

Oh, Ponzi, What a Scheme!

Travis R. Marker, JD, LLM
Scrivener's Quill



2015 EDITION

MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR
PROFESSIONAL
RESPONSIBILITY

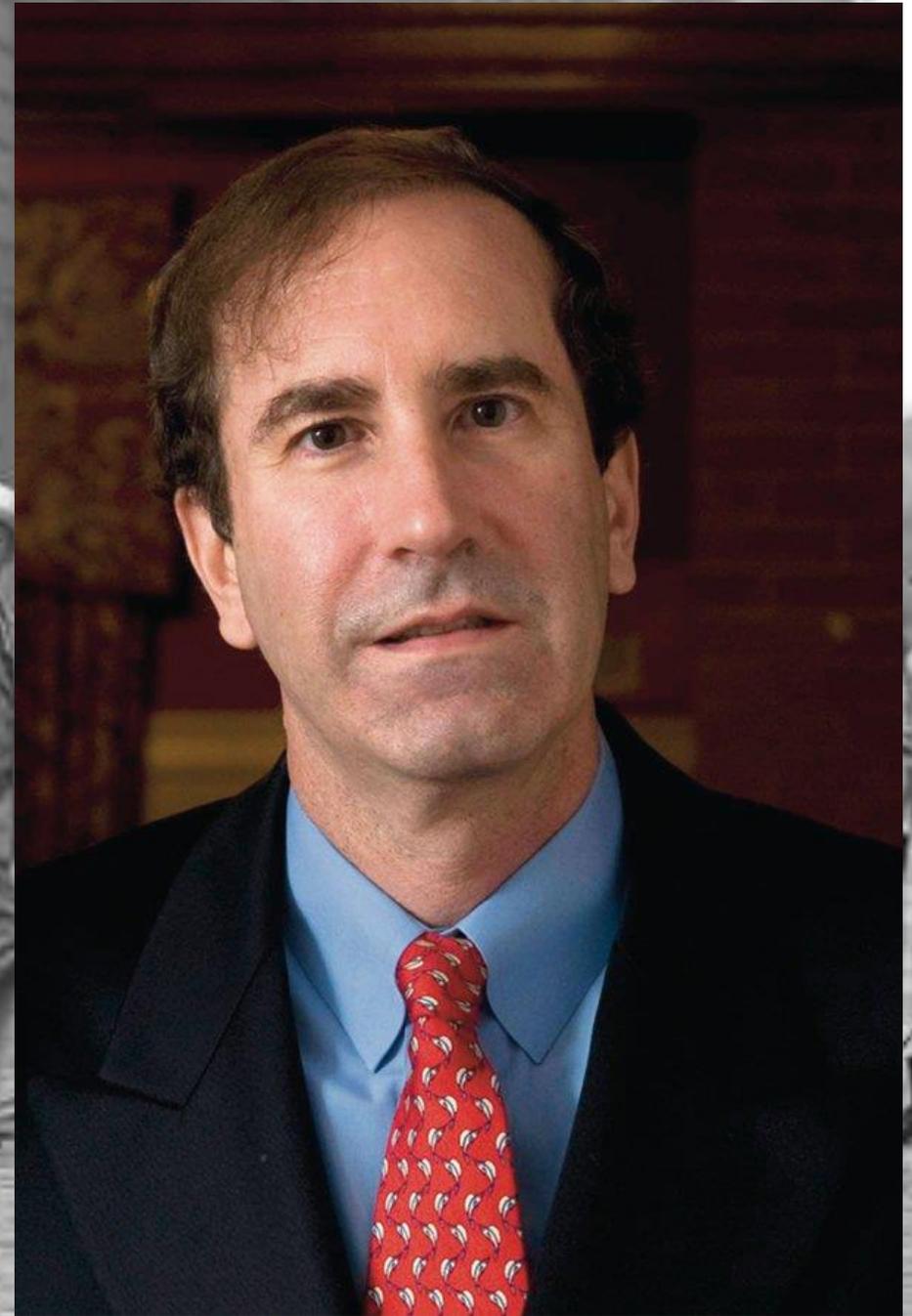
ABA Defending Liberty
Pursuing Justice
AMERICAN BAR ASSOCIATION

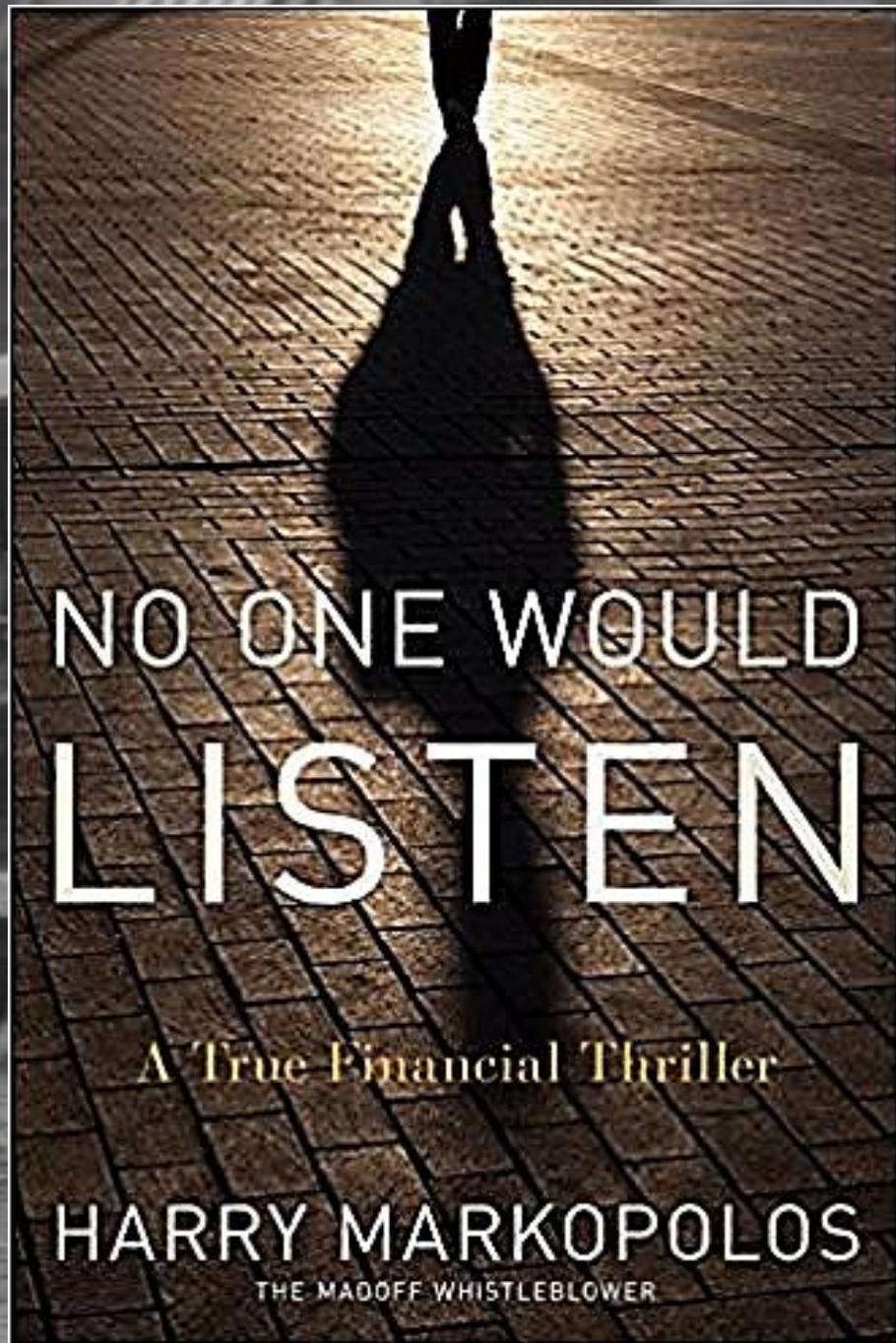
- A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance.
- Model Rules of Professional Conduct, Preamble



Harry M. Markopolos is a former securities industry executive and an independent forensic accounting and financial fraud investigator. He discovered evidence over nine years suggesting that Bernard Madoff's wealth management business, Bernard L. Madoff Investment Securities LLC, was actually a massive Ponzi scheme. In 2000, 2001, and 2005, Markopolos alerted the U.S. Securities and Exchange Commission (SEC) of the fraud, supplying supporting documents, but each time, the SEC ignored him or only gave his evidence a cursory investigation.

Wikipedia





- "I was a regular in detention. My parents never knew, though; I managed to convince my mother that I was in a special honors program that met on Saturday mornings. She would brag to her friends that her son Harry was so smart he was invited to attend honors classes on Saturdays!"
- — Harry Markopolos (No One Would Listen)



Madoff was finally uncovered as a fraud in December 2008, when his sons contacted the Federal Bureau of Investigation. After admitting to operating the largest private Ponzi scheme in history, Madoff was sentenced in 2009 to 150 years in prison.

Wikipedia



2015 EDITION

MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR
PROFESSIONAL
RESPONSIBILITY

 Developing & Restoring
Pursuing Justice
AMERICAN BAR ASSOCIATION

- Rule 1.16: Declining or Terminating Representation
- Client-Lawyer Relationship
- (a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
 - (1) the representation will result in violation of the rules of professional conduct or other law;
- (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:
 - (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
 - (3) the client has used the lawyer's services to perpetrate a crime or fraud;
 - (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;



"Warren Buffett said, "You only find out who is swimming naked when the tide goes out." The financial crisis of 2008 revealed many, including Madoff, to be inappropriately attired. Effective regulation must mean that the skinny-dippers are stopped while the tide is still in."

— Harry Markopolos (No One Would Listen)



PONZI SCHEME

Learn to detect scams
and take care of your money



Business

50MINUTES.com

- "Most lawyers couldn't recognize a Ponzi scheme if they were having dinner with Charles Ponzi."
- — Harry Markopolos (No One Would Listen)



2015 EDITION

MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR
PROFESSIONAL
RESPONSIBILITY

 Defending Liberty
Pursuing Justice
AMERICAN BAR ASSOCIATION

- Rule 1.6: Confidentiality of Information
- Client-Lawyer Relationship
- (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
 - (2) to prevent the client from committing a **crime or fraud** that is reasonably certain to result in substantial injury to the **financial interests** or property of another and in furtherance of which the client has used or is using the lawyer's services;
 - (3) to prevent, mitigate or rectify substantial injury to the **financial interests** or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
 - (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, **to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved**, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
 - (6) **to comply with other law or a court order**



BEWARE

PONZI SCHEME

DON'T GET SCAMMED!

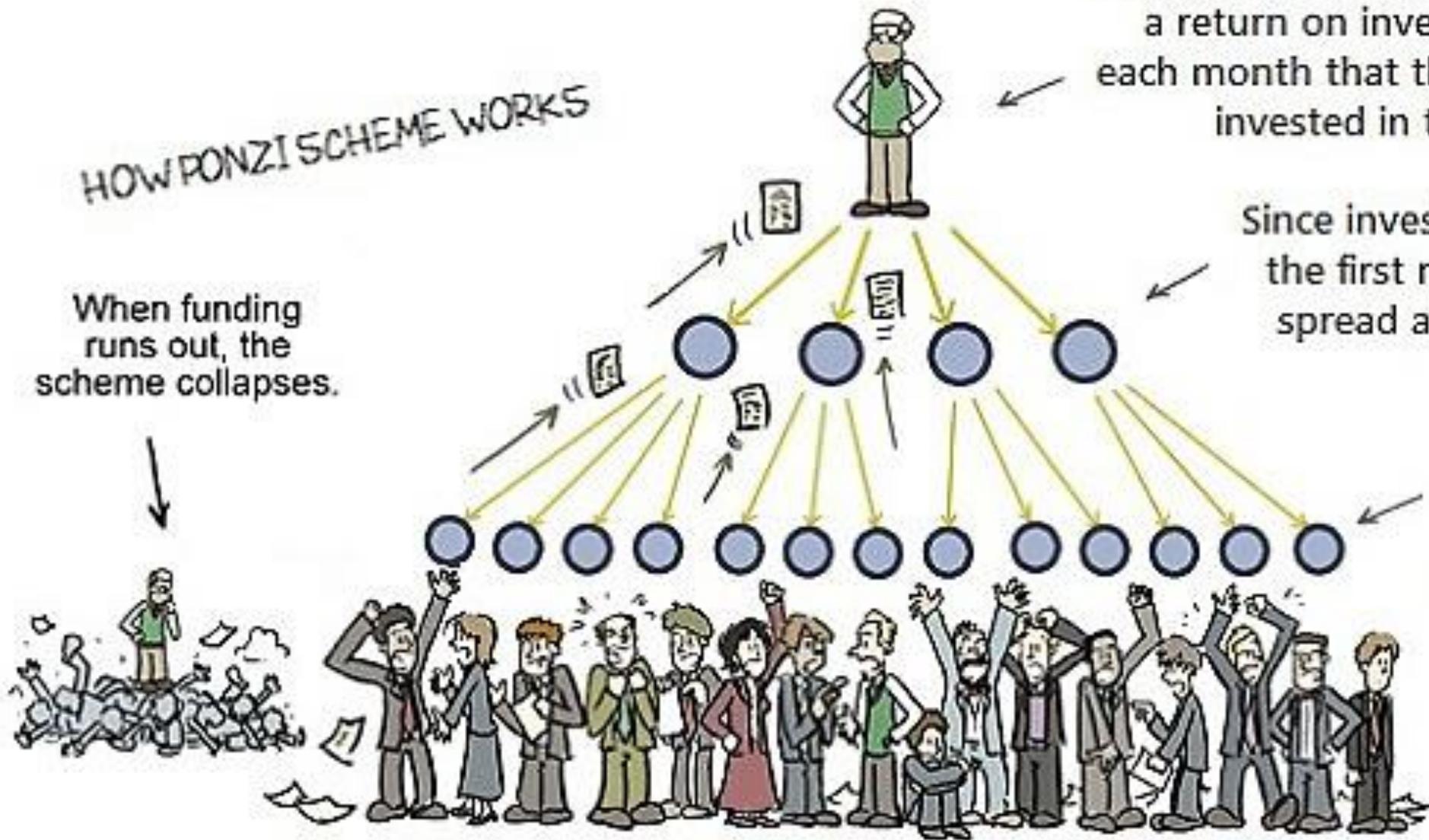
The Schemer promise investors a return on investment for each month that their money is invested in the firm.

HOW PONZI SCHEME WORKS

When funding runs out, the scheme collapses.

Since investors receives money on the first money, news started to spread and recruitment follows

Investment has been successful in the first few months, convinces more investor to place their money in the system.







- **Ponzi Scheme isn't apparently in the statute:**
- Madoff pleaded guilty to 11 federal felonies, including securities fraud, wire fraud, mail fraud, money laundering, making false statements, perjury, theft from an employee benefit plan, and making false filings with the SEC.

• Wikipedia



- "I kept up the bluff, hoping that I might eventually hit upon some workable plan to pay all of my creditors in full."
- — Mitchell Zuckoff (Ponzi's Scheme: The True Story Of A Financial Legend)



- 1860s Jacob Young, William Abrams, and Nancy Clem
- 1870s Sarah Howe
- 1890s William "520 Percent" Miller
- 1920s Charles Ponzi
- 1930s Ivar Kreuger
- 1980s Jean Pierre Van Rossem
- 1984 Adriaan Nieuwoudt
- Between 1978 and 1983, Ron Rewald
- 1990s MMM was a Russian

- From 1992 to 1998 Anubhav Teak Plantations scam
- In early 1996, Patrick R. Bennett
- In 1996, Sidney Schwartz and his son, Stuart F. Schwartz,
- 1998 in Delhi, India, Hoffland Finance
- In 2004 Dennis Herula
- In October 2006, Gregory Nathan
- On April 13, 2007 Sibtul Shah
- ETC
- ETC



2015 EDITION

MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR
PROFESSIONAL
RESPONSIBILITY



- Rule 1.13: Organization as Client
- Client-Lawyer Relationship
- (a) A lawyer employed or retained by an organization **represents the organization**
- (b) If a lawyer for an organization **knows** that an officer, employee or other person associated with the organization is engaged in action . . . that is a violation of a legal obligation to the organization, or a **violation of law** that reasonably might be imputed to the organization, **and** that is likely to result in substantial injury to the organization, then the lawyer **shall** proceed as is reasonably necessary in the **best interest of the organization**. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization . . .



"A variation of Get Rich Quick schemes was robbing Peter to pay Paul, or benefiting one person at the expense of others. The origin of the phrase is open to dispute, but one account traces it to the 1500s in England, when the lands of Saint Peter's Church at Westminster were sold to fund repairs at Saint Paul's Cathedral in London."

— Mitchell Zuckoff (Ponzi's Scheme: The True Story Of A Financial Legend)





- "If all of the account holders at Barclays Bank suddenly demand their money, Barclays will promptly collapse (unless the government steps in to save it). The same is true of Lloyds, Deutsche Bank, Citibank, and all other banks in the world. It sounds like a giant Ponzi scheme, doesn't it? But if it's a fraud, then the entire modern economy is a fraud. The fact is, it's not a deception, but rather a tribute to the amazing abilities of the human imagination. What enables banks – and the entire economy – to survive and flourish is our trust in the future. This trust is the sole backing for most of the money in the world."

- — Yuval Noah Harari (Sapiens: A Brief History of Humankind)



- "If this sounds like a Ponzi scheme it is because it is the mother of all Ponzi schemes. A merry-go-round of Ponzi austerity which, interestingly, left both the insolvent banks and the insolvent Greek state a little more insolvent while, all along, the Greek population was sinking deeper and deeper into despair. And all so the European Union could pretend that its inane rules had been respected."

- — Yanis Varoufakis (And the Weak Suffer What They Must? Europe's Crisis and America's Economic Future)





- "The German losses are still being toted up, but at last count they stand at \$21 billion in the Icelandic banks, \$100 billion in Irish banks, \$60 billion in various U.S. subprime-backed bonds, and some yet to be determined amount in Greek bonds. The only financial disaster in the last decade German bankers appear to have missed was investing with Bernie Madoff"
- — Michael Lewis (Boomerang: Travels in the New Third World)



- "A bubble starts when any group of stocks, in this case those associated with the excitement of the Internet, begin to rise. The updraft encourages more people to buy the stocks, which causes more TV and print coverage, which causes even more people to buy, which creates big profits for early Internet stockholders. The successful investors tell you at cocktail parties how easy it is to get rich, which causes the stocks to rise further, which pulls in larger and larger groups of investors. But the whole mechanism is a kind of Ponzi scheme where more and more credulous investors must be found to buy the stock from the earlier investors. Eventually, one runs out of greater fools."

- — Malkiel Burton





- "Like a giant Ponzi scheme, profits depended on an unending source of associates entering at the bottom of the pyramid, funneling cash up the chain, and departing before making partner."
- — Cameron Stracher (*Double Billing: A Young Lawyer's Tale of Greed, Sex, Lies, and the Pursuit of a Swivel Chair*)





- "Leo Koretz, the Bernie Madoff of the Roaring Twenties, operated his swindle for far longer and with more panache than his contemporary, Charles Ponzi. He was a better actor, a more adept liar, a shrewder salesman. He kept his scam alive – and his investors none the wiser – for almost two decades In terms of the scale of their frauds, staying power and sheer audacity, Leo Koretz and Bernie Madoff stand apart in the pantheon of pyramid-building swindlers."

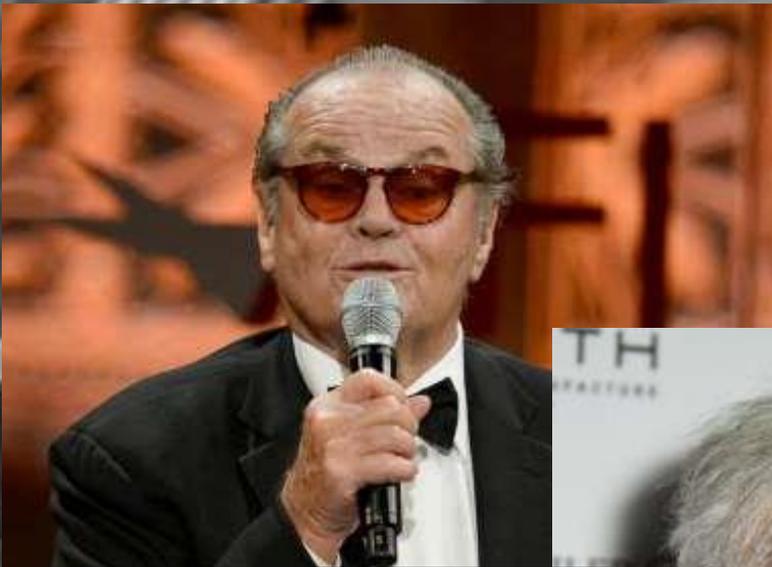
- — Dean Jobb (Empire of Deception: The Incredible Story of a Master Swindler Who Seduced a City and Captivated the Nation)



"The fact that there was something strange going on with Bernie Madoff's operation was not a secret on Wall Street. As soon as I started asking questions, I discovered that people had been questioning Madoff's claims for a long time; but even those people who had questioned his strategy had accepted his nonsensical explanations-as long as the returns kept rolling in."

— Harry Markopolos (No One Would Listen)



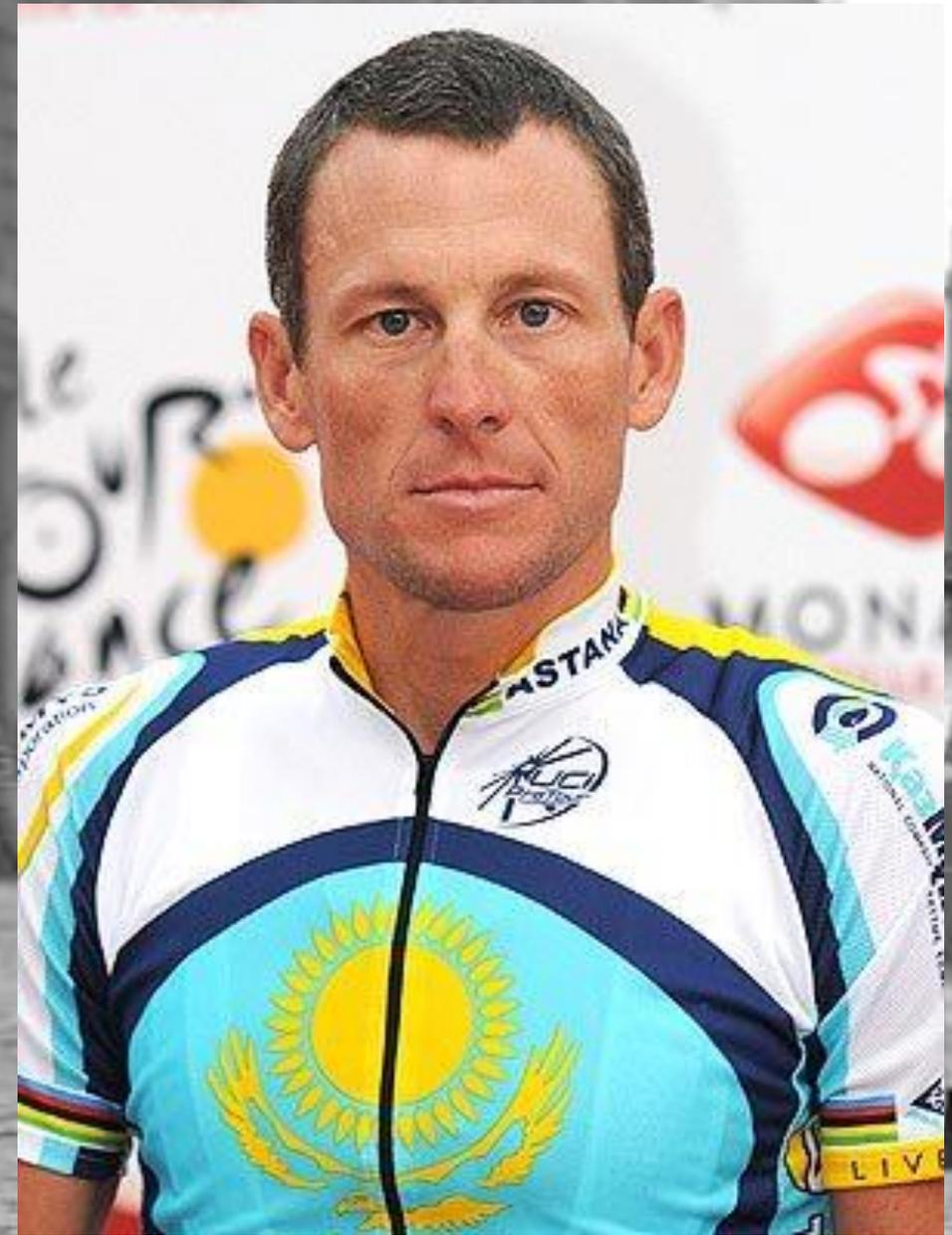


- "The fact that seemingly sophisticated investors would give Madoff hundreds of millions of dollars after he refused to allow them to conduct ordinary due diligence was a tribute to either greed or stupidity."
- — Harry Markopolos (No One Would Listen)



- There is no sense of guilt, but rather a sense of entitlement followed by regret at getting caught. “People like Stephen Glass and Jonah Lehrer are just smaller, less harmful versions of Madoff, but still in the same category. Like Lance said—all cyclists dope in that circuit. I got caught, whatever—that’s the only thing he’s sorry about.”

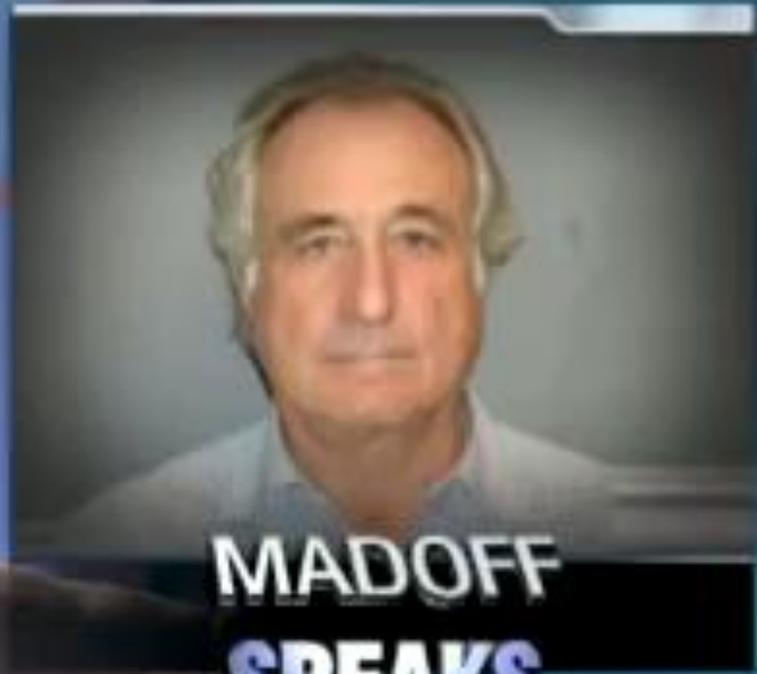
- — Maria Konnikova (The Confidence Game: The Psychology of the Con and Why We Fall for It Every Time)





- "Time and again, people caught Madoff in an obvious lie and gave him the benefit of the doubt. They didn't do this because he seemed so different from them, but because he seemed so much like them, only better: smarter, more experienced, more confident, more in control. Because he was fundamentally human and seemed to live in the same world they did, they could believe that somehow it would all work out, that they could ignore unpleasant realities without incurring unpleasant consequences."
- — Diana B. Henriques (The Wizard of Lies: Bernie Madoff and the Death of Trust)





MADOFF
SPEAKS

abc NEWS
.com

"Remember we don't have a crystal ball and all business is risky no matter what company you are joining Ponzi or not. This will never change no matter what you're doing so let's make sure you have a plan b and c or more. "

— Cory Crabb (How To Ride The Ponzi 101 (REVISED VERSION))





- "Imagine how many instances of crime could be averted, how many Bernie Madoff's could be thwarted if we simply listened to that still, small voice speaking to us softly saying "something isn't right."
- — Jeff McKissack (Power Proverbs For Personal Defense (Defense By Design Book 1))

