

## **Crime In The Suites**

An Analysis of Current Issues in White Collar Defense

## The Disintegration of White-Collar Criminal Bernie Madoff

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In December 2010, Bernie Madoff contacted the *Financial Times* to say that he was ready for his second prison interview. It had been two years since news broke of Madoff's 16-year, \$65 billion Ponzi scheme, and just 17 months since he began serving his 150-year sentence. By the time he was interviewed, his oldest son, Mark, had hanged himself on the second anniversary of Madoff's arrest, and his younger son had broken off all contact.

So why would an educated, seemingly intelligent Wall Street insider risk everything including his well-being and that of his family—to perpetuate a massive fraud that was bound to fail? Is it even possible to chart Madoff's disintegration from successful investment manager to bankrupt prisoner? His most cogent explanation in the *Financial Times* interview offers a clue: "I have spent a lot of time . . . trying to figure out how I could have done it . . . [T]he thing is that you can compartmentalize things in your life."

Madoff's statement describes in a nutshell what becomes clear in the rest of his interview; he has an uncanny ability to compartmentalize, fragment, and quite literally "dis-integrate" each piece of his story from the overall picture. His fractured construct probably shielded him on some level from the havoc he chose to wreak on family, friends, colleagues, and clients. When he describes the fraud now, it's as though he is looking into a shattered mirror, giving answers that seem plausible in isolation but are untenable when viewed as part of the whole.

A couple of examples from the *Financial Times* interview demonstrate how Madoff's perception of himself and of the world is persistently, if not pathologically, disintegrated.

First, Madoff insisted during his interview that he takes responsibility for what he did, as if saying it makes it so. But the rest of the interview shows that he still minimizes his massive fraud, describing it in the most benign terms: he was "dumb," "stupid," and egodriven. To hear him tell it, he "had no choice." He was "at [his clients'] mercy," "under a lot of pressure," "embarrassed" at his inability to meet clients' expectations, and "scared to death." His clients on the other hand were "complicit," "greedy," and "pushed [him] into it." But this notion of powerlessness is at odds with his assertion that he takes responsibility. How can he genuinely accept responsibility for something over which he had no control?

Madoff also spoke of himself in self-aggrandizing terms, reserving his harshest judgment for those who suspected his fraud. On one hand, he gloated that he was able to dupe senior partners at Goldman Sachs, HSBC, PricewaterhouseCoopers, and the



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head of a major Swiss bank, among others. For those who questioned whether his investment returns were legitimate, Madoff resorted to name-calling. The Swiss bankers who thought he was trading on inside information, to Madoff, were "slimy people." Harry Markopolos—the hedge-fund manager who filed reports with the SEC suggesting that Madoff was running a Ponzi scheme—Madoff described as "the biggest idiot in the world" whose clients "abandoned him" because he had a hedge fund that "couldn't make money"—a nonsensical critique coming from a fund manager who did not make any money for his clients and retained them by fraud.

The most obvious and tragic evidence of Madoff's disconnect from reality came at the end of his recent interview. Madoff fantasized that the SEC might be able to recover \$50 billion, including all \$20 billion of his clients' principal. In that case, he said, "there will be \$30bn in profits to go around, which would make me one of the greatest money managers in modern history."

If only Madoff's victims, and Madoff himself, could be made whole that easily.

*Crime in the Suites is authored by the <u>Ifrah Law Firm</u>, a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.* 

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