among other places, 4 Times Square, New York, New York 10036. I am admitted in, practicing in, and a member in good standing of the bars of the State of New York, the United States District Court for the Southern District of New York and the Eastern District of New York.

2. I submit this declaration pursuant to sections 327(a) and 329 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 2014-1 and 2016-1 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules") in support of the Joint Application of the Debtors and the Chapter 11 Trustee for Order Under 11 U.S.C. §§ 327(a) and 329, Fed. R. Bankr. P. 2014 and 2016, and S.D.N.Y. LBR 2014-1 and 2016-1 Authorizing Employment and Retention of Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates as Bankruptcy Counsel for the Debtors *Nunc Pro Tunc* to the Petition Date through November 28, 2011 and Thereafter as Special Counsel Through March 31, 2012 (the "Application"),<sup>2</sup> filed contemporaneously herewith by the debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors" or the "Company") and Louis J. Freeh, in his capacity as chapter 11 trustee (the "Chapter 11 Trustee", and collectively with the Debtors, "Applicants"). Except as otherwise indicated herein, I have personal knowledge of the matters set forth herein and, if called as a witness, would testify competently thereto.<sup>3</sup>

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Application.

<sup>3</sup> Certain of the disclosures herein relate to matters within the knowledge of attorneys of Skadden, Arps and are based on information provided by them.

### QUALIFICATION OF SKADDEN, ARPS

3. Pursuant to an engagement agreement dated October 28, 2011, a copy of which is attached hereto as Exhibit 1 (the "Engagement Agreement"), the Debtors retained Skadden, Arps in connection with their efforts to respond to their financial circumstances, including, among other things, to assist them with a restructuring of their financial affairs and capital structure, and, as necessary, preparation of documents related to, and representation in, any reorganization cases filed under chapter 11 of the Bankruptcy Code.

4. Since entering into the Engagement Agreement, the Company and Skadden, Arps have worked closely with respect to the Company's restructuring efforts. In doing so, Skadden, Arps has become familiar with the Debtors' capital structure; the terms of the Debtors' debt; the operation of the Debtors' businesses; and many of the potential legal issues that might arise in the context of these cases as set forth in the Application. Skadden, Arps has provided advice and assisted the Company in all aspects of its restructuring efforts and the preparation of these cases, including drafting the various first-day motions, and other documents and pleadings necessary for the prosecution of these chapter 11 cases to date.

5. On November 22, 2011, the Court granted the Emergency Joint Motion of the Debtors and the Statutory Creditors' Committee for an Order Directing the Appointment of a Chapter 11 Trustee and on November 28, 2011, the Court approved the appointment of Louis J. Freeh as Chapter 11 Trustee in the chapter 11 cases of MF Global Holdings Ltd. and MF Global Finance USA Inc. (the "Initial Debtors"). (Docket No. 170).

6. On December 19, 2011, chapter 11 petitions were filed for MF Global Capital LLC, MF Global FX Clear LLC, and MF Global Market Services LLC (the "Subsequent Debtors"). On December 21, 2011, the Court entered orders for relief with respect to each of the Subsequent Debtors and directed that the chapter 11 cases of the Subsequent Debtors be jointly administered with those of the Initial Debtors. (Docket No. 298).

7. On December 27, 2011, the Court approved the appointment of Louis J. Freeh as Chapter 11 Trustee in the chapter 11 cases of the Subsequent Debtors, and by the Application, Skadden, Arps also seeks to represent Mr. Freeh in connection with those jointly administered proceedings.

8. Because of the rapidity of the events surrounding the Debtors' bankruptcies, the core Skadden, Arps bankruptcy team has included four partners in the Firm's U.S. corporate restructuring department: Ken Ziman, Eric Ivester, George Panagakis and me. Each of us has extensive experience – 21, 26, 21 and 36 years, respectively – in corporate restructuring and related matters. In addition, Chris Mallon in the Firm's London office, with more than 20 years of restructuring and related matters, has been advising on international restructuring matters.

9. Other professionals and legal assistants in the Firm's corporate restructuring department, many of whom also have extensive experience in corporate restructuring generally and debtor representations in reorganization cases specifically, have participated and, to the extent requested by the Chapter 11 Trustee, will continue to participate in the representation of the Debtors in these cases. Due to the Firm's experience and knowledge in the field of debtors' and creditors' rights and business

reorganizations under chapter 11 of the Bankruptcy Code – among other representations, Skadden, Arps was lead bankruptcy counsel in the Refco case, which also involved a large multinational commodities and securities broker – Skadden, Arps believes that it was well qualified and uniquely able to act on the Debtors' behalf during the early days of these reorganization cases. Moreover, the knowledge of the Debtors' affairs which Skadden, Arps has gained through its work on behalf of Debtors will be useful to the Chapter 11 Trustee and will facilitate a smooth transition to the Chapter 11 Trustee's professionals.

10. Skadden, Arps understands that the Debtors are planning on filing retention applications for other professionals in these cases and Skadden, Arps has taken and will continue to take all appropriate steps to avoid unnecessary and wasteful duplication of efforts by any other professionals retained in these cases. In this regard, following the appointment of the Chapter 11 Trustee, Skadden, Arps' role has been reduced significantly and it is currently contemplated that Skadden, Arps' role will wind down and conclude in the near term as the Chapter 11 Trustee retains general bankruptcy counsel and such counsel becomes familiar with these cases. Specifically, subject to this Court's approval of the Application, Skadden, Arps is willing to perform the following services:

- (a) Assist the Chapter 11 Trustee with respect to matters pertaining to the surrender of the leased premises at 717 Fifth Avenue, including interfacing with the landlord;
- (b) Assist the Chapter 11 Trustee and the Chapter 11 Trustee's other professionals with respect to tax refund matters; and

- (c) Provide assistance and advice as requested with respect to matters where Skadden, Arps acquired material knowledge during its representation of the Debtors.

11. The retention of Skadden, Arps as special counsel to the Chapter 11 Trustee will terminate on March 31, 2012, provided that the Applicants may extend the retention beyond such date with Court approval.

#### **DISINTERESTEDNESS OF PROFESSIONALS**

12. To the best of my knowledge, and except as otherwise set forth herein, the members, counsel, and associates of Skadden, Arps, (a) do not have any connection with any of the Debtors, their affiliates, their creditors, or any other parties in interest, or their respective attorneys and accountants, the Chapter 11 Trustee, the United States Trustee for Region 2<sup>4</sup> or any person employed in the office of the same, or any judge in the United States Bankruptcy Court for the Southern District of New York or any person employed in the office of the same<sup>5</sup>, (b) are "disinterested persons," as that term is defined in section 101(14) of the Bankruptcy Code, as modified by Bankruptcy Code section 1107(b), and (c) do not hold or represent any interest adverse to the Debtors' estates.

13. Skadden, Arps in the past has represented, currently represents, and in the future likely will represent certain parties in interest in these cases in matters unrelated to the Debtors, the Debtors' reorganization cases or such entities' claims against

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<sup>4</sup> Elisabetta Gasparini, a former associate in the Firm's Corporate Restructuring Group, is currently a trial attorney at the U.S. Trustee's Office in Manhattan, New York (Region 2).

<sup>5</sup> Susan Arbeit, Adi Habbu, Clair James, and Max Polonsky are corporate restructuring associates currently employed by Skadden, Arps in its New York office. They were recently employed as law clerks in the United States Bankruptcy Court for the Southern District of New York. Stacy Lutkus and Raquelle Kaye, former corporate restructuring associates at Skadden, Arps, are law clerks in the United States Bankruptcy Court for the Southern District of New York.

or interests in the Debtors. Accordingly, prior to the commencement of these cases, Skadden, Arps conducted a disclosure review with respect to the Debtors and the significant parties in interest in the Debtors' cases, which disclosure review has continued since the commencement of the Debtors' cases. Except as otherwise provided herein, Skadden, Arps does not represent nor has it previously represented any of the current officers or directors of the Debtors.

14. Skadden, Arps currently represents and has, in the past, represented clients in matters that involved certain of the Debtors (or their predecessors) or their affiliates but which are unrelated to the Chapter 11 Cases:

(a) The Firm regularly represents CME Group Inc., and its wholly-owned subsidiaries Chicago Mercantile Exchange Inc. (the "CME"), Board of Trade of the City of Chicago, Inc. (CBOT), New York Mercantile Exchange, Inc. (NYMEX) and Commodity Exchange, Inc. (COMEX), in numerous unrelated matters and they are current clients of the Firm. MF Global Inc., an indirect subsidiary of Debtor MF Global Holdings Ltd., which is currently the subject of a SIPA proceeding (Case No. 11-2790 (MG) SIPA) is a member of those exchanges and of the clearing house owned and operated by the CME. MF Global UK Limited, another indirect subsidiary of MF Global Holdings Ltd. and which is currently in administration in the UK, is a member of CMECE, a UK-based clearing house, which is a subsidiary of the CME. MF Global Inc. and MF Global UK Limited are collectively referred to as the "Regulated Subsidiaries". The Firm does not represent the Regulated Subsidiaries.

The CME serves as the designated self-regulatory organization responsible, in the first instance, for regulating compliance by the Regulated Subsidiaries with financial and other rules and regulations. CME has not undertaken an investigation of the Regulated Subsidiaries in part because of the bankruptcy stay and because the CFTC has directed CME to desist from any such investigation. If CME ever pursues such an investigation, the Firm will not participate.

The Firm obtained a waiver from the CME to represent the Debtors, which does not permit the Firm to be adverse to the CME and for this reason, the Debtors' responses to any future

investigation conducted by the CME and any other regulatory investigations will be handled by conflicts counsel. Conversely, Skadden, Arps has not represented and in its work as special counsel will not represent the Debtors in matters relating to the CME.

While Skadden, Arps will not represent the CME in any future investigation of the Regulated Subsidiaries (and to the extent the Debtors are implicated in such investigation, the Debtors), during November, 2011, Skadden, Arps represented the CME and in the future may represent the CME (the "CME Representation") in respect of the appropriate treatment of customer accounts and collateral that have been transferred or are about to be transferred by the Regulated Subsidiaries pursuant to the direction of the SIPC Trustee, the CFTC, the Bankruptcy Court in the SIPA proceeding, or the UK administrator. In that connection, during November, 2011, Skadden, Arps was available, and in the future may be available to explain the rules, regulations and operating systems governing the clearing house and the exchanges to the CME's bankruptcy counsel. In addition, Skadden, Arps in the future may advise the CME in connection with any inquiry, investigation or suit respecting the CME's performance of its regulatory duties, including its performance of oversight and auditing functions with respect to the Regulated Subsidiaries. Such advice will relate to compliance and auditing standards and CME's actions and not to the propriety of the Regulated Subsidiaries or Debtors' conduct. Separate counsel has been employed to defend the CME in third party litigation and to represent it and its employees in connection with any inquiries relating to the Regulated Subsidiaries' (or Debtors') actions or statements. Skadden, Arps will not appear with or on behalf of a CME employee or other witness if the Regulated Subsidiaries' or any of their affiliates' conduct is or is likely to be the subject of the inquiry.

The Firm has instituted an "ethical wall" to prevent attorneys and legal assistants who work on the CME Representation from sharing information or working on matters for the Debtors and to prevent attorneys and legal assistants who work on matters for the Debtors from sharing information or working on the CME Representation.

(b) The Firm currently represents the O'Brien family in connection with its investments, which include R.J.O'Brien, a privately held business owned by the O'Brien family. Certain customer accounts from the Regulated Subsidiary, MF Global Inc. were transferred to R.J.O'Brien pursuant to the direction of the

SIPC Trustee. The O'Brien family contributed additional capital to R.J.O'Brien to facilitate the transfer of these customer accounts.

(c) On January 16, 2012, Dominic McCahill joined the Firm as a partner in the London office. Prior to joining the Firm, Mr. McCahill was a partner at Weil, Gotshal & Manges LLP ("Weil"). While a partner at Weil, Mr. McCahill represented Richard Fleming, Richard Heis, and Michael Pink (the "Administrators"), in their capacities as administrators of MF Global UK Limited. Both the Chapter 11 Trustee and the Administrators have signed waivers regarding Mr. McCahill's prior representation of the Administrators and the Firm's current representation of the Chapter 11 Trustee with the understanding that an "ethical wall" would be established to prevent attorneys and legal assistants who work on matters for the Debtors and the Chapter 11 Trustee from sharing information with Mr. McCahill and to prevent Mr. McCahill from sharing information with attorneys and legal assistants who work on matters for the Debtors and the Chapter 11 Trustee. Accordingly, the Firm has put in place an "ethical wall" to this effect.

(d) Prior to the Initial Debtors' chapter 11 filing, the Firm represented a current client in preliminary discussions in connection with a potential investment in a refined coal project, which would result in the availability of tax credits for the Debtors. No agreement was reached and discussions are not continuing.

(e) In 2005, Refco Inc. ("Refco") and certain of its affiliates sold Refco's global regulated futures commission merchant business and certain related assets to Man Financial Inc., a predecessor to MF Global Holdings Ltd., following an auction. Skadden, Arps represented Refco in its chapter 11 cases (Case No. 05-60006 (RDD)) and in connection with the sale of Refco's global regulated futures commission merchant business and related matters.

In addition, the Firm represented certain Refco employees in connection with testimony before the SEC and the CFTC. Some of those individuals moved to Man Financial Inc., a predecessor to MF Global Holdings Ltd.

Moreover, in 2005, Refco acquired Greenwich Capital. In connection with this acquisition, Skadden, Arps represented Refco in a settlement of tax liability with the UK tax agency, HMRC, and subsequently pursued certain managers and owners of Greenwich Capital for indemnification under the purchase agreement. The parties reached a settlement in 2007. The Man Group, MF Global

Holdings Ltd.'s former parent company, then acquired Greenwich Capital.

(f) In September 2011, the Firm represented Polypaths, LLC in a software license agreement negotiation in which the Regulated Subsidiary MF Global Inc. licensed the client's software.

(g) In 2008, the Firm represented the State of New Jersey Department of Treasury in a one-year effort to privatize the NJ Turnpike when Mr. Jon S. Corzine was Governor of New Jersey. Mr. Corzine attended some of the briefings. Until recently, Mr. Corzine was the chief executive officer of the Debtor MF Global Holdings Ltd. and the chairman of its Board of Directors.

(h) In addition four partners, one counsel, and one associate have represented the Debtors or The Man Group, MF Global Holdings Ltd.'s former parent company, in prior employment.

(i) David P. Bolger, a former director of MF Global, was Executive Vice President and Chief Financial Officer of Aon Corporation. The Firm represented the Aon Corporation board in a derivative action in Illinois (Case No. 2005C-4619). Mr. Bolger was a co-defendant in the case, but was not represented by the Firm. The case closed on October 23, 2007.

(j) Banca MB S.P.A. is a former client of the Firm. The Firm represented Banca MB S.P.A. in AxionPower Int'l v. Mercatus & Partners (Case No. 07 CV 11493, RWS S.D.N.Y.). MF Global, Inc. was a co-defendant. The matter closed on July 13, 2010.

(k) Members of the Firm provided assistance on a pro bono basis to the transition team for Mr. Corzine when he was elected governor of New Jersey.

(l) Martin Glynn, a former director of MF Global Holdings Ltd., is a former client of the Firm. The representation ended on July 14, 2011. Additionally, Laurie Ferber, a former associate at the Firm, is currently an officer of the Debtors.

15. In addition to the foregoing, Skadden, Arps currently represents, or has represented, the following entities (or their affiliates or beneficial owners) in matters unrelated to the Debtors, the Debtors' cases, or such entities' claims against and interests in the Debtors:

- (d) The following current officers or directors of the Debtors hold or have held positions with current or former Firm clients: Bradley I. Abelow; Stephen Grady; Dennis Klejna; Robert Lyons; Richard W. Moore; Tim Mundt; Dan Schulman; Michael G. Stockman; and James P. Sullivan.
- (e) **Lenders Under the Debtors' \$1.2 Billion Unsecured Revolving Credit Facility.** Australia and New Zealand Banking Group Limited; BNP Paribas; Credit Agricole Corporate and Investment Bank; Goldman Sachs Bank USA; JP Morgan; The Bank of New York Mellon; Wells Fargo Bank, N.A.; and Westpac Institutional Bank.
- (f) **Thirty Largest Unsecured Creditors of Initial Debtors.** Alvarez & Marsal Tax Advisory Services LLC; American Express Company; JPMorgan Chase Bank, N.A.; PricewaterhouseCoopers LLP; Promontory Financial Group LLC; RR Donnelly; Shearman & Sterling LLP; Sullivan & Cromwell LLP and Wilmington Trust, N.A.
- (g) **Top 20 Largest Unsecured Creditors of Each of the Subsequent Debtors.** Arch Coal, Inc. and Don and Patricia Laird.
- (h) **Significant Holders of 1.875% Convertible Notes due 2016.** Highbridge Capital Management Inc. and Citadel Investment Group LLC.
- (i) **Significant Holders of 6% Unsecured Notes due 2016.** Franklin Resources; Vanguard; Principal Investors; Blackrock; Federated (Insurance); Magnetar; TIAA-CREF; Loews; Principal Insurance; Genworth; and PSERS.
- (j) **Significant Holders of 3.375% Convertible Notes due 2018.** Angelo Gordon & Co LP; AQR Capital Management; Aristeia Capital LLC; Aviva Investors Global Services Ltd.; Citadel Investment Group LLC; CQS Investment Management Ltd; Fore Research & Management LP; GLG Partners LP; Highbridge Capital Management Inc; Lazard Asset Management LLC; Linden Advisors LLC; Lord Abbett & Co LLC; Palisade Capital

Management LLC; Susquehanna International Group, LLP;  
and UBS O'Connor.

- (k) **Significant Holders of 9% Convertible Notes due 2038.**  
Aristeia Capital LLC; Societe Generale Asset Management;  
Wellington Management Company; and Wells Fargo Bank.
- (l) **Largest Known Shareholders (Greater than 5%)<sup>6</sup>.**  
Advisory Research, Inc.; Fine Capital Partners LP; Pyramis  
Global Advisors LLC; RS Investment Management Co.  
LLC; TIAA-CREF Asset Management LLC; Guardian Life  
Insurance Company; J. Christopher Flowers; J.C. Flowers  
II L.P and Rydex Security Global Investors, LLC.
- (m) **Material Contract Parties.** Allianz Australia Insurance  
Limited; BNY Mellon Clearing, LLC; CapitaLand  
Commercial Management Pte Ltd; Citibank, N.A.;  
Commonwealth Funds Management Ltd.; ETrade Australia  
Securities Limited; IPC System, Inc.; MarketAxess  
Corporation; Saxo Bank; Singapore Exchange Securities  
Trading Ltd.; SunGard Availability Services LP; SunGard  
eProcess Inc.; SunGard Financial Systems LLC; Thomson  
Financial Inc.; TradeWeb LLC; and UBS AG.
- (n) **Insurers.** Alterra Insurance Limited; Aspen Insurance UK  
Ltd.; Axis Reinsurance Company; Chartis Specialty  
Insurance Company; Continental Insurance Company;  
Everest Reinsurance Company, L.L.C.; Fidelity and  
Deposit Company of Maryland; Great American Insurance  
Company; Hartford Fire Insurance Company; Houston  
Casualty Company; Insurance Company of the State of  
Pennsylvania; Ironshore Indemnity Inc.; Lexington  
Insurance Company; Liberty Mutual Insurance Company;  
Liberty Surplus Insurance Corporation; Lloyd's Syndicate  
0382 – HDU; Lloyd's Underwriters – KLN; New  
Hampshire Insurance Company; Travelers Insurance  
Company and Willis Limited.

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<sup>6</sup> Certain of these parties may no longer hold shares of MF Global Holdings Ltd., or may hold less than 5%. These results are based upon filings and reports generated since January 1, 2011.

- (o) **D&O Liability Insurers:** Ace American Insurance Company; Axis Insurance Company; Axis Specialty Limited Bermuda; Chartis Property Casualty Company; Continental Casualty Company; Everest National Insurance Company; Federal Insurance Company; Hartford Accident & Indemnity Company; Illinois National Insurance Company; New Hampshire Insurance Company; Scottsdale Indemnity Company; St. Paul Mercury Insurance Company; Twin City Fire Insurance Company; U.S. Specialty Insurance Company; and Westchester Fire Insurance Company.
  
- (p) **Exchanges and Clearinghouses/Principal Regulators and Self-Regulatory Organizations.** Chicago Board of Trade; Chicago Mercantile Exchange; CME Group; Commodity Exchange; Intercontinental Exchange; NASDAQ; New York Mercantile Exchange; New York Stock Exchange; NYSE Amex; and National Futures Association.
  
- (q) **Landlords.** Blackstone; Charles Schwab/Foundry; Equity Office ; CME Group; Swiss Re; and Transamerica.
  
- (r) **Competitors.** Bank of America; Citigroup; Goldman Sachs; Interactive Brokers; J.P. Morgan Chase; UBS; Cantor Fitzgerald; and ING.
  
- (s) **Litigation Parties.** Bank of Montreal; Man Group and Optionable, Inc.
  
- (t) **Debtors' Proposed Chapter 11 Professionals.** Other than Skadden, Arps, the Debtors intend to seek to retain or compensate certain other professionals to assist them in matters related to these chapter 11 cases. Of these professionals, Skadden, Arps currently represents or has represented: FTI Consulting and Kasowitz Benson Torres & Friedman LLP.
  
- (u) **Ordinary Course Professionals.** Since 2000, Skadden, Arps has represented Foley & Lardner LLP; Latham & Watkins LLP; Paul, Hastings, Janofsky & Walker LLP; Promontory Financial Group LLC; Seyfarth Shaw LLP;

Shearman & Sterling LLP; and Henry Davis York  
Lawyers.

- (v) **Chapter 11 Trustee's Professionals.** Pepper Hamilton, LLP.
- (w) **Other parties in interest.** Jefferies and Co; Buchalter Nemer, PC; Chapman and Cutler, LP; FMR LLC; JC Flowers & Co UK Ltd; and Piper Jaffray Companies.
- (x) **Relationships.** I am not related, and, to the best of my knowledge, no attorney at the Firm is related, to any officers or directors of the Debtors, any United States Bankruptcy Judge in the Southern District of New York or to the United States Trustee for Region 2 or any person employed in the offices of the same. Elisabetta Gasparini, a former associate in the Firm's Corporate Restructuring Group is currently a trial attorney at the U.S. Trustee's Office in Manhattan, New York (Region 2). Susan Arbeit, Adi Habbu, Clair James, and Max Polonsky are corporate restructuring associates currently employed by Skadden, Arps in its New York office. They were recently employed as law clerks in the United States Bankruptcy Court for the Southern District of New York. Stacy Lutkus and Raquelle Kaye, former corporate restructuring associates at Skadden, Arps, are law clerks in the United States Bankruptcy Court for the Southern District of New York.

16. **Connections with the Chapter 11 Trustee.** Skadden, Arps currently represents Wilmington Trust Co. and its then outside directors, including the Chapter 11 Trustee, in litigation alleging securities law violations, and breaches of various duties in connection with its recent merger. The Chapter 11 Trustee is no longer a director of Wilmington Trust Co. In addition, the Chapter 11 Trustee is a former outside director of the Firm's current client L-1 Identity Solutions and a current outside director of the Firm's former client Bristol-Myers Squibb.

**17. Prior Representations by Current Skadden, Arps Attorneys.**

Certain Skadden, Arps attorneys have in the past, prior to their employment by Skadden, Arps, represented, or been employed by, certain parties in interest on matters unrelated to the Debtors.

18. Furthermore, certain Skadden, Arps attorneys may be related to, or have relationships with, or other interests in, parties in interest, or members, employees or directors of parties in interest.

19. In addition, some of the Firm's professionals have assets managed by financial advisors or hold mutual funds which are managed by third-party fund managers. Neither the Firm nor its professionals have any control over the investments in such funds, including investment purchases, sales and the timing of such activities. Securities of the Debtors or potential parties in interest may be held through the foregoing investments. In addition, certain professionals may hold securities of potential parties in interest or their affiliates in the ordinary course. To the best of my knowledge, none of the Firm's professionals holds securities of the Debtors or the Debtors' affiliates in a capacity with any control over the investment.

20. Many of the Firm's representations of the above clients consist of representations in episodic transactional matters. Skadden, Arps' representation of the above entities will not affect the Firm's representation of the Debtors in these cases. Skadden, Arps does not represent any party in any matter adverse to the Debtors and, except as otherwise disclosed herein, Skadden, Arps does not presently represent the above entities in any matters related to the Debtors.

21. For the twelve-month period ending October 31, 2011 (the "Trailing Twelve Months"), including the Firm's representation of the Debtors and their affiliates, of the entities identified in this Declaration and their affiliates, only the following have accounted for more than 1% of the value of the time billed to client matters for the Trailing Twelve Months: Bank of America; Credit Agricole; Blackrock Financial Management, Inc.; JP Morgan Chase; and Citigroup, Inc. Only Bank of America, including its broker dealer subsidiaries, accounted for more than 2% of the value of time billed to client matters for the Trailing Twelve Months.

22. Except as otherwise set forth herein:

- (a) Neither Skadden, Arps nor any attorney at the Firm holds or represents an interest adverse to the Debtors' estates.
- (b) Neither Skadden, Arps nor any attorney at the Firm is or was a creditor or an insider of the Debtors, except that Skadden, Arps previously has rendered legal services to the Debtors for which it has been compensated as disclosed below.
- (c) Neither Skadden, Arps nor any attorney at the Firm is or was, within two years before the Petition Date, a director, officer, or employee of the Debtors.
- (d) Skadden, Arps does not have an interest materially adverse to the interest of the estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors specified in the foregoing paragraphs, or for any other reason.

23. In view of the foregoing, I believe that Skadden, Arps is a "disinterested person" within the meaning of Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b).

24. Skadden, Arps has instituted and is currently engaged in extensive further inquiry regarding the Debtors' constituencies through further inquiries of its

partners, counsel, and associates with respect to the matters contained herein, including the circulation of a special disinterestedness questionnaire to each of the approximately 2,000 partners, counsel, and associates in the Firm's numerous domestic and international offices. Skadden, Arps will promptly file a supplemental declaration should the results of this inquiry or any further inquiries reveal material facts not disclosed herein. Skadden, Arps will continue to comply with its ongoing duty under the Bankruptcy Code to notify this Court if any actual conflict arises, and, if necessary, arrange for an "ethical wall" with respect to the Skadden, Arps attorney who worked on such matter (in addition to the ethical wall previously noted with respect to the CME Representation).

25. Pursuant to the Engagement Agreement, the Debtors waived certain non-disqualifying conflicts and agreed that Skadden, Arps may represent other present and future clients of Skadden, Arps on a basis adverse to the Debtors, including litigation, legal or other proceedings, so long as Skadden, Arps was not then and had not previously been engaged by the Company in the matter. However, during the pendency of the chapter 11 cases, Skadden, Arps will not represent present or future clients of Skadden, Arps on matters adverse to the Debtors in these chapter 11 cases. Moreover, in connection with the chapter 11 cases, to the extent any causes of action are commenced by or against a present or future client of Skadden, Arps, and a waiver letter is not obtained permitting Skadden, Arps to participate in such action, the Debtors will obtain conflicts counsel to represent them in such action.

### **PROFESSIONAL COMPENSATION**

26. Skadden, Arps will accept as compensation for its work during the chapter 11 cases such sums as may be allowed by the Court on the basis of the professional time spent, the rates charged for such services, the necessity of such services

to the administration of the estates, the reasonableness of the time within which the services were performed in relation to the results achieved, and the complexity, importance, and nature of the problems, issues or tasks addressed in these cases. Additionally, Skadden, Arps will seek compensation for all time and expenses associated with its retention as a section 327(a) professional and a section 327(e) professional, including the preparation of the Application, this Declaration and related documents, as well as any monthly fee statements and/or interim and final fee applications.

27. Skadden, Arps' fees for professional services are based upon hourly rates, which are periodically adjusted. Under the Engagement Agreement, Skadden, Arps and the Debtors agreed that Skadden, Arps' standard bundled rate structure would apply to these cases, which was modified pursuant to an agreement with the Chapter 11 Trustee as described below. A copy of Skadden, Arps' bundled rate structure is attached to the Engagement Agreement. Therefore, Skadden, Arps will not be seeking to be separately compensated for certain staff, clerical and resource charges. The hourly rates under the bundled rate structure range from \$795 to \$1095 per hour for partners and of counsel, \$770 to \$860 per hour for counsel and special counsel, \$365 to \$710 per hour for associates, and \$195 to \$295 per hour for legal assistants and support staff. These hourly rates are subject to periodic increases in the normal course of business, often due to the increased experience of a particular professional.<sup>7</sup> Pursuant to an agreement with the Chapter 11 Trustee, Skadden, Arps has agreed to reduce the

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<sup>7</sup> In the event the hourly rates set forth herein are adjusted during the pendency of these chapter 11 cases, Skadden, Arps will provide the Bankruptcy Court and the Office of the U.S. Trustee with written notice of such new hourly fees.

aggregate amount of compensation requested for professional services rendered on and after November 28, 2011 by 10%.

28. On October 28, 2011, the Debtors delivered to Skadden, Arps a \$500,000.00 retainer to be held as on account cash for the advance payment of pre-petition professional fees and expenses incurred and charged by Skadden, Arps for the restructuring-related work (the "Retainer").

29. Prior to the commencement of these cases, the Firm invoiced the Debtors the sum of \$450,000 for estimated fees and expenses incurred prior to the Petition Date and applied a portion of the Retainer in payment of such amount (leaving a Retainer in the amount of \$50,000).

30. The actual amount of the fees and expenses owed to the Firm as a result of the services rendered by it to the Debtors prior to the Petition Date was \$623,773, leaving an unsecured claim against the Debtors of \$123,773 after application of the remaining \$50,000 Retainer. Skadden, Arps agrees to waive such claim in the event an order is entered approving its retention as counsel to the Debtors as requested by the Application.

31. Consistent with the Firm's policy with respect to its other clients, Skadden, Arps has charged and will continue to charge the Debtors for all other services provided and for other charges and disbursements incurred in the rendition of such services. These charges and disbursements include (without limitation) costs for photocopying, electronic data management services, including scanning and document imaging, travel, travel-related expenses, business meals, computerized research, messengers, couriers, postage, witness fees, and other fees related to trials and hearings at

the rates set forth in the Policy Statement Concerning Charges and Disbursements Under Standard Bundled Rate Structure, which is attached as Schedule 1 to the Engagement Agreement.

32. During the course of these cases, Skadden, Arps will apply to the Court for allowance of compensation for professional services rendered and reimbursement of expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the United States Trustee Fee Guidelines, and any orders entered in these cases governing professional compensation and reimbursement for services rendered and charges and disbursements incurred. Such applications will constitute a request for interim payment against the Firm's reasonable fees and expenses to be determined at the conclusion of these cases.

33. Other than as set forth herein and in the Application, no arrangement is proposed between the Applicants and Skadden, Arps for compensation to be paid in these cases. Except for such sharing arrangements among Skadden, Arps, its affiliated law practice entities, and their respective members, Skadden, Arps has no agreement with any other entity to share any compensation received, nor will any be made, except as permitted under Bankruptcy Code section 504(b)(1).

I declare under penalty of perjury under the laws of the United States of America that, to the best of my knowledge, information and belief, and after reasonable inquiry, the foregoing is true and correct.

Dated: January 23, 2012

SKADDEN, ARPS, SLATE, MEAGHER & FLOM  
LLP

/s/ J. Gregory Milmoe

J. Gregory Milmoe  
SKADDEN, ARPS, SLATE, MEAGHER  
& FLOM, LLP  
Four Times Square  
New York, New York 10036-6522  
(212) 735-3000  
(212) 735-2000

EXHIBIT 1

Engagement Agreement

**SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP**

300 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071-3144

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FAX: (213) 687-5600  
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212-735-3310  
DIRECT FAX  
917-777-3310  
EMAIL ADDRESS  
KEN.ZIMAN@SKADDEN.COM

**FIRM/AFFILIATE OFFICES**

BOSTON  
CHICAGO  
HOUSTON  
NEWARK  
NEW YORK  
PALO ALTO  
RESTON  
SAN FRANCISCO  
WASHINGTON, D.C.  
WILMINGTON  
BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
PARIS  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO  
VIENNA

October 28, 2011

Laurie R. Ferber  
Executive Vice President  
and General Counsel  
MF Global Holdings Ltd.  
55 East 52nd Street  
40th floor  
New York, NY 10055

Dear Ms. Ferber:

We are pleased that MF Global Holding Ltd., for itself and each of its subsidiaries for which there is no disqualifying conflict and which Skadden, Arps, Slate, Meagher & Flom LLP and its affiliated law practices ("Skadden" or the "Firm") has agreed to represent (collectively, the "Company"), has decided to engage Skadden as special counsel in connection with the matters described below in the "Scope of Engagement" section of this Engagement Agreement and such other matters as are assigned to us in the future and that we agree to undertake (the "Engagement").

This letter sets forth the terms of our engagement arrangements for all matters (whether pending or prospective), including staffing, fees and waivers, the scope of our engagement, the basis on which the Firm will present its bills for fees, related charges and disbursements, and certain limitations on the Firm's services arising from potential conflicts of interest. As usual, our Engagement is to represent the Company and not its individual directors, officers, employees or shareholders. However, we anticipate that in the course of that Engagement, we may provide information or advice to directors, officers or employees in their corporate capacities.

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### **Scope of Engagement**

We have agreed to represent the Company as special counsel in the Company's efforts to work out its present financial circumstances, which may include restructuring its financial affairs and capital structure (including resolving defaults extant in the Company's public and private debt), in addition to future representation of the Company on matters for which the Firm may be engaged by the Company not related to the Company's efforts to work out its present financial circumstances. The services to be provided by the Firm in connection with the Engagement will encompass all services normally and reasonably associated with this type of engagement which the Firm has been requested and is able and has agreed to provide and which are consistent with its ethical obligations. As legal counsel, we are not in a position to, and the Company has not retained us to, provide financial advice. With respect to all matters of our Engagement, we will coordinate closely with the Company as to the nature of the services to be rendered by us and the scope of our engagement.

The Engagement may involve advice as to corporate transactions and corporate governance, negotiations, consent solicitations and other out-of-court agreements with creditors, equity holders, prospective acquirers and investors, review of documents, preparation of agreements, review and preparation of pleadings, court appearances and such other actions as both of us deem necessary and desirable. While the Company may be pursuing out-of-court initiatives to restructure its financial affairs and to otherwise maximize the enterprise value of the Company for its stakeholders, we agree that the Engagement also will include advice to, and representation of the Company, as debtors and debtors-in-possession, should the Company seek relief pursuant to the provisions of the Bankruptcy Code subject to the approval of our retention by the Bankruptcy Court.

If the Company determines that reorganization cases under chapter 11 of the Bankruptcy Code or other types of relief are appropriate, we will prepare for the filing of the bankruptcy petitions, including review of documents and preparation of the petitions with supporting schedules and statements. During the cases and subject to our ethical obligations discussed above, we will advise and consult on the conduct of the cases, including all of the legal and administrative requirements of operating in chapter 11; prepare such administrative and procedural applications and motions as may be required for the sound conduct of the cases; prosecute and defend litigation that may arise during the course of the cases; consult with you concerning and participate in the formulation, negotiation, preparation and filing of a plan or plans of reorganization and disclosure statement(s) to accompany the plan(s); review and object to claims; analyze, recommend, prepare, and bring any causes of action created under the Bankruptcy Code; take all steps necessary and appropriate to bring

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the cases to a conclusion; and perform the full range of services normally associated with matters such as this which the Firm is in a position to provide.

In the event that chapter 11 cases are commenced and our retention is authorized, our representation will include, as noted above, serving as principal bankruptcy counsel to the debtors-in-possession under a general retainer, subject to court approval. Such representation also will encompass all out-of-court planning and negotiations attendant to these tasks. Although it is hoped that litigation can be avoided, subject to ethical constraints regarding conflicts of interest, we also will be available to serve the Company in any litigation capacities that become necessary to the extent that any required court approval is obtained.

We do not provide certain kinds of opinion letters in connection with restructuring and bankruptcy reorganization cases to clients or to others who may wish to rely upon such letters. We do not alter this policy except under very unusual circumstances and then only upon further written agreement.

The Company agrees to make appropriate employees available to us to assist in factual inquiries and factual determinations, court hearings and appearances, transactions and dealings in relation to the subject matter with regard to which we have been retained.

#### **Case Management and Coordination of Outside Counsel**

The Company is presently using more than one law firm for representation of its interests on substantive matters including, particularly, the law firm of Sullivan & Cromwell for mergers/acquisitions and general corporate matters. We understand that Sullivan & Cromwell will continue to represent the Company with respect to these matters and we will endeavor to closely coordinate our efforts with them as a part of our representation of the Company.

It is likely that other law firms may be needed for such representation, particularly to represent the Company in connection with the numerous labor-intensive day-to-day tasks associated with the Company's present restructuring efforts and other matters. Other than the general representation of the Company by Skadden as restructuring counsel and in any chapter 11 cases, if filed, the Company will continue to have discretion to assign specific tasks to co-counsel, adjunct counsel, or special counsel (collectively, "Other Counsel"), as the case may be. If, as outlined below, we are unable to obtain court approval for all matters in potential chapter 11 cases that you wish us (and we agree) to undertake, our representation would include as many of those matters as are approved. We are committed to working with the Company and in full cooperation with Other Counsel to manage the Engagement on a cost-efficient and productive basis. To the extent possible,

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given the nature and magnitude of the Engagement, steps have been taken and should continue to be taken by the Company to coordinate tasks and, when practical, to divide these tasks to avoid unnecessary duplication of effort between us and Other Counsel.

#### **Engagement Personnel**

Ken Ziman and Greg Milmoie will coordinate all Engagement matters on behalf of Skadden. Additional lawyers, including those in other practice areas, will be added to the Engagement on an as needed basis.

#### **Fees and Expenses**

Our fees will be based primarily on the time involved in the Engagement and our bundled hourly time charges. A list of our current bundled hourly time charges using the Firm's bundled rate structure as of January 1, 2011 is attached as Exhibit A. As part of the Firm's ordinary business practices, hourly time charges are periodically reviewed and revised.

If the Engagement results in a one or more transactions or in a direct economic benefit to the Company, our fee would reflect a variety of factors. These factors include bundled hourly time charges, the significance of the Firm's role, the importance of the Firm's expertise, the complexity of the matter, the outcome of the matter, the Firm's contribution to the results obtained, the size and significance of the matter, the intensity and duration of the Firm's efforts, the amount of fees we have received in other comparable matters, and the views of our client. As to the latter factor, we consider it very important and would not submit a final statement for services rendered without having discussed our fee in advance with the Company based on the factors mentioned above and obtaining your concurrence.

As to billing, we will submit a client level on-account statement for all Engagement matters approximating bundled hourly time charges for payment on not less than a monthly basis, and at each matters conclusion, we will submit a final statement for services rendered which will be based upon our bundled hourly time charges and, if appropriate, the factors outlined above and which would credit all prior payments.

Each statement submitted would be accompanied by a summary of attorney time showing the time worked by each lawyer working on an Engagement matter and the guideline hourly rate for each lawyer. In addition, our billing statements will include charges and disbursements incurred by us in the course of performing legal services in accordance with our standard practice as described in the summary attached as Exhibit B which may be periodically updated.

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From time to time the Company may request a fee range estimate for a particular the Engagement matter. Any such estimate would be premised upon certain assumptions, including, but not limited to, completion of the matter by a particular target date, no unusual issues or problems arising, no litigation, counsel for the other parties sufficiently experienced and competent to perform such counsel's normal functions in this type of matter and so forth. In such situations, we will respond promptly to the Company's request in writing although it is agreed that such estimates shall not constitute a fee cap or amendment of this Engagement Agreement and all such discussions and written estimates would be handled through the undersigned in respect of the overall Engagement on behalf of the Firm.

### **Fee Structure and Retainers**

It is customary in matters of this nature for us to receive a reasonable retainer / on account payment and to be paid promptly for services rendered and charges and disbursements incurred on behalf of the Company, including payment for the services rendered and charges and disbursements incurred prior to the date hereof. Given the size and complexity of the Company's affairs, we have requested a payment in the amount of \$750,000, representing a retainer / on account payment for professional services rendered and to be rendered and charges and disbursements incurred by us to the Company's account in connection with our representation of the Company including with respect to any consensual non-judicial restructuring as well as any initial preparation that you authorize for cases under chapter 11 of the Bankruptcy Code that may be filed by or against the Company (the "Initial Retainer"). The Company agrees to supplement the Initial Retainer from time to time during the course of the Engagement in such amounts as we mutually shall agree are reasonably necessary to maintain the Initial Retainer at a level that will be sufficient to fund Engagement fees, charges and disbursements to be incurred for time periods to be covered by the Initial Retainer.

Should the Company subsequently decide to seek chapter 11 relief, we will also require an additional retainer / on account payment to supplement the Initial Retainer in order to cover Engagement fees, charges and disbursements to be incurred during the initial phase of the reorganization cases (the "Filing Retainer"). We will determine and discuss the amount of the Filing Retainer with you prior to the initiation of any chapter 11 case or at such earlier time as either we or the Company deems appropriate or desirable. Of course, the reasonableness of the Filing Retainer remains subject to review by the court in any ensuing cases.

In the future, we will send the Company periodic invoices (not less frequently than monthly) for services rendered and charges and disbursements incurred on the basis discussed above. Each invoice constitutes a request for an

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interim payment against the reasonable fee to be determined at the conclusion of our representation. Upon transmittal of the invoice, unless the Company elects to promptly pay the presented statement by wire transfer, the Firm shall draw upon the Initial Retainer (as may be supplemented from time to time by supplemental retainers) in the amount of the invoice. The Company agrees upon submission of each such invoice, if so requested by the Firm, to wire the invoice amount to us as replenishment of the Initial Retainer (together with any supplemental amount to which the Firm reasonably requests), without prejudice to the Company's right to advise us of any differences it may have with respect to such invoice. We have the right to apply to any outstanding invoice (including amounts billed prior to the date hereof), up to the remaining balance, if any, of the Initial Retainer (as may be supplemented from time to time by supplemental retainers) at any time subject to (and without prejudice to) the Company's opportunity to review our statements.

In the event that the Company subsequently determines to seek bankruptcy court protection and subject to the terms of any professional compensation order entered in the Company's chapter 11 cases, the issuance of our periodic invoice shall constitute a request for an interim payment against the reasonable fee to be determined at the conclusion of the representation. Although the Company may pay us from time to time for services rendered in our capacity as special counsel for various matters, some fees, charges, and disbursements incurred before the filing of bankruptcy petitions (voluntary or involuntary) may remain unpaid as of the date of the bankruptcy filings. Any portion of the Initial Retainer (as may be supplemented from time to time by supplemental retainers or the Filing Retainer) not otherwise properly applied will be held by us for the payment of any such unpaid fees, charges and disbursements (whether or not billed).

If orders for relief relating to the Company are entered, the unused portion, if any, of the Initial Retainer (as may be supplemented from time to time by supplemental retainers or the Filing Retainer) will be applied to any unpaid prepetition invoices and unbilled fees, charges and disbursements, although any requisite court permission will be obtained in advance. Postpetition fees, charges and disbursements will be due and payable immediately upon entry of an order containing such court approval or at such time thereafter as instructed by the court, it being agreed and understood that the unused portion, if any, of the Initial Retainer (as may be supplemented from time to time by supplemental retainers or the Filing Retainer) shall be held by us and applied against the final fee application filed and approved by the court. The Company understands that while the arrangement in this paragraph may be altered in whole or in part by the bankruptcy court, the Company shall nonetheless remain liable for payment of court approved postpetition fees and expenses. Such items are afforded administrative priority under 11 U.S.C. ' 503 (b)(1). The Bankruptcy Code provides in pertinent part, at 11 U.S.C. '

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1129(a)(9)(A), that a plan of reorganization cannot be confirmed unless these priority expenses are paid in full (unless such claimants agree to different treatment) in cash on the effective date of any reorganization plan.

If a dispute develops about our fees, you may be entitled under Part 137 of the Rules of the Chief Administrator of the New York Courts to arbitration of that dispute if it involves more than one thousand and less than fifty thousand dollars.

All references to fees, charges and disbursements are exclusive of any applicable VAT, GST, sales, withholding or similar tax imposed by relevant tax authorities and such VAT, GST, sales, withholding or similar tax will be charged by us in addition to our fees, charges and disbursements, as applicable, or paid directly by the Company, where applicable.

#### **Waivers and Related Matters**

The Firm represents a broad base of clients on a variety of legal matters. Accordingly, absent an effective conflicts waiver, conflicts of interest may arise that could adversely affect your ability and the ability of other clients of the Firm to choose the Firm as its counsel and preclude the Firm from representing you or other clients of our Firm in pending or future matters. Given that possibility, we wish to be fair not only to you, but to our other clients as well. Accordingly, this letter will confirm our mutual agreement that the Firm may represent other present or future parties on matters other than those for which it had been or then is engaged by the Company, whether or not on a basis adverse to the Company or any of its present or future affiliates, including in litigation, legal or other proceedings or matters, which are referred to as "Permitted Adverse Representation".

In furtherance of this mutual agreement, the Company agrees that it will not for itself or any other party assert the Firm's representation of the Company or any of its present or future affiliates, either in its representation in the Engagement or in any other matter in which the Company retains the Firm, as a basis for disqualifying the Firm from representing another party in any Permitted Adverse Representation and agrees that any Permitted Adverse Representation does not constitute a breach of any duty owed by the Firm. Examples of Permitted Adverse Representation would include, without limitation, representing a client over which the Company might be seeking to acquire influence or control, or from which the Company may wish to buy assets, representing a client regarding its interest at the time in acquiring influence or control over an entity in which the Company then has a similar interest or representing a debtor or creditor client in a judicial proceeding under the Bankruptcy Code or similar legislation in a matter initiated by such client that is adverse to the Company. The Company agrees that this paragraph and the

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preceding one do not expand the scope of the Engagement to encompass affiliates of the Company unless expressly agreed to by the Firm.

With respect to third parties and based on our initial discussions concerning the Company's capital structure and given the Company's business relationship, as well as other entities that are providing financial accommodations and services to the company or have other material relationships. Accordingly, while for purposes of this Engagement Agreement, the Company should assume that we represent a substantial number of the Company's creditors and stakeholders on matters unrelated to the Company, we will, at the Company's request, furnish you with a list of relevant clients when we receive updated information from the Company from time to time regarding its creditors and other stakeholders. In the event that chapter 11 cases are commenced, we will prepare a disclosure summary which will be publicly disclosed and will be updated periodically thereafter in connection with the filing of interim fee applications and as otherwise required. Notwithstanding the foregoing waivers, the Firm agrees that, prior to the effective date of a plan of reorganization in connection with any chapter 11 reorganization cases involving the Company in which the Firm is acting as bankruptcy and restructuring counsel pursuant to a general retainer pursuant to 11 U.S.C. ' 327 (a), the Firm will not represent present or future clients, of the Firm on matters adverse to the Company in such chapter 11 reorganization cases.

With respect to parties affiliated with the Company generally, including parties owned by the Company and parties that hold direct or indirect interests in the Company, it is our understanding that the Firm is not being asked to provide, and will not be providing, legal advice to, or establishing an attorney-client relationship with, any such affiliated party or person in their individual capacity and will not be expected to do so unless the Firm has been asked and has specifically agreed to do so. Further, it is our understanding that if the Firm acts as counsel for any other entity as to which the Company then owns completely, directly or indirectly, all of the common stock or similar voting interest (other than directors' qualifying shares, if any). The mutual agreement reflected in this letter, including the waivers, would apply to that entity as well. Upon our request, the Company will take any action the Firm concludes is needed to confirm the application of this letter to that entity or entities.

In the event the Company is acquired or is otherwise subject to a change in control (including by a person or group becoming a controlling affiliate of the Company after the date hereof), the Firm will not be deemed (i) to represent, or provide or have provided legal advice to, the acquiring entity or such controlling affiliate (or, subject to clause (ii) below, to any affiliate of any such acquiring entity or controlling affiliate) or to establish an attorney-client relationship with such

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entities or affiliates and (ii) except as otherwise required by applicable law or at the election of the Firm, to continue to represent the Company unless and until both the Company and the Firm reaffirm this letter. Notwithstanding any termination of the attorney-client relationship, the other provisions of this letter will continue in effect.

Our representation of the Company is premised on the Firm's adherence to its professional obligation not to disclose any confidential information or to use it for another party's benefit without the Company's consent. Such obligations are subject to certain exceptions, including the laws, rules and regulations of certain jurisdictions relating to money laundering and terrorist financing. Under the relevant circumstances, the Firm may be under a duty to disclose information to relevant governmental authorities. The Firm may be prohibited from informing you that such disclosure has been made or the reasons for such disclosure, and we may have to cease work for you for a period of time and not be able to inform you of the reason. Provided that the Firm acts in the manner set forth in the first sentence of this paragraph and subject to the exceptions noted above, the Company would not for itself or any other party assert that the Firm's possession of such confidential information, even though it may relate to a matter for which the Firm is representing another client or may be known to someone at the Firm working on the matter, (a) is a basis for disqualifying the Firm from representing another of its clients in any matter in which the Company or any other party has an interest; or (b) constitutes a breach of any duty owed by the Firm. In addition, the Firm's failure to share with the Company any confidential information received from another client will not be asserted by the Company as constituting a breach of any duty owed to the Company by the Firm, including any duty regarding information disclosure.

If the Firm receives from any person or entity a subpoena or request for information that is within our custody or control or the custody or control of our agents or representatives, we will, to the extent permitted by applicable law, advise the Company before responding so that the Company has the opportunity to intervene or interpose any objections. Should the Company object to the provision of such information, the Firm may thereafter provide such information only to the extent authorized by the Company or required by a court or other governmental body of competent jurisdiction. The Company agrees to pay the Firm for any services rendered and charges and disbursements incurred in responding to any such request at the Firm's customary billing rates and pursuant to the Firm's charges and disbursements policies.

The Company agrees that the Firm may disclose the fact of this Engagement and related general information to the extent that such disclosure does not convey any confidential or non-public information and it is not adverse to the Company's interests.

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### **Client Identification Procedures And Regulatory Compliance**

Many jurisdictions have adopted or are in the process of changing or creating anti-money laundering, counter-terrorist financing, embargo, trade sanctions or similar policies or laws. As part of the Firm's responsibility for compliance with such laws, rules, regulations or policies, the Firm is obliged to take detailed steps to verify the identity of our clients and sources of payment. Accordingly, prior to commencement of work on the Engagement we will have already requested, or will be requesting shortly, that you provide us with required identification documents. A delay or failure to provide information required for verification purposes may prevent us from commencing or require us to suspend work on the Engagement. It is also necessary for us to reserve the right to request additional information believed necessary, advisable or appropriate to verify identity and/or to ensure the Firm's compliance with applicable laws, rules, regulations, best practices and anti-money laundering matters from time to time.

### **Data Transfer Consent**

Due to legal obligations applicable to the Firm or our affiliated offices, and to efficiently maintain information provided to us, the Firm may transfer some or all of any personal data and information ("Data") that the Company provides to the Firm to one or more of our affiliated offices in other countries that may not be subject to data protection laws similar to those prevailing in the jurisdiction in which such Data is first received by us. By signing this letter, you give us specific consent to obtain and transfer, as necessary, such information, and confirm that you have obtained from any person or entity as to which consent under such laws may be required ("Relevant Person"), authorization for us to make any such transfer of Data that you have supplied to us with respect to such Relevant Person.

### **Client Files and Retention**

In the course of our representation of you with respect to a matter, we shall maintain a physical file relating to the matter. In the file we may place materials received from you with respect to the matter and other materials, including correspondence, memos, filings, drafts, closing sets, pleadings, deposition transcripts, exhibits, physical evidence, expert's reports, and other items reasonably necessary to your representation (the "Client File"). The Client File shall be and will remain your property. We may also place in the file documents containing our attorney work product, mental impressions or notes, and drafts of documents ("Work Product"). You agree that Work Product shall be and remain our property. In addition, electronic records (except those to be proffered to you at the conclusion of a matter as described below) such as e-mail and documents prepared on our word

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processing system shall not be considered part of your Client File unless it has been printed in hard copy and placed in your physical file and does not constitute Work Product. You agree that we may adopt and implement reasonable retention policies for such electronic records and that we may store or delete such records in our discretion.

At the conclusion of a matter (which shall be defined as the time that our work on any matter subject to this letter has been completed), you shall have the right to take possession of the original of your Client File (but not including the Work Product). We will be entitled to make physical or electronic copies if we choose. You also agree, upon our proffer, at the conclusion of a matter (whether or not you take possession of the Client File), to take possession of any and all original contracts, stock certificates, deeds and other such important documents or instruments that may be in the Client File, without regard to format, and we shall have no further responsibility with regard to such documents or instruments.

If you do not take possession of the Client File at the conclusion of a matter, we will store such file in accordance with our standard retention procedures for a period of at least seven (7) years (the "Retention Period"). Such retention (or maintenance of accounting or other records related to our representation) shall not constitute or be deemed to indicate the presence of a continuing attorney-client relationship. During the time that we store the Client File, you shall have the right to take possession of it at any time that you choose. Subject to the foregoing, we may dispose of the Client File without further notice or obligation to you.

\* \* \*

The provisions of this letter will continue in effect, including if the Firm's representation of the Company was ended at your election (which, of course, the Company would be free to do at any time) or by the Firm for Good Cause (which would be subject to ethical requirements). Good Cause includes the Company's breach of this agreement (including any material change in our engagement responsibilities (which would include the commencement of chapter 11 cases in which we were not retained as primary section 327(a) counsel) without our consent or the failure to pay any payment when due under this Engagement Agreement), the Company's refusal or failure to cooperate with us or provide us with continuing access to the Board of Directors and senior management officers of the Company as appropriate, any fact or circumstance that would render our continuing representation unlawful or unethical, or, in our reasonable judgment, resignation of the engagement becomes necessary or appropriate. Any unused portion of the retainers we have received will be applied to our outstanding fees, charges and disbursements and the Company will promptly pay to us the remaining balance owed to us, if any. To the

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extent that the remaining amount of the retainers exceeds the amount of such fees, charges and disbursements, we will pay such amount to the Company. In addition, the provisions of this Engagement Letter will apply to future engagements of the Firm by the Company unless we mutually agree otherwise.

This agreement and any claim, controversy or dispute arising under or relating to this agreement, the relationship of the parties, and/or the interpretation and enforcement of the rights and duties of the parties shall be governed by, and construed in accordance with, the laws of the State of New York. For purposes of this letter, references to Skadden Arps or the Firm include our affiliated law practice entities. There are no representations or promises other than as expressly set forth herein.

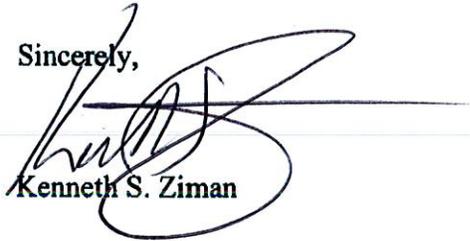
If the foregoing terms of our representation meet your approval and accurately represent your understanding of the retention agreement with us, we would appreciate your signing one copy of this Engagement Agreement and returning it to us.

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Again, we very much appreciate the opportunity to work with [       ]  
and look forward to doing so.

With best regards.

Sincerely,



Kenneth S. Ziman

MF Global Holdings Ltd.

By: Laurie R. Ferber  
Laurie R. Ferber  
Executive Vice President and General Counsel

Dated: As of October 28, 2011

Enclosures

**SKADDEN ARPS, SLATE, MEAGHER & FLOM LLP AND AFFILIATES**  
**Policy Statement Concerning Charges and Disbursements**  
**Under Standard Bundled Rate Structure**  
**Effective April 1, 2010**

Skadden Arps bills clients for reasonable charges and disbursements incurred in connection with an engagement. Clients are billed for disbursements based on the actual cost billed by the vendor or in a few cases noted below, at rates derived from internal cost analyses or at rates below or approximating comparable outside vendor charges.

**I. Research Services.** Charges for LexisNexis and Westlaw are billed at rates calculated from an aggregate discounted amount charged to and paid by the Firm to LexisNexis and Westlaw; accordingly, clients are billed at levels below that which would be charged for individual usage on a particular engagement. Thomson Research services are charged based on client usage allocated from actual vendor charges. Charges for other outside research services are billed at the actual amounts charged by vendors.

The State of Delaware Database provides computer access to a corporations database in Dover, Delaware. The charge for this service is \$50 per transaction, which is the average amount charged by outside services.

**II. Travel-Related Expenses.** Out-of-town travel expenses are billed at actual cost and include air or rail travel, lodging, car rental, taxi or car service, tips and other reasonable miscellaneous costs associated with travel. Corporate and/or negotiated discounted rates are passed on to the client. Specific Firm policies for expenditures relating to out-of-town travel include:

- Air Travel. Coach class is the standard on most U.S. domestic flights. However, for flights with scheduled flight times longer than 5 hours and international flights business class is generally used.
- Lodging. We strive to book overnight accommodations at hotels with which the Firm or the Client has preferred corporate rates.

Local travel charges include commercial transportation and, when a private car is used, mileage, tolls and parking. Specific policies govern how and when a client is charged for these expenses; these include:

- Fares for commercial transportation (e.g., car service, taxi or rail) are charged at the actual vendor invoice amount. The charge for private car usage is the IRS rate allowance per mile (or

the equivalent outside the United States) plus the actual cost of tolls and parking.

- Round-trip transportation to the office is not charged separately for attorneys who work weekends or holidays, nor is transportation home on business days when an attorney works past a certain hour (typically 8:30 p.m.).
- Local travel for support staff is not charged when a staff member works past a certain hour (typically 8:30 p.m.).

**III. Word Processing and Secretarial and other Special Task-Related Services.** Routine secretarial tasks (correspondence, filing, travel and/or meeting arrangements, etc.) are not charged to clients. There is no separate charge for word processing and secretarial services associated with preparing legal documents.

Specialized tasks (such as EDGAR filings or legal assistant services) are recorded in the appropriate billing category (for example, legal assistant services are recorded as fees in "Legal Assistant Support" on bills).

**IV. Reproduction and Electronic Document Management.** Photocopying services (including copying, collating, tabbing and velo binding) performed in-house are charged at 10 cents per page, which represents the average internal cost per page. Color photocopies are charged at 50 cents per page (based on outside vendor rates). Photocopying projects performed by outside vendors are billed at the actual invoice amount. Special arrangements can be made for unusually large projects.

Electronic Data Management services (e.g., scanning, OCR processing, data and image loading/exporting, CD/DVD creation, printing from scanned files, and conversions) performed by outside vendors are billed at the actual invoice amount and those performed in-house are billed at rates comparable to those charged by outside vendors.

V. **Electronic Communications:** Clients are charged for communications services as follows:

- **Telephone Charges.** There is no charge for local telephone calls or most long distance telephone calls. External telephone calls such as collect, cellular calls, credit card, hotel telephone charges and vendor-hosted conference calls are charged at the vendor rate plus applicable taxes and are assigned to the specific matter for which such charges were incurred.
- **Facsimile Charges.** There is no charge for facsimile usage.

VI. **Postage and Courier Services.** Outside messenger and express carrier services are charged at the actual vendor invoice amount which frequently involves discounts negotiated by the Firm. Postage is charged at actual mail rates. On certain occasions, internal staff may be required to act as messengers in which case the staff's applicable hourly rate is charged.

VII. **UCC Filing and Searches.** Charges for filings and searches, in most instances, are billed at the flat fee charged by the vendor. Unusual filings and searches will be charged based on vendor invoice.

VIII. **Meals.** Business meals are charged at actual cost. Luncheon and dinner meetings at the Firm are charged based on the costs developed by our food service vendor. Breakfast, beverage and snack services at the Firm's offices are not charged, except in unusual circumstances. Overtime meals are not charged separately to clients.

IX. **Direct Payment by Clients of Other Disbursements.** Other major disbursements incurred in connection with an engagement will be paid directly by the client. (Those which are incurred and paid by the Firm will be charged to the client at the actual vendor's invoice amount.) Examples of such major disbursements that clients will pay directly include:

- **Professional Fees** (including disbursements for local counsel, accountants, witnesses, barristers and other professionals)
- **Filing/Court Fees** (including disbursements for agency fees for filing documents, standard witness fees, juror fees)
- **Transcription Fees** (including disbursements for outside transcribing agencies and courtroom stenographer transcripts)

- **Other Disbursements** (including any other required out-of-pocket expenses incurred for the successful completion of a matter)

\* \* \* \* \*

\* Fees incurred for attorney and Firm personnel in connection with the Engagement are not covered by this policy.

# EXHIBIT C

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

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:   
In re : Chapter 11  
:   
MF GLOBAL HOLDINGS LTD., et al.,<sup>1</sup> : Case No. 11-15059 (MG)  
:   
: Jointly Administered  
Debtors. :   
-----x

**ORDER AUTHORIZING THE EMPLOYMENT AND  
RETENTION OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
AND AFFILIATES AS BANKRUPTCY COUNSEL *NUNC PRO TUNC*  
TO THE PETITION DATE THROUGH NOVEMBER 28, 2011  
AND THEREAFTER AS SPECIAL COUNSEL THROUGH MARCH 31, 2012**

Upon consideration of the Joint Application (the "Application") of Debtors and the Chapter 11 Trustee for an Order under 11 U.S.C. §§ 327(a) and 329, Fed. R. Bankr. P. 2014 and 2016, and S.D.N.Y. LBR 2014-1 and 2016-1 Authorizing Employment and Retention of Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates as Bankruptcy Counsel *Nunc Pro Tunc* to the Petition Date through November 28, 2011 and Thereafter as Special Counsel Through March 31, 2012, pursuant to Bankruptcy Code section 327(a), authorizing the Debtors and the Chapter 11 Trustee to employ and retain the law firm of Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden, Arps") *nunc pro tunc* to the Petition Date through November 28, 2011 as the Debtors' bankruptcy counsel and thereafter as special counsel, through March 31, 2012, to assist the Chapter 11 Trustee in performing his duties; and the Trustee having submitted the Abelow Affidavit and the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: MF Global Holdings Ltd. (EIN: 98-0551260); MF Global Finance USA Inc. (EIN: 98-0554890); MF Global Capital LLC (EIN: 13-3262825); MF Global FX Clear LLC (EIN: 20-3863678); and MF Global Market Services LLC (EIN: 02-0692193).

Milmoe Declaration in support of the Application; and the Court being satisfied based on the representations made in the Application, Abelow Affidavit, and the Milmoe Declaration that the partners, "of counsel", associates and paraprofessionals of Skadden, Arps who will be engaged in the Debtors' chapter 11 cases represent no interest adverse to the Debtors' estates with respect to the matters upon which Skadden, Arps is to be engaged, and that they are disinterested persons as that term is defined under Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b); and having considered the statements of counsel and the evidence presented at the hearing before the Court (the "Hearing") with respect to the Application; and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it further appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and it further appearing that notice of the Application as set forth therein is sufficient under the circumstances, and that no further notice need be provided; and it further appearing that the relief requested in the Application is in the best interests of the Debtors, their estates and their creditors; and after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED, that the Application is GRANTED to the extent provided herein; and it is further

ORDERED, that to the extent the Application, the Engagement Agreement, or the Milmoe Declaration is inconsistent with this Order, the terms of this Order shall govern; and it is further

ORDERED, that pursuant to Bankruptcy Code section 327(a) and Bankruptcy Rules 2014 and 2016, and subject to the terms of this Order, the Debtors and the Chapter

11 Trustee are authorized to employ and retain Skadden Arps *nunc pro tunc* to the Petition Date through November 28, 2011 as the Debtors' bankruptcy counsel and thereafter as special counsel to the Chapter 11 Trustee, through and including March 31, 2012, to perform the services described therein:

- (a) Assist the Chapter 11 Trustee with respect to matters pertaining to the surrender of the leased premises at 717 Fifth Avenue, including interfacing with the landlord;
- (b) Assist the Chapter 11 Trustee and the Chapter 11 Trustee's other professionals with respect to tax refund matters; and
- (c) Provide assistance and advice as requested with respect to matters where Skadden, Arps acquired material knowledge during its representation of the Debtors; and it is further

ORDERED, that the retention of Skadden, Arps as special counsel to the Chapter 11 Trustee shall terminate on March 31, 2012 , provided that the Applicants may extend the retention beyond such date with Court approval; and it is further

ORDERED, that Skadden, Arps shall be compensated in accordance with and will file interim and final fee applications for allowance of its compensation and expenses and shall be subject to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Amended Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals, dated November 25, 2009, the Amended Guidelines for Fees and Disbursements for Professionals in the Southern District of New York, dated November 25, 2009 (the "Amended Guidelines") and the United States Trustee Fee Guidelines (the "Fee Guidelines"), and any orders entered in these cases governing professional compensation and reimbursement for services rendered and charges and disbursements incurred; and it is further

ORDERED, that Skadden, Arps shall be reimbursed only for reasonable and necessary expenses as provided by the Amended Guidelines and the Fee Guidelines; and it is further

ORDERED, that prior to any increases in rates as set forth in paragraph 21 of the Application, Skadden, Arps shall file a supplemental affidavit with the Court and give ten business days' notice to the Chapter 11 Trustee, the United States Trustee and any official committee, which supplemental affidavit shall explain the basis for the requested rate increases in accordance with section 330(a)(3)(F) of the Bankruptcy Code and indicate whether the client has received notice of and approved the proposed rate increase; and it is further

ORDERED, that Skadden, Arps is authorized to apply the balance of the Retainer against its final reconciled invoice for pre-petition professional fees and expenses and Skadden, Arps has agreed to waive its pre-petition claim against the Debtors; and it is further

ORDERED, that Skadden, Arps shall use its best efforts to avoid any duplication of services provided by any of the Chapter 11 Trustee's other retained professionals in these chapter 11 cases; and it is further

ORDERED, that the United States Trustee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application; and it is further

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ORDERED, that, notwithstanding any provision to the contrary in the Application or the Engagement Agreement, the Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York  
February 9, 2012

/s/Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge