



A Message from the SIPA Trustee's Chief Counsel, David J. Sheehan

November 7, 2012 - A Ponzi scheme the size and duration of Bernard Madoff's was only possible if he went global. The magnitude of his financial fraud still holds the world record, with approximately \$17.5 billion in losses. Four years of investigation has revealed that Madoff's Ponzi scheme is unprecedented in its global reach – our work reconstructing the fraud has taken us into more than 30 jurisdictions to date.

Reports have focused largely on the Madoff liquidation here in the United States, but from the beginning, we have been tracing the funds that flowed through Madoff's Ponzi scheme throughout the world. Madoff money has moved through scores of jurisdictions, including Kuwait, Monaco, Panama, Singapore, South Korea, Taiwan, the Netherlands, and the United Arab Emirates. The Securities Investor Protection Act (SIPA) Trustee is actively involved in litigations, investigations and proceedings in France, Liechtenstein, Luxembourg, Austria, the United Kingdom, Spain, Gibraltar, and Israel. We are also pursuing stolen funds and chasing customer money throughout the Caribbean, from the British Virgin Islands to Bermuda and the Cayman Islands. The liquidation has confirmed the truest meaning of the phrase "Follow the money." And we do. We have conducted a forensic investigation of tremendous scope, engaged and instructed international counsel, brought multiple legal actions in many international courts, and cooperated with local law and regulatory enforcement bodies around the globe.

We allege that a global community – the banks we have sued and the wealthy individuals we are pursuing – knew of and aided Madoff's Ponzi scheme by creating structured financial products (often leveraged derivatives) tied to Bernard L. Madoff Investment Securities LLC (BLMIS) to sell to their favored clients in order to "take advantage" of the famous Madoff returns. In addition, "feeder funds" – almost all of them foreign-incorporated entities – also fueled Madoff's Ponzi scheme, and many of them would eventually grow into major, seemingly independent enterprises, like Fairfield Sentry and Tremont.

International entities became an important component of Madoff's sales pitch, helping convince customers that he was trading overseas. But Madoff didn't just hang a shingle in London as part of a sales ploy. He also often covered losses in his trading operation indirectly with funds that were transferred from his New York investment advisory business (BLMIS) to his London-based Madoff Securities International Ltd. (MSIL) and then "laundered" and returned to the United States, a move called "round-tripping."

The SIPA Trustee's [Racketeer Influenced and Corrupt Organizations Act \(RICO\)](#) complaint against Sonja Kohn, her family and other related defendants such as Bank Medici, Bank Austria and UniCredit, is instructive as to how global financiers and institutions worked together and with Madoff to feed and perpetuate the Ponzi scheme. Through forensic accounting and exhaustive research, we have unmasked this international web – which we call the Medici Enterprise – and revealed how these conspirators moved the money around the world and funneled it to Madoff. The Medici Enterprise alone fed more than \$9 billion into the Ponzi scheme. And \$5 billion of that amount came in after 2005, when UniCredit bought Bank Austria and Sonja Kohn's Bank Medici and took the enterprise wholesale.

While the Medici Enterprise is among the more fascinating examples, it's just one piece of the incredible international puzzle that is the Madoff Ponzi scheme. Here are a few more examples:

- The British Virgin Islands and Bermuda are active for a number of reasons, chief among them the litigation with the Kingate feeder funds: Kingate Euro and Kingate Global, which account for more than \$1 billion in potential recoveries.
- In Ireland, we are working to secure money channeled to the Thema Fund, a major feeder fund that was fed in part by another closely related feeder fund that was also 100 percent invested with Madoff.
- In the Cayman Islands, we are litigating with a “net winner” feeder fund against which we have a billion-dollar fraudulent transfer claim.
- In Israel, we have active litigation underway against an individual who has attempted to transfer substantial funds to relatives in an attempt to prevent the SIPA Trustee from recovering them for the Customer Fund.
- In Liechtenstein, we actively participate in several criminal proceedings in connection with the Medici Enterprise and have facilitated the freezing of millions of dollars held by Sonja Kohn, her family and their co-conspirator, Urszula Radel-Leszczynski.
- In Austria, we also actively participate in several criminal proceedings as we seek to identify and pursue assets fed into the Ponzi scheme that passed through Sonja Kohn's Bank Medici, Bank Austria, UniCredit, and their associated feeder funds.
- In the United Kingdom, we have joined forces with the court-appointed liquidator of MSIL in a litigation that involves Sonja Kohn, members of the Madoff family and other MSIL directors and officers. Through this collaboration, we anticipate recovering substantial funds for the Estate.
- Together with the liquidator of MSIL, the SIPA Trustee successfully sought a worldwide freezing order against Sonja Kohn, which has helped the liquidator identify and freeze approximately £27 million of her assets as legal actions proceed against her and other members of the Medici Enterprise.

All of these cases present an opportunity for significant recovery for BLMIS customers. While we are pursuing our cases in these jurisdictions with the same vigor as in the United States, it is worth noting that our international adversaries, like those here, are working to prevent the SIPA Trustee from recovering these monies for the Customer Fund and returning them to BLMIS customers.

When the liquidation of BLMIS began in December 2008, we faced an unprecedented challenge: uncovering the facts behind the decades-long Madoff Ponzi scheme, the largest financial fraud in history. Our world-class team of legal, accounting and investigative professionals had to start from scratch – with no assistance from the fraud's perpetrators – to reconstruct the truth behind the massive, intricate financial fraud. That is challenging enough in our home country. And the complexity only grows when that work is multiplied in more than 30 international jurisdictions, each with its own unique legal system and financial regulations.

Also adding to the challenge is the organic evolution of legal systems in every jurisdiction over time, as certain cases reach the highest court level and subsequent decisions potentially affect existing proceedings. For example, the Rubin v. Eurofinance case, recently decided by the United Kingdom Supreme Court, reflects the second time in recent years that the issue of enforceability of foreign default insolvency judgments has changed – and changed dramatically. While decisions such as this can pose a challenge to the SIPA Trustee, they also highlight the fact that modern international insolvency law is in a constant state of flux as it tries to keep up with the ever-changing technological framework underlying modern financial transactions. We remain at the forefront of these new developments, ready to respond to these changes when they come, and to forcefully argue for innovation in the law when such changes are necessary and appropriate.

I hope this brief overview of our international litigation will help convey the strong effort we are making on numerous fronts in this multifaceted liquidation. Our worldwide push to maximize recoveries for the Customer Fund is ongoing, so please check back from time to time for an update on the activities of the SIPA Trustee and his global teams.