



Neutral Citation Number: [2013] EWHC 3147 (Comm)

Case No: 2010 FOLIO 1468

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice
Rolls Building, Fetter Lane
London, EC4A 1NL

Date: 18/10/2013

Before:

THE HON. MR JUSTICE POPPLEWELL

Between:

**MADOFF SECURITIES INTERNATIONAL
LIMITED (In Liquidation)**

Claimant

- and -

- (1) Stephen Raven**
(2) Leon Flax
(3) Christopher James Dale
(4) Philip John Toop
(5) Malcolm Stevenson
(6) Peter Barnet Madoff
(7) Mark David Madoff
(8) Andrew Howard Madoff
(9) Sonja Kohn
(10) Erko Incorporated
(11) Tecno Development & Research Limited

Defendants

Pushpinder Saini QC, Robert Weekes, Tom Richards and Shane Sibbel (instructed by
Taylor Wessing LLP) for the **Claimant**
Nicholas Yell (instructed by **EMW Law LLP**) for the **1st Defendant**
Ian Clarke and Lara Kühl (instructed by **Radcliffes Le Brasseur**) for the **2nd Defendant**
Philip Toop (Litigant in Person) the **4th Defendant**
Zoe O'Sullivan (instructed by **Pitmans LLP**) for the **7th & 8th Defendants**
Jonathan Crow QC and James Knott (instructed by **Asserson Law Offices**) for the **9th & 11th**
Defendants

Hearing dates: 10-13, 17-20, 24-27 June; 1-4, 8-11, 15-18 July 2013

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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THE HON. MR JUSTICE POPPLEWELL

(22) Conclusion and postscript

469. All claims against each Defendant fail and are dismissed.

470. I cannot forbear from recording the commendable dignity and restraint which I have observed in each of Mr Raven, Mr Flax, Mr Toop and Mrs Kohn throughout the trial. Bernard Madoff's fraud itself blighted their lives and tainted their good names simply by association, quite apart from the financial losses suffered by some from investments in the Ponzi scheme. To this was added the burden of this unfounded claim, making serious allegations of dishonesty, which threatened financial ruin and personal humiliation. It was commenced without forewarning – some discovered they were the subject of the claim by reading of it in the newspapers – and has been pursued aggressively and relentlessly over several years, on occasion with an unfair degree of hyperbole (for example referring to the MSIL Kohn Payments as “secret kickbacks” when there was nothing secret about them and on MSIL's own case they were introductory commissions which were not excessive). Mrs Kohn has suffered poisonous press releases by the SIPA Trustee (for example referring to her as Bernard Madoff's “criminal soul mate whose greed and dishonest inventiveness equalled his own”) and been subject to a worldwide freezing order and extensive disclosure of her family's assets and affairs. Neither Mr Flax nor Mr Raven, both in their seventies, is in the best of health. In Mr Toop's case the strain of conducting his own defence without legal representation was evident, although he never surrendered his dignity or lost his mordant sense of humour. The stress imposed on them and their families by these proceedings must have been immense, just as it must also have been on Andrew Madoff, seriously ill with cancer, and his and his brother's families. I very much regret that I must have added to their burden by the time it has taken to prepare this judgment. Their honesty and integrity has been vindicated. The resolute and temperate way they have conducted themselves in these proceedings does them great credit.