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In Scandal's Wake

A Ponzi scheme causes major foundations to close and causes losses for scores of charities nationwide

By Ben Gose

The timing of the alleged fraud committed by Bernard L. Madoff could not have been worse. With just weeks left in what was already shaping up as one of the most challenging fund-raising years ever for charities, Mr. Madoff reportedly admitted on December 11 that his investment-management business was "a giant Ponzi scheme" that would cost investors as much as \$50-billion.

Within days of that news, at least five foundations announced they would be closing, including the Picower Foundation, in Palm Beach, Fla., whose assets totaled nearly \$1-billion, making it one of the 75 wealthiest grant makers in the United States. In addition, the JEHT Foundation, in New York, which gave away \$20-million to \$30-million per year, also said it would shut down. Access Philanthropy, a research institute in Minneapolis, identified 90 foundations that had invested at least a portion of their assets with Mr. Madoff during 2007. And the Jewish Funders Network put the losses to Jewish foundations and charities alone at \$2.5-billion.

Several charities lost big chunks of their endowments in the Madoff fraud, including Yeshiva University and Hadassah, the Women's Zionist Organizations of America. Hundreds more charities will lose support from foundations and individuals who saw large portions of their net worth obliterated in the scandal. And it is possible that some charities may eventually be forced to return grants made by foundations that earned fictitious returns from Bernard L. Madoff Investment Securities, under "clawback" lawsuits brought by investors who suffered losses.

Some giving experts and charity leaders fear an even broader impact: Will the perception that some foundations and charities were reckless in handing over money to a con man make donors less likely, at least in the short term, to give to any charity?

"Anything that makes people more nervous and uncertain right now is going to affect philanthropy," says Gary A. Tobin, president of the Institute for Jewish and Community Research, in San Francisco. "These are the hardest philanthropic times we have seen in modern memory."

Cathy Lanyard, executive director of the American Friends of Alyn Hospital, a New York group that raises money for a rehabilitation center in Jerusalem for physically disabled children, says she hopes donors will not hunker down at a time when their support is needed more than ever. (Her charity did not invest with Madoff.)

"I hope the philanthropists in the world, if they are scared or hesitant, pick up the phone and ask the hard questions," Ms. Lanyard says. "A real charity will not back away from those questions."

Prominent Donors

Investigators believe Mr. Madoff may have operated a scheme for decades in which he took money from new investors to pay returns to older investors. Mr. Madoff's fund offered consistent, if not flashy, returns of 12 to 15 percent per year, and he rarely reported a down month. His firm had an air of exclusivity that attracted money from many wealthy investors, including members of several Jewish country clubs and the charities that they supported.

The fraud caused major losses at foundations established by the likes of Steven Spielberg, Elie Wiesel, and New Jersey Sen. Frank R. Lautenberg. Mr. Madoff's own foundation listed assets of \$19-million.

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Several investors have come forward to say they considered putting money with Mr. Madoff, but declined to do so because they didn't understand his strategy. Their decision to stay away raises questions about whether trustees of the foundations and charities that did hire Madoff exercised due diligence and made prudent investing decisions.

But thousands of people did decide to invest with Madoff. The court-appointed trustee for Mr. Madoff's business said that he has mailed claim forms to 8,000 institutions and individuals who had open accounts with the firm.

'Secret Formula'

While only a fraction of Madoff's funds came from foundations and charities, Mitchell Zuckoff, a professor of journalism at Boston University and the author of a book about the famous con man Charles Ponzi, argues in an article in *Fortune* magazine that foundations may have been part of Mr. Madoff's "secret formula." Mr. Madoff benefited from the stability of the foundation investments and the fact that the foundations were unlikely to demand big cash withdrawals, while foundations enjoyed the consistent returns he offered, year after year.

"By claiming clockwork earnings of roughly 12 percent a year, Madoff made himself enormously alluring to foundations," Mr. Zuckoff writes. "They weren't chasing big short-term gains, just a safe and steady haven to cover the 5 percent payout and grow the base."

Defending Investments

Few foundations or charities are speaking out publicly about why they invested with Mr. Madoff. MorseLife, a nonprofit center for the elderly in West Palm Beach, Fla., acknowledged within days that it had lost money with Mr. Madoff but declined to provide details.

Some two weeks after that announcement, Greg H. Goodman, a MorseLife spokesman, said in an interview that the charity had quantified the Madoff loss but did not intend to share details. "We're not saying," he said.

The MorseLife Foundation's tax form for the year ending in May 2007 shows \$59.1-million in assets, three-quarters of which were invested in "managed equity funds." The *New York Post*, citing unidentified sources, reported shortly after the fraud was uncovered that MorseLife was "in peril of closing."

In an open letter, MorseLife sought to dispel those concerns. "We want to assure you that MorseLife was diversified in its investments and we remain financially secure," wrote Keith Myers, its president, and Bea W. Bloch, its board chairman.

American Technion Society, which raises money for a science institute in Israel, lost \$29-million in the Madoff fraud, not counting \$43-million in bogus gains it had booked since making the investment in 1995.

The investment had been suggested by a member of the board's investment committee who was personally earning strong returns from the Madoff fund, said Kevin Hattori, a spokesman for the society. The committee followed established procedures to vet the Madoff firm, and the investment was later approved by the society's full investment committee and another committee that signs off on financial transactions, Mr. Hattori says. "We're stepping back and looking at what changes have to be made," Mr. Hattori says. "That very well may result in changes to our investment policies and procedures."

The society's endowment now stands at about \$200-million, down from a presumed \$274-million before the Madoff news broke.

Little Chance of Refund

Patrick W. Begos, a lawyer in Westport, Conn., who represented clients who were defrauded in a Ponzi scheme operated by the Foundation for New Era Philanthropy during the 1990s, estimates that it may be five to seven years before the Madoff case is fully resolved. Even then, investors are unlikely to receive much of their money back.

"If investors end up collecting 10, 20, or 30 cents on the dollar, that's pretty good for this kind of situation," Mr. Begos says.

A glimmer of good news came out near the end of December, when a few charities sharply lowered the estimates of their losses. Hadassah originally said it had lost \$90-million, but nearly two-thirds of that constituted imaginary profits that Mr. Madoff reported on the charity's actual \$33-million investment. Yeshiva University originally estimated its loss at \$110-million, but later said more than

\$90-million of that figure had likely been "fictitious" gains reported by J. Ezra Merkin, the former chairman of Yeshiva's investment committee who served as middleman between the university and Mr. Madoff.

And some foundations and individuals who have not been affected by Madoff have stepped up to help those who are suffering. American Technion Society received gifts worth \$1.5-million within 10 days after the Madoff scandal was uncovered.

"There are people that still believe in our organization," Mr. Hattori says.

Foundations Offer Aid

Robert Crane, president of the JEHT Foundation, says colleagues at other foundations that support some of JEHT's grantees, including the Ford Foundation and Atlantic Philanthropies, have been in contact with those charities about meeting "specific needs," but it is still unclear what that will mean for the charities. "It's unlikely that all of the loss will be picked up," Mr. Crane says.

MoveOn.org, the liberal-activist group, organized an end-of-year fund-raising drive among its nearly five million members that raised \$635,000 for four charities — Advancement Project, the Brennan Center for Justice, Human Rights Watch, and the Center for Constitutional Rights — that had lost grants due to Madoff. Those funds were matched by the Open Society Institute and Atlantic Philanthropies, producing a total of more than \$1.2-million for the four charities.

Last month, three dozen Jewish foundations held a meeting to discuss ways to help charities suffering from the one-two punch of a brutal economy and the Madoff fraud.

Jeffrey Solomon, president of the Andrea and Charles Bronfman Philanthropies, in New York, says the group is assembling a bridge-loan program to help keep charities afloat temporarily.

"In some ways, our decision to react is no different than when a storm hits, like Katrina," Mr. Solomon says. "There's an emergent need and we can provide some short-term intervention that can help."

But the philanthropic response to the Madoff scandal pales against the outpouring of support that followed Hurricane Katrina — perhaps in part because the stock market, which was humming along quite nicely when Katrina struck in late 2005, is now sharply lower.

Even leaders of Jewish foundations at last month's meeting did not reach a consensus on what should be done.

Felicia Herman, executive director of the Natan Fund, a giving circle that supports groups focused on Jewish identity and economic development, says Natan may not participate in the bridge-loan program because it is focused on helping its 38 grantees, only a handful of whom were immediately affected by Madoff, weather the larger economic crisis.

"Madoff is like a fire in the kitchen of the Titanic when the entire ship is going down," Ms. Herman says. "It's a horrible disappearance of a whole chunk of money. But it's not the real story."

Social-Justice Causes

Aside from Jewish organizations, social-justice groups probably absorbed the biggest hits from the Madoff fraud. Two of the biggest foundations that collapsed, JEHT and Picower, were among the nation's biggest supporters of social-justice charities.

Make Voting Work, a project of the Pew Charitable Trusts that seeks to improve the accuracy and efficiency of the election system, lost more than \$3-million when JEHT announced that it would immediately cease grant making.

JEHT had paid \$1-million of a \$4.15-million pledge that the foundation announced just two days before Mr. Madoff was arrested. The grant was to be used to evaluate early voting and other alternatives to traditional precinct-place voting. Rebecca W. Rimel, Pew's president, says that Pew has spent a total of \$14-million on Make Voting Work, compared with paid grants of just \$2.5-million for JEHT.

Pew remains committed to the two-year-old project, although Ms. Rimel says that Make Voting Work will move more slowly with its research agenda, and look for other supporters.

Physicians for Human Rights, in Cambridge, Mass., lost \$175-million that JEHT had pledged to support its Campaign Against Torture this year. The lost funds made up 29 percent of the anti-torture campaign's budget.

"We're not backing off from this work, but it will be a strain for us to continue to resource it as fully

as we had planned," says Susannah Sirkin, the charity's deputy director.

The American Civil Liberties Union stands to lose more than \$1.5-million over the next few years that had been pledged by the Picower and JEHT Foundations.

The lost pledges are small relative to the charity's more than \$100-million budget, but the losses come at a time when the charity is already grappling with declining gifts from others, and a pension plan that is not fully financed, according to Anthony D. Romero, its executive director.

Mr. Romero says he has learned that a nearly 90-year-old woman who had made six-figure gifts to the ACLU in the past "lost it all" in the Madoff fraud. And he is concerned that lawyers representing those who lost money with Madoff may try to sue the ACLU in an attempt to seek the return of gifts that JEHT and Picower made with fictitious Madoff investment gains.

Mr. Romero was in the office on New Year's Eve calling 10 donors who in the past had given the ACLU \$10,000 or more, but had yet to make a gift in 2008 with the end of the year just hours away. (The day was productive — he received one wire transfer and hopes to see a few checks in the mail.)

He had been hoping the ACLU could work closely with the Obama administration to correct what he views as the "damage done" to civil liberties and civil rights under the Bush administration. But now the ACLU will be cutting its budget, freezing some positions, and canceling an annual conference that brings its 900 staff members together. "Just when we can go on the offensive and clean up some of this mess," Mr. Romero says, "we're going to have fewer resources to do it."

| HOW MUCH FOUNDATIONS AND CHARITIES LOST BY INVESTING WITH BERNARD MADOFF | |
|---|---|
| Foundations | Amount lost |
| Picower Foundation | \$958-million |
| Chais Family Foundation | \$178-million |
| Carl and Ruth Shapiro Family Foundation | \$145-million |
| Wolosoff Foundation | \$38-million |
| JEHT Foundation Distributed | \$20 to \$30-million per year (investment sums not available) |
| Elie Wiesel Foundation for Humanity | \$15.2-million |
| Madoff Family Foundation | \$19-million |
| Jewish Community Foundation of Los Angeles | \$18-million |
| Frank Lautenberg Family Charitable Foundation | \$13-million |
| Jewish Federation of Greater Washington | \$10-million |
| Robert I. Lappin Charitable Foundation | \$8-million |
| Julian J. Levitt Foundation | \$6-million |
| Arthur I. and Sydelle F. Meyer Charitable Foundation | \$3.7-million |
| J. Gurwin Foundation | n/a |
| Betty & Norman F. Levy Foundation | n/a |
| Charles and Candice Nadler Family Foundation | n/a |
| Phileona Foundation | n/a |
| Rockit Foundation | n/a |
| Fair Food Foundation | n/a |
| Wunderkinder Foundation | n/a |
| Mortimer B. Zuckerman Charitable Remainder | n/a |
| Charities | Amount lost |
| Hadassah, the Women's Zionist Organization of America | \$33-million |
| American Technion Society | \$29-million |

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|--|----------------|
| New York University | \$23-million |
| Tufts University | \$20-million |
| Yeshiva University | \$14.5-million |
| Ramaz School | \$6-million |
| North Shore-Long Island Jewish Health System | \$5.7-million |
| Maimonides School | \$3-million |
| New York Law School | \$3-million |
| American Friends of Yad Sarah | \$1.5-million |
| SAR Academy | \$1.2-million |
| MorseLife | n/a |

NOTE: Figures are not yet available for all the organizations that have said they lost money because they invested with Bernard Madoff. Some of the foundations and charities lost money when intermediaries invested their money with Mr. Madoff. Also, the reported losses are in flux. Some charities and foundations are reporting losses that include the fictitious gains made while invested with Mr. Madoff, while others are now excluding those fictitious gains.

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