



National Security, the Financial Crisis and Bernie Madoff

On February 12, 2009, Director of National Security (DNI), Dennis C. Blair, testified before the Senate Select Committee on Intelligence. DNI Blair provided the Committee with the Annual Threat Assessment of the Intelligence Community. The first sentence of the assessment states:

“The primary near-term security concern of the United States (U.S.) is the global economic crisis and its geopolitical implications.”

This was the first time in six years that terrorism was not listed as the primary threat to the country. Fraud and other criminal activity resulting in the laundering of illicit funds have always been considered a threat to our national economy. The current financial crisis was primarily driven by the frightful combination of fraud, greed and arrogance. The magnitude of that fraud, greed and arrogance has clearly shaken not only our national economy but the global economy as well. In so doing, as noted by DNI Blair, the resulting international instability created by the financial crisis has become the most significant threat to our national security.

Bernard Madoff appeared in U.S. District Court in the Southern District of New York on March 12, 2009. He pleaded guilty to 11 felony counts, including securities fraud, mail fraud and money laundering. The fraud and Ponzi scheme involved a reported \$65 billion. Madoff has clearly become the poster child for the fraud, greed and arrogance that symbolize the financial crisis.

As a former FBI Agent, with extensive investigative experience in sophisticated fraud and financial crime schemes, I was intrigued by a statement Madoff made to the court during his pleading. He said “... and as the years went by, I realized my arrest and this day would inevitably come.” Someone needs to ask Madoff the question “at what point in time did you realize that your scheme would be detected?” How many years ago did Madoff reach his conclusion? In my experience, at that point in time, Madoff began planning his exit strategy.

Big time fraudsters usually theorize that their schemes have a certain shelf life, and at some point, their fraud will be detected. Therefore, many of these fraudsters make contingency plans and devise exit strategies. In many cases, that would mean fleeing the U.S. and relocating to a safe haven such as Robert Vesco and Marc Rich did. Interestingly, Madoff did not. So what was his exit strategy? Could he have been laundering funds for an extended period of time, in an attempt to separate them from his fraud and give such funds an air of legitimacy for his family or other designees to benefit from at the expense of his victims?



Could he have been insulating co-conspirators by focusing guilt solely on himself and confessing at a preordained time to protect them?

Hopefully, prosecutors, investigators and government appointed Trustee Irving Picard will ask these questions and assess Madoff's exit strategy. As a result, they should be able to recover or account for missing funds and identify other individuals who wittingly participated in the fraud.

Congress should take into account that the questionable activities of Madoff, and many other prominent business executives have contributed to our financial meltdown, thereby undermining the economy and threatening our national security. In this context, Madoff, and other despicable business executives and fraudsters should be considered economic terrorists. As such, Congress should strongly consider legislating more stringent criminal and civil penalties. Current penalties for white collar criminals are not as harsh as they should be considering the state of our current economy. Madoff, for example, should be sentenced to life in a maximum security facility and subject to forfeiture of all assets owned by him and his wife, and perhaps the assets of his immediate family as well. That is unlikely to occur. He will more likely be sentenced to a minimum security facility and have many millions of dollars in assets protected and in safe keeping for his wife and others.

It's bad enough to be consumed by greed and arrogance, but when prominent business executives cross the line and allow greed and arrogance to result in millions or billions of dollars in fraud, they should be considered economic terrorists. As economic terrorists, when they are convicted, they should face the same criminal and civil penalties as other domestic or international terrorists.

By Dennis M. Lormel

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