

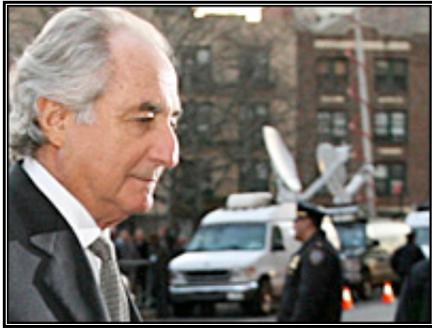
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July 8, 2009

Legal Affairs

Ten Connected To Madoff May Face Criminal Charges

by Robert Smith

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Mary Altaffer

Bernard Madoff at federal court in March 2009. The disgraced financier was sentenced this week to 150 years in prison. AP

[All Things Considered](#), July 1, 2009 · Bernard Madoff's Ponzi scheme came to a dramatic end this week — with a sentence of 150 years in prison. But the investigation into the crime has just begun. Sources close to federal prosecutors say it is likely that 10 or more of Madoff's associates will be charged in the coming months.

Often the big fish is the last one reeled in for a massive criminal case. But Brad Simon, a former federal prosecutor, says there is still this unanswered question: Where did all the money go? Investigators have a personal motivation.

Prosecutors Facing An 'Angry Mob'

"Well, prosecutors as well as the SEC have been asleep at the switch in this case, and so they are feeling enormous pressure to bring in more bodies, because there is an angry mob," Simon says.

They are angry in part because Madoff claimed until the end that he acted alone. That would mean that, for decades, he kept his family members and 200 employees in the dark, single-handedly hiding billions of dollars in losses and producing hundreds of thousands of false documents a year.

Federal investigators aren't buying it. Everyone who worked with Madoff is now under scrutiny. But profiting off the scam isn't enough to lock someone up. Former federal prosecutors say they have to have two components to bring a case: A person had to know about the fraud and take some sort of action to further the crime. The action part, according to Simon, is easy.

"Prosecutors can find one thing that somebody did. Perhaps they made a phone call or made a solicitation knowing that something they said was not quite right," Simon says. "That could constitute an overt act to get them in the conspiracy. And once they are in conspiracy, they are liable for all the acts that took place within that conspiracy."

'Willful Blindness?'

Mailing a letter and transferring money are overt acts. But as Madoff court documents reveal, most of that detail work was done by people who may have been ignorant. Prosecutors allege that Madoff specifically hired people without financial experience. The higher-ups at the company are a different story.

"You have to have criminal knowledge and intent, but the government can back into that by demonstrating willful blindness," says William DeVaney, a former prosecutor who now works at a private firm, Venable. "In other words, that Madoff's returns were too good to be true. Any responsible investment adviser should have known that."

Then prosecutors only have to show that the person willfully turned a blind eye to that knowledge. So far, only Madoff's outside accountant has been charged — but not for knowing about the Ponzi scheme. His charges stem from falsely certifying his audits.

On The Defense

It's not known who else is on the list of people likely to be charged, but the list of people already being targeted in private lawsuits includes Madoff's family: his wife, Ruth; brother, Peter; and his sons, Mark and Andrew. Also targeted is his chief of staff, Frank DiPascali, and a whole list of outside investment advisers who steered billions of dollars to Madoff through the so-called feeder funds.

Simon, who now defends white-collar criminals, says that the main defense in these kinds of cases is ignorance.

And in the Madoff case, "they will point to the fact that he was quite well-respected in the financial community. He was head of NASDAQ," Simon says. "And if the SEC didn't have reason to suspect him, why should their client have reason to suspect that he was doing anything illegal?"

DeVaney notes that those close to Madoff may get some help from the man who got them in trouble in the first place.

"It's perfectly plausible that Bernard Madoff could end up as a defense witness in one of these cases saying, 'I did all of this alone,' " DeVaney says.

Madoff hasn't shown any willingness to help out prosecutors. And with a sentence of 150 years of hard time ahead, he doesn't have much incentive.



[Salami Salameh \(HardSalami\)](#) wrote:

@ Kenneth Reynolds: Ruth and the boys have the money stashed somewhere in a safe in Switzerland - they sure love money don't they?

July 1, 2009 10:58:13 PM EDT

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[Kenneth Reynolds \(kennreyn\)](#) wrote:

Thanks,NPR,for posting an article containing the ignored \$99,000 question on Madoff:What did he do with all that money? It's pretty obvious that the powers that be don't want us to know what he did with all that money;that's why they don't want that question asked.

July 1, 2009 9:31:04 PM EDT

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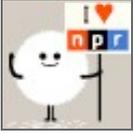
[terry gilbreath \(tugcasper\)](#) wrote:

They should go to the same jail he is in. There's no way Madoff could have done this by himself for so long.

July 1, 2009 8:41:06 PM EDT

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[Tom Nimitz \(Oldsalt\)](#) wrote:

Due to the sheer scope of both size and time that this sceme encompasses, I would find it almost impossible to believe that this man acted alone. All the trading companies that were supposed to have made trades, brokers who saw performance numbers... There has to be culpability. Proving it may be another matter, but we should push as hard on this as any other crime that destroys a significant portion of the fabric of our country.

July 1, 2009 7:23:00 PM EDT

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[R B \(Gooner\)](#) wrote:

Wow it sure is funny how they treat these clowns with kid gloves. Isn't it ironic that if these guys would have been dealing marijuana how different they would have been treated? I wonder if he would have been allowed to stay in his apartment. This is ridiculous. These guys will be treated better than a common shoplifter.

July 1, 2009 6:58:01 PM EDT

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