

COPY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA
:
- v. -
:
BERNARD L. MADOFF,
:
Defendant.
:
----- X

AFFIRMATION

08 Mag. 2735

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

Marc Litt, pursuant to Title 28, United States Code, Section 1746, hereby declares under penalty of perjury:

1. I am an Assistant United States Attorney in the Southern District of New York. I submit this affirmation in support of an application for an order of continuance of the time within which an indictment or information would otherwise have to be filed, pursuant to Title 18, United States Code, Section 3161(h)(8)(A).

2. The defendant was charged in a complaint, dated December 11, 2008, with securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff and 17 C.F.R. Section 240.10b-5. The defendant was arrested in the Southern District of New York also on December 11, 2008, and was presented before United States Magistrate Judge Douglas F. Eaton, who released the defendant on the following conditions: a \$10

million personal recognizance bond to be secured by the defendant's Manhattan apartment (valued at approximately \$7 million), and to be co-signed by four financially responsible persons including the defendant's wife; (2) surrender of the defendant's passport; (3) travel restricted to the Southern and Eastern Districts of New York and the District of Connecticut; and (4) release upon the signature of the defendant and his wife, with the remaining conditions to be fulfilled by December 16, 2008, at 2:00 p.m.

3. On December 16, 2008, United States Magistrate Judge Gabriel W. Gorenstein extended from December 16, 2008, to December 17, 2008, at 2:00 p.m., the time within which the defendant would be permitted to meet all conditions of his bail.

4. On December 17, 2008, Magistrate Judge Gorenstein, on the motion of the Government, with the consent of the defendant, issued an order modifying defendant's bail conditions to include: (1) home detention at the defendant's Manhattan apartment, with electronic monitoring; (2) the entry of confessions of judgment with respect to the defendant's wife's properties in Montauk, New York, and Palm Beach, Florida by December 22, 2008; (3) surrender of the defendant's wife's passport by noon on December 18, 2008; (4) imposition on defendant of a curfew of 7 p.m. through 9 a.m.; and (5) reduction of the number of required cosigners on the bond from four to two.

5. On December 19, 2008, United States Magistrate Judge Theodore H. Katz, on the motion of the Government, with the consent of the defendant, entered an order supplementing the defendant's bail conditions to require: (1) the defendant to be subject to home detention at his Manhattan apartment, 24 hours per day, with electronic monitoring, other than for scheduled court appearances; (2) the defendant to employ by December 20, 2008, at his wife's expense, a security firm acceptable to the Government, to provide the following services to prevent harm or flight: (a) round-the-clock monitoring at the defendant's building, 24 hours per day, including video monitoring of the defendant's apartment door(s), and communications devices and services permitting it to send a direct signal from an observation post to the Federal Bureau of Investigation in the event of the appearance of harm or flight; and (b) additional guards on request if necessary to prevent harm or flight.

6. On or about January 12, 2009, United States Magistrate Judge Ronald L. Ellis, issued an order modifying defendant's bail conditions to include certain conditions to prevent the dissipation of the defendant's assets.

7. On or about January 14, 2009, United States District Judge Lawrence M. McKenna, issued an order affirming Magistrate Judge Ellis's January 12, 2009 order and added

additional conditions concerning the identification of defendant's assets.

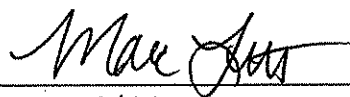
8. Ira Lee Sorkin, Esq., counsel for the defendant, and representatives of the United States Attorney's Office have had discussions with respect to a possible disposition of the defendant's case, and the parties plan to continue those discussions.

9. Therefore, the Government is requesting a 30-day continuance for the purpose of allowing time to conduct additional discussions regarding a possible disposition of this case. On February 10, 2009, Ira Lee Sorkin, Esq., informed me that the defendant consents, through counsel, to the requested continuance. This request for a continuance has been approved by William F. Johnson, Chief, Securities and Commodities Fraud Unit, Guy Petrillo, Chief, Criminal Division, and Lev L. Dassin, Acting United States Attorney.

10. For the reasons stated above, the ends of justice served by the granting of the continuance requested outweigh the best interests of the public and the defendant in a speedy trial.

I declare under penalties of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

Dated: New York, New York
February 11, 2009



Marc Litt
Assistant United States Attorney