



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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:
UNITED STATES OF AMERICA
:
- against -
:
BERNARD L. MADOFF,
:
Defendant.
:
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ORDER
09 Cr. 213 (DC)

CHIN, District Judge

The sentencing of defendant Bernard L. Madoff is set for June 29, 2009. The sentencing will proceed as scheduled. An issue has arisen, however, as to the determination of restitution.

In cases where identifiable victims have suffered a pecuniary loss, the Court usually must order the defendant to make restitution to the victims. 18 U.S.C. § 3663A(a)(1), (c). Exceptions exist where the "number of identifiable victims is so large as to make restitution impracticable" or the determination of restitution would unduly delay or prolong the sentencing process. 18 U.S.C. § 3663A(c)(3). In these circumstances, the Court may decline to order restitution and instead it may order victim compensation through a "remission" process under the forfeiture statutes and related regulations. See 21 U.S.C. § 853(i); 28 C.F.R. Part 9.

Pursuant to 18 U.S.C. § 3664(d)(5), the Government moves for an order deferring for 90 days from the date of sentencing (1) the determination whether statutory restitution is

practicable and, if so, (2) the calculation of victims' losses. Madoff does not oppose the motion.

I find that the number of victims, the difficulties posed by the lack of proper record-keeping, and the scope, complexity, and duration of the fraud make it impossible, at this stage, to determine whether restitution is practicable. Accordingly, the Government's motion is granted, and the date for determining whether restitution is practicable and, if so, setting a restitution schedule is deferred for 90 days from the date of sentencing.

SO ORDERED.

Dated: New York, New York
June 24, 2009



DENNY CHIN
United States District Judge