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Charities the overlooked victims in Madoff swindle

Philanthropic community reeling from firm's collapse as hundreds forced to curtail grants

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On a recent January afternoon, Phillip Shaw was walking the streets of St. Louis, and confronting the biting cold and the long odds of landing a job in this wretched economy. His resumé was thread-bare, his past troubled, and yet Mr. Shaw couldn't help but feel fortunate – particularly given the way he dodged the Bernard Madoff scandal.

Investigators are still trying to unravel the extent of Mr Madoff's alleged swindle, but the investment manager has reportedly told

authorities that his pyramid scheme cost investors as much as \$50-billion (U.S.). Had the fraud been exposed earlier, it might have cost Mr. Shaw something far dearer: his freedom.

For half his life, Mr. Shaw's home was a cell in a maximum-security penitentiary in Missouri.

He had been accused of murder after a drug-related shooting and, though he maintained his innocence, the jury handed him a life sentence with no chance of parole. He was 14.

Last year, however, Mr. Shaw received some unexpected help.



Phillip Shaw, shown in the visiting area of the Southeast Correctional Center in Charleston, Mo., was sentenced to prison with no chance of parole when he was 14 years old. SEAN GALLAGHER

'They're the reason I got out of prison'

A non-profit group called the Equal Justice Initiative of Alabama, which is financed by a charity that invested heavily in Mr. Madoff's hedge funds, took-up his cause and won him a new trial, arguing that he had been illegally convicted because prosecutors excluded a woman from the jury. The state agreed, but decided not to retry the case, and on Nov. 18, Mr. Shaw – now 28 – walked free.

"I don't know where the luck came from, but it came out of nowhere," he shrugged. "They're the reason I got out of prison. They picked up my case." Other juvenile offenders serving life sentences may not be so lucky. EJI has identified six dozen 13- and 14-year-olds who have been sent to prison for life with no chance of parole, yet because of the Madoff debacle, much of the

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litigation the institute is pursuing on their behalf is now in jeopardy.

Ever since Mr. Madoff, 70, was arrested in December at his home in New York and charged with fraud, considerable attention has been lavished on his legendary status on Wall Street and his star-studded victims, like Kevin Bacon and Steven Spielberg.

But far less attention has been paid to the hundreds of charities and foundations that have been forced to shutter their operations or severely curtail grants – and, of course, the anonymous people who benefit from this philanthropy. The collapse of Bernard L. Madoff Investment Securities LLC has had a tremendous ripple effect throughout the U.S. charitable community, threatening everything from museums and after-school programs to scientific research and human rights and criminal justice.

“To steal from a charity, in essence, really adds an insult to injury,” New York State Attorney-General Andrew Cuomo said recently. Mr. Cuomo surmised, conservatively by most accounts, that losses incurred by charities tied to Mr. Madoff could easily surpass \$100-million.

Far greater, however, are the social costs that will accrue from the crippling of these foundations. EJI, the group that won Mr. Shaw’s release, is a case in point. Although it works on a number of legal issues, including death row cases, its recent efforts have been directed toward “death-in-prison sentences” – cases where adolescents are sent to federal prison before the age of 15, with no chance of ever getting out.

In mid-December, EJI executive-director Bryan Stevenson was sitting in his office at New York University, where he lectures part time. As he scanned his e-mail before class, he saw a message from the JEHT Foundation.

JEHT was EJI’s biggest benefactor. It had committed to give the organization \$1.5-million over the next three years to mount its legal challenge against death-in-prison sentences for minors, a sum that enabled Mr. Stevenson to hire more staff and begin filing lawsuits in several states.

He was expecting to read that the initial \$500,000 payment had been deposited, but instead he found a terse message: The donors to JEHT, Jeanne Levy-Church and Kenneth Levy-Church, had invested their funds with Mr. Madoff and as a result, the organization was folding.

“All of our work is absolutely in jeopardy,” Mr. Stevenson acknowledged. “The Madoff stuff has put this issue, and these kids and our efforts, back in the position where they may have to be abandoned. I can pay my lawyers next to nothing. I can work 20 hours a day. But you can’t get free plane tickets. You can’t get free supplies.”

To make matters worse, Mr. Madoff’s alleged fraud has coincided with a global recession that is already choking off funding for philanthropic efforts. The economic downturn has reduced the assets of U.S. foundations by about one-third, on average, and shrunk donor wealth by between 25 and 50 percent.

“It could not have come at a worse time,” Gary Tobin, president of the San Francisco-based Institute for Jewish and Community Research, said of the Madoff affair. “It’s certainly a catastrophe for the specific philanthropists that were affected and whose main donors invested with Madoff.”

Observers have pointed out that philanthropists in the Jewish community have been disproportionately hurt by the fraud, although the effects have quickly spread through all charitable circles. According to Mr. Tobin’s estimates, 70 percent of all grants from Jewish foundations go to secular recipients.

Indeed, more than 200 groups received some funding from Madoff-related charities. They range from Amnesty International and the Lymphoma Foundation to Advocates for Environmental Human Rights: from the Fair Food Foundation, which provided fresh food to poor neighbourhoods in Detroit; to Melmark Home, a centre for the disabled in Pennsylvania; and the Philoctetes Center for the Multidisciplinary Study of the Imagination of New York.

The casualties weren’t confined to the wealthy pockets of Manhattan or the country clubs of Palm Beach. Through an elaborate network of friends and associates, the Madoff funds managed to solicit big clusters of well-heeled clients from Dallas to Minnesota, from Chicago to Denver and even Maine.

Many clients were attracted to Mr. Madoff’s low-key management style and assurances he followed a conservative investment strategy that generated steady returns. When these same clients later used their accumulated wealth to set up charitable foundations, it was only natural that they would turn to Mr. Madoff to manage the foundations’ funds as well.

That’s what happened to Jeanne Levy-Church, who drew on family money managed by Mr. Madoff to set up JEHT in 2002. Since then, the foundation, which stands for “justice, equality, human dignity and tolerance,” has given away more than \$20-million annually to dozens of organizations such as EJI.

“It’s just the worst thing ever because it’s so hurtful to the very people who people are trying to help,” said Daniel Goldenson, a businessman and philanthropist in Bremen, Me., who has been forced to scale back his charity work because of the Madoff scandal. “For somebody to go after people who support charities is pretty awful.”

Mr. Goldenson sank his life savings, about \$2.5-million, into an investment fund called Ascot. He only recently discovered that the man running Ascot, Ezra Merkin, was a close friend of Mr. Madoff and invested everything with his firm. Now it’s all gone and Mr. Goldenson has had to put some of his projects on hold. “We had many initiatives in the works that are affected by this and that’s what’s so hurtful, especially when you are in the middle of doing things.”

This is the way the Madoff investment machine worked: A close friend or associate with ties in a particular community would preach the gospel of predictable, handsome returns, and soon the money would pour in. It was a triumph of social networking, as numerous investors in Minnesota have painfully learned.

Local reports estimate that investors in St. Paul and Minneapolis may have lost a half-billion dollars or more by placing their bets with Mr. Madoff – a huge amount for the relatively small size of the Twin Cities.

Mr. Madoff began to insinuate himself into the community in the early 1980s through an associate named Mike Engler. Mr. Engler, a partner in Engler & Budd Securities, peddled Mr. Madoff’s funds to members of the Oak Ridge Country Club, a predominantly Jewish club in suburban Hopkins, Minn.

The pitch was the same as it was in country clubs all over the country: By investing with Bernie, clients could reap returns of up to 12 percent, and they could reap them with eerie regularity.

For the past two decades, Minnesota investors, many from Oak Ridge, continued to pour money into Mr. Madoff’s funds, even after Mr. Engler’s death in 1994.

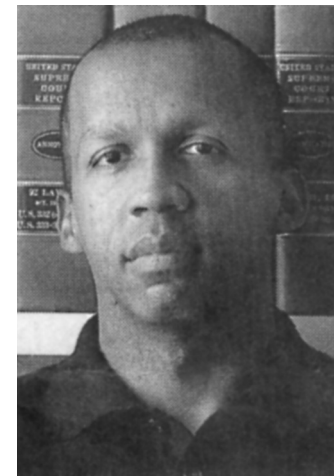
“I think it will kind of hit across the board in the coming year – there will be a definite impact on schools and social services,” said Rabbi Alexander Davis of Beth El Synagogue in Minneapolis. Mr. Davis said that although many investors are major community donors, it’s difficult to assess the size of the problem because people don’t want to talk about it. “The people that are directly affected are embarrassed and feel shame and they don’t want public recognition,” he said.

The immediate task confronting charities ensnared by Mr. Madoff’s alleged fraud is to scramble for more funds. Large organizations, like the Boys & Girls Clubs of America, or any number of medical research outfits, will doubtless feel some strain, but should still be able to summon investments from other sources.

Other groups, though, like EJI, the group that secured Mr. Shaw’s release from prison, face a more uncertain future. Criminal justice projects can be controversial, and there are only a handful of private foundations in the United States that routinely fund them. That leaves EJI’s director, Mr. Stevenson, with some difficult choices: siphon funds from other efforts, like death row cases, or face the prospect of having to abandon the legal work he has begun for incarcerated juveniles.

“There are a bunch of people we said we’d help and that I have to think about now,” Mr. Stevenson said. “But I’ve always had to believe things I haven’t seen. We resist hopelessness.”

THE FALLOUT



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Bryan Stevenson
Equal Justice Initiative



Equal Justice Initiative

www.eji.org