



*Network for Investor  
Action and Protection*

December 7, 2010

Mr. Stephen P. Harbeck  
President  
Securities Investor Protection Corp.  
805 Fifteenth Street, NW, Suite 800  
Washington, DC 20005-2215

Mr. Orlan Johnson  
Chairman  
Securities Investor Protection Corp.  
805 Fifteenth Street, NW, Suite 800  
Washington, DC 20005-2215

Mr. Irving Picard, Trustee  
c/o Baker & Hostetler  
45 Rockefeller Plaza  
New York, NY 10111

Dear Mr. Harbeck, Mr. Johnson, Mr. Picard:

On behalf of the Network for Investor Action and Protection, I applaud your efforts to pursue those who were complicit in or negligently allowed the Madoff Ponzi fraud. However, we do not grasp the principles under which totally innocent investors -- apparently 1,000 of them -- have been selected for avoidance, or clawback, actions.

As shown in SIPC's letter to Congress dated September 7, 2010, the Trustee and SIPC have stated that there are \$5.8 billion of claims to be satisfied under Trustee's account valuation method. The Trustee has already sued parties he deems culpable for \$32 billion. Having already sued guilty parties for over \$32 billion to cover only \$5.8 billion in claims, why is it necessary to also sue innocent people, who often are aged, many who are suffering tremendous economic stress and emotional distress, and/or cannot even afford lawyers?

The Trustee has said he must sue investors to recover monies to give to so-called "net losers." But \$5.8 billion will achieve that, so we do not understand why it is necessary to sue the innocent. Even if the Trustee has a right to sue the innocent, something we dispute, why doesn't the Trustee exercise his discretion to *not* sue them?

The vast excess in already-sought recoveries over claims which the Trustee and SIPC say need satisfaction also dramatically raises the question of what will happen to recoveries in excess of the claims. Will the Trustee or SIPC get them as assignee of claims, or as subrogee of claims, or for some other reason, and if so, what would be the

expected amount? If SIPC does not get the excess recoveries, who will and why? Would both net winners and net losers participate, and in what fashion?

There is, finally, the question of which victims will participate in the recoveries that will be part of customer property. It is our understanding that something in the neighborhood of 80 percent of the recovered customer property that will go to victims will be given to the 138 customers whose account values under the net investment method exceed \$10 million. This would mean that by far the lion's share of money given to customers will go to the very wealthy, and not to small investors to whom you have assigned a negative net equity by use of the net investment method. We would appreciate exact figures on this.

We look forward to your prompt response to our request.

Most sincerely,

Ron Stein, President.  
Network for Investor Action and Protection

Cc:

Congressman Barney Frank, Chairman, House Committee on Financial Services

Congressman Spencer Bachus, Ranking Member, House Committee on Financial Services

Congressman Paul Kanjorski, Chairman, Subcommittee on Capital Markets, GSE's and Insurance

Congressman Scott Garrett, Ranking Member, Subcommittee on Capital Markets, GSE's and Insurance