

**Statement of Representative Peter King
SIPC Oversight Hearing, March 7th, 2012**

Thank you, Mister Chairman. Thank you for calling today's hearing. It's very timely for the representative from SIPC to come before the subcommittee. After several years, they've finally produced the recommendations of their Modernization Task Force and this hearing and report come against the backdrop of the Madoff liquidation, which you have referenced and which Miss Maloney has referenced.

This was unearthed three years ago and for the past three years that process run by SIPC has gone profoundly amuck.

This is tragic, this is wrong.

From my perspective, at least four takeaways from this liquidation.

One, the Trustee, Irving Picard, is out of control. He interprets SIPA as he desires, not as intended by the courts. And on several occasions, has been slapped down by the courts. He intimidates innocent victims, brings spurious clawback suits against them, maligning their reputations in the process, and leaking spuriously to the media. Even Chairman, Chairwoman Mary Schapiro expressed surprise as the initiation of the baseless lawsuit. Just the other day, in an order dated March 5th in the Southern District of New York, Judge Rakoff in the case *Irving Picard versus Saul Katz* made a finding, "The Court remains skeptical that the Trustee can ultimately rebut the Defendants' showing of good faith, let alone impute bad faith to the Defendants. More generally, the Court is concerned that much of 'the evidence' that the parties proffered on summary judgment did not comport with the Federal Rules of Evidence. Conclusions are no substitute for facts, and too much of what the parties characterized as bombshells proved to be nothing but bombast." And that's what that lawsuit has been from beginning to end, bombast.

Two, the victims are being treated unfairly. A very few victims have received the statutory mandated SIPC advances. The Trustee has hatched an accounting mechanism that disregards real world, cuts reputations on broker-dealer protocol, it's lawyer intensive, and it has run up the fees of \$300 Million, paid to Mister Picard. \$300 Million. He

has an open piggybank here for himself. It's not an exaggeration to say the victims have been victimized twice, once by Bernie Madoff and now by Irving Picard.

Three, the Trustee is not being properly supervised. Where were the regulatory bodies tasked with oversight over this Trustee, SIPC directly and the SEC indirectly? Moreover, where was the Statutory Mandate Report on the liquidation required of the Trustee? The Trustee of the Lehman liquidation has completed and filed such a report. The broker-dealer failure is arguably much more complex and complicated than the Madoff debacle.

Lastly, this miscarriage of justice endured by the Madoff victims could happen to any investor if a broker-dealer fails for any reason.

We need to restore some reason and some rationality to the unwinding of failed brokerage firms, and that's why I am proud to sponsor with Chairman Garrett H.R. 757, a proposal enjoying bipartisan support.

Chairman, thank you for your leadership on 757.

Thank you for holding this hearing. I look forward to hearing from the witnesses.

I yield back.