

TO THE HONORABLE DENNY CHIN, U.S. CIRCUIT JUDGE

February 27, 2020

VIA EMAIL:

Ms. Wendy Olsen-Clancy
Victim/Witness Coordinator
United States Attorney's Office Southern District of New York
Wendy.Olsen@usdoj.gov

Re: U.S. v. Bernard Madoff
No. 1:09-cr-00213-DC-1

Dear Judge Chin:

We write in opposition to Mr. Bernard Madoff's recent request for release from prison. We are upstate New York union funds, and write on behalf of our participants and beneficiaries, and by extension our families, who were decimated by the actions of Mr. Madoff. Many of us are from families with generations of union members who saw their plans collapse. As hard-working laborers, we often cannot work into our later years. We saw our retirements, for which we saved for decades, vanish overnight, all because of the overt greed of Mr. Madoff.

As people, we practice forgiveness and we believe in redemption after true accountability and remorse. We are sympathetic and compassionate to the suffering of others around us, and we will not be cast as haters or as vengeful people. Nevertheless, we are human and were grievously injured by Mr. Madoff. Perhaps if Mr. Madoff had written to the thousands of individual families with humility and genuine remorse, we might believe in his reckoning and feel differently today. The suffering caused by Mr. Madoff informed your original lifetime sentence, and should continue to be the focus today. The devastation caused by Mr. Madoff's greed is not measured by dollars alone. A few examples:

- Gregory Lancette, Trustee of Plumbers & Steamfitters Local 267, became immediately sickened when hearing of Madoff's arrest and realizing the catastrophic impact on all Local 267 participants and beneficiaries. Mr. Lancette called his father, John (who recently passed away), a long-time member of Local 267, to tell him his retirement savings were decimated. The impact on the Local 267 participants and beneficiaries was profound. Mr. Lancette recalls that members and their spouses began anxiously attending meetings; concerned about the long-term impact of the fraud.
- James Rounds, the Business Manager and Chairman of the Board of the Plumbers and Pipefitters Local 112 Funds, was forced to deliver the news of the fraud at the union Christmas meeting in December 2008. The economic impact on all of the Local 112 Funds was devastating, and in particular the Local 112 Health Fund was forced to draw monies from other sources to help replenish the Fund, raise

deductibles, and cut benefits to the membership. As with the other victims, the losses caused profound pain, grief, shock, anger and fear to the members and their families.

- As the then-newly elected Business Manager of UA Local 73, Patrick Carroll was excited for what the future held for his membership. Everything changed on December 11, 2008, when Mr. Carroll received a call from Mr. Lancette while attending a Christmas party: “Pat I don’t want to ruin your night but they just arrested Madoff. The whole thing is a scam, a Ponzi scheme.” Mr. Carroll immediately broke the news to his colleagues, who gathered with their fellow trustees the next morning to assess the damages: the Health and Welfare Fund was crippled, the Retirement Fund was cut in half and the Annuity Fund hit too. affected. The trustees modified the health care plan immediately and asked the membership to reallocate additional dollars per hour from their personal accounts and the Annuity Fund to create cash flow. The Annuity Fund was frozen until further notice. The most difficult challenge was Local 73’s Retirement Fund. Mr. Carroll received desperate phone calls from retirees. The Local 73 membership nearly doubled their allocation to the fund, the retirement age was raised, and the benefits were greatly reduced.
- The Union of Roofers, Waterproofers and Allied Workers Local 195 suffered irreversible losses. We lost 93% of our Local’s Pension Fund, forcing several recently retired members to have to go back to work, and creating devastating financial hardships on those older retirees, as their pensions were cut in half! Those that were too old to return to work, in some cases, had to sell their homes and completely alter their lifestyles to compensate for severe financial losses. All their life’s work, and it was HARD WORK, to create a secure and successful retirement, was decimated overnight at the hands of this unapologetic thief. The lasting effects, of the theft of our Local’s Pension monies, resulted in the federal government, the Pension Benefit Guarantee Corporation (PBGC), taking control of our Local’s pension, as that fund became insolvent. When that happened, the multiplier for vesting credits was cut by more than 1/3! It changed the futures we had planned for ourselves, our children and our grandchildren! It froze the Local’s Pension to only those already vested and eliminated it as a benefit to future hires, as the entire membership will continue to pay for the losses of the insolvent pension, for decades. Another fallout from the take-over of the Local’s Pension by the PBGC, it forced our membership to continue working to age 65, instead of a retirement age of 55. Think about climbing up on, and scaling a roof, every day, in the hot sun, or freezing cold, or other extreme weather conditions, or even in favorable ones, until you’re 65 years old! For many with spent bodies, from decades of HARD LABOR, it’s just not feasible. Our Annuity fund, which is another form of future financial security, lost 40% of its funds. It will take years for many to recuperate those losses and some don’t have those working years left in them. And last, our Health Insurance Benefits fund lost 25% of its money, causing a reduction in health insurance benefits to the entire membership, which is still felt today, 12 years later. The actions of Mr. Madoff also caused months of

paperwork and hundreds of hours of manpower pulling, copying and scanning documents, as the Local was audited repeatedly, and spent thousands more dollars paying for all these audits, which continued for years! It remained as a constant reminder of what each of us lost. It is our sincere hope that the Court rejects Mr. Madoff's request for release from prison.

When considering Mr. Madoff's current request for release, we ask that Your Honor recall the thought process that went into your decision to sentence Mr. Madoff to 150 years in the first instance. Your Honor recounted to the *New York Times* in June 2011 that you did not think Madoff deserved the benefit of hope in light of the scale and depth of the fraud he orchestrated.

We ask that the Court not let its convictions waiver – 150 years was meant to guarantee that Mr. Madoff would spend the rest of his life in prison. Simply because the end of his life may be approaching does not warrant shaving 140 years off of his sentence.

The *New York Times* article recounted that “[o]n the Sunday before sentencing, the judge returned to the roughly 450 e-mails and letters that had come from victims. He took notes and sketched out themes as he went, with a view toward working them into his draft:

- ‘Not just the wealthy or institutional clients.’
- ‘Middle-class folks, elderly, retirees.’
- ‘Not just money: It reaches to the core and affects your general faith in humanity, our government and basic trust in our financial system.’
- ‘A defendant should get his just desserts.’
- ‘The loss of dignity, the loss of freedom from financial worry.’”

The article went on to say that Your Honor recalled that two words came to mind Mr. Madoff's conduct: “extraordinarily evil.” And that you did not believe he was genuinely remorseful. Mr. Madoff's remorse has always been that of someone who was sorry he got caught.

As victims of Mr. Madoff's fraud, we and our families have spent years trying to recover from the grievous harm he caused. The above sentiments remain as true today as they were at the time of the sentencing. Mr. Madoff never expressed any remorse to us. To release Mr. Madoff from prison would undermine the Court's effort to help the victims heal, and in fact would reopen old wounds. Please do not allow that to happen.

Respectfully,

Gregory Lancette Plumbers and Steamfitters Local 267 150 Midler Park Drive Syracuse NY, 13206	Patrick Carroll UA Plumbers & Steamfitters Local Union 73 705 East Seneca Street Oswego, NY 13126
James Rounds Plumbers and Pipefitters UA Local 112 11 Griswold Street Binghamton, NY 13904	Deborah Spaulding Administrator Upstate New York Engineers Benefit Funds 101 Intrepid Lane Syracuse, NY 13205
Gary Swan Business Manager Roofers Local 195 7706 Maltlage Dr., Liverpool, NY 13090	Stephen J. O'Sick Fund Administrator Bricklayers & Allied Craftworkers Local #2 NY Funds 300 Centre Drive Albany, NY 12203
Board of Trustees Buffalo Benefit Funds Bricklayers and Allied Craftworkers Local 3 NY 1175 William Street Buffalo, NY 14206	

With assistance from: Barbara Hart Thomas Skelton Lowey Dannenberg, P.C. 44 South Broadway, Suite 1100 White Plains, NY 10601 Lead Counsel in <i>In re Beacon Associates Litigation</i> , 09 Civ. 0777 (LBS) (AJP) (S.D.N.Y.), and <i>In re Jeanneret Associates Litigation</i> , 09 cv 3907 (CM) (S.D.N.Y.) (Coordinated Madoff feeder fund cases which settled for \$219.9 million)	
--	--