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MARY SCHAPIRO ANSWERS THE QUESTION MADOFF VICTIMS HAVE BEEN ASKING FOR 7 MONTHS

Mary Schapiro, newly appointed Commissioner of the SEC was the only witness in a Congressional Hearing on July 14th. Her testimony before the United States House of Representatives Committee on Financial Services, Subcommittee on Capital Markets, Insurance and Government-Sponsored Enterprises, gave former Madoff investors the answer as to why they have not received up to $500,000 from SIPC based upon their November 30, 2008 statements, as required under the Securities Investor Protection Act ("SIPA").

When asked by Congressman Gary Ackerman (D-NY) "Which investors are eligible for their SIPC insurance?", Ms. Schapiro hesitated, adjusted the microphone, then replied, "It shouldn't be such a difficult issue but it is." She then goes on to say, ***"*The tragic truth is there is not enough money available to pay off all the customer claims.*"*** (source: http://www.house.gov/apps/list/hearing/financialsvcs_dem/cmhr_070709.shtml)

Stephen Harbeck was named President and CEO of SIPC in 2003 and at that time he said*, "* When SIPC was founded in 1970, Congress stated that one of the primary purposes of the legislation was to restore investor confidence in the markets." (source: http://www.sipc.org/media/release01dec03.cfm)

SIPC was created in 1970 after the Securities and Investor Protect Act ("SIPA") was passed. Senator Edward S. Muskie, the prime mover in Congress behind the idea that investors should be protected against brokerage failures, was impressed enough by the SEC's arguments to incorporate most of them into his bill to set up a corporation to insure investors.
(source http:/www.time.com/time/magazine/article/0,9171,878871-2,00.html)

The Madoff investors received trade confirmations for every security they believed was bought and sold by the broker/dealer. Each trade confirmation confirmed that Madoff was a member of SIPC and thus investors believed Mr. Harbeck's and Senator Muskie's words and felt assured their accounts were protected (up to $500, 000).

On Tuesday, Ms. Schapiro told the world that SIPC is a mere façade and that its protection is nonexistent because SIPC and the SEC failed to charge the securities industry a realistic price for the alleged SIPC insurance. SIPC has access to a $1 billion line of credit from the SEC and a $1 billion line of credit from the US Treasury, both of which would have to be repaid by the securities industry. However, the securities industry benefited over the last 39 years by having hundreds of billions of dollars of Americans' savings invested in street name securities to the enormous enrichment of Wall Street. It is a national outrage that Ms. Schapiro claims SIPC can't afford to honor its statutory obligation to innocent American investors whose only mistake was assuming that the SEC was competent.

Lack of proper funding is not the investors' responsibility. SIPA provides that "SIPC shall have the power to borrow moneys and to evidence such borrowed moneys by the issuance of bonds, notes, or other evidences of indebtedness" (source sipc.org). The SEC has a statutory obligation to assure that SIPC borrows sufficient funds to pay off the obligations to all Madoff investors immediately. Although more than 15,000 claims have been filed, as of July 9th, SIPC had paid only 561 claims of Madoff investors.
(source: http://madofftrustee.com/AdditionalInformation.html

In order to avoid SIPC's statutory responsibilities, the SEC has conspired with SIPC to invent a totally new definition of "net equity" which limits investors to recovering their net investment, rather than the balance on their last statement. Thus, an investor who invested $100,000 in 1996 and had a last account statement (dated November 30, 2008) showing a value of $800,000 would only get $100,000 from SIPC. Under SIPA's clear language, and under 38 years of SIPC's compliance with SIPA, that investor is entitled to a claim of $800,000 and to $500,000 in SIPC insurance.

As is clearly evident, Mr. Picard's false definition is obviously a way to work around the shortage of funds that Ms. Schapiro confessed exists.

Two days after Ms. Schapiro's stunning proclamation that there aren't enough funds to pay all the customer claims, investors received a notice from the court that Irving Picard and his firm, Baker & Hostetler, submitted the First Application for Interim Compensation for Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred. These fees include $14,662,319.83 for Baker & Hostetler LLP and an additional $759,228.75 for Irving Picard, Esq. (Source: http://www.scribd.com/doc/17270706/Baker-Hostetlers-Interim-Fee-Application). Legal fees are paid out of the SIPC funds.

In the 7 months since Bernard Madoff turned himself in to authorities, the victims have been asking why they aren't being paid the SIPC insurance money they are entitled to. This week, Mary Schapiro gave them the answer, albeit the wrong answer. Now, the victims are hearing that the very man, Irving Picard, who has created a false premise for not paying the victims what they are legally entitled to is asking for more money (for 4 months of work) than he is willing to pay any one single victim. The logic (or lack thereof) is astounding. The legality is non-existent.

The Madoff investors who are the victims of the SEC's incompetence demand that Ms. Schapiro and her agency take their mandated responsibility and follow that law.

If the SEC does not step up to the plate, the victims are asking Congress to intervene.

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