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# At Last, Bernie Madoff Gives Back

By FRANK RICH

WHEN Bernie Madoff was arrested in December 2008, America feasted vicariously on a cautionary tale of greed run amok. But like Rod Blagojevich, the stunt governor of Illinois who had been arrested days earlier, Madoff was something of a sideshow to that dark month's main events. For a nation reeling from an often incomprehensible economic tsunami and unable to identify the culprits, he was, for the moment, the right made-to-order villain at the right time.

But Madoff was a second-tier player. Some in the upper echelons of New York's financial world, including in the business press, had never heard of him. His firm's accountant operated out of a strip mall and didn't bother with electronic statements. The billions that vaporized in Madoff's Ponzi scheme amounted to a rounding error next to the eye-popping federal bailouts, including those pouring into too-big-to-fail banks wrecked by their own Ponzi schemes of securitization. The suffering he inflicted on his mostly well-heeled dupes was piddling next to the national devastation of an economy in free fall. In a December when a half-million Americans lost their jobs — a calamitous rate not seen since 1974 — the video of a voiceless, combative Madoff in a baseball cap, skirmishing with photographers outside his Upper East Side apartment house, soon lost its punch.

A month later Barack Obama would be inaugurated and declare "a new era of responsibility." Now, another two years have passed, and while the economy is no longer in free fall, we're still waiting for

that era to arrive. What's extraordinary is that Madoff, unlike such tarnished titans of the bubble as Rubin or Fuld or Prince, is very much at center stage, even as he rots in prison. Perhaps that's because he's the only headline figure of the crash who did go to prison.

His evil deeds, in their afterlife, are now serving as a recurring wave of financial body scans. Each new Madoff revelation sheds light on an entire culture that allowed far loftier flimflams than his to succeed — though the loftier culprits, unlike him, usually escaped with the proceeds. That financial culture largely remains in place today.

The prime mover in connecting Madoff's low-tech, relatively low-yield scam to the big Wall Street picture is Irving H. Picard, the bankruptcy trustee pursuing loss claims for Madoff's victims. Most Americans haven't heard of Picard. But each day that he accelerates his pursuit of Madoff's collaborators, he steps further into the vacuum of leadership left by others, including the Obama administration's Department of Justice.

Picard has also upstaged [the Financial Crisis Inquiry Commission](#) that is set to officially close its doors today. The hope had been that the commission, convened by Congress, would be what [Ferdinand Pecora's Senate inquisition of 1933](#) was to the Great Crash — a no-holds-barred dispensation of blame to tycoons who looted the Wall Street casino and then let ordinary Americans pay the consequences. Pecora's cross-examination of Charles Mitchell, the chairman of National City Bank (the ancestor of Citigroup), [caused a national sensation](#). But in its final report, our own Great Recession's commission essentially found everyone guilty, thereby letting individual miscreants off the hook.

And so Madoff remains the only felon of the whole affair that Americans can identify by name. By taking this single card he's been dealt and exploiting Madoff's trail of crime to the max, Picard may yet prove the Pecora we've been waiting for.

He is [pursuing hundreds of lawsuits](#) to retrieve fictitious "profits" from the lucky coterie of Madoff investors who cashed out before his arrest. Now Picard has raised the stakes with two suits that reach deep into American institutions — the New York Mets, whose principal owners, the Wilpon family,

seemed to constitute a [Madoff financial farm team](#), and JPMorgan Chase, the main Madoff banker.

As a long-suffering Mets fan, I'll leave the Wilpons to the Yankee vigilantes. JPMorgan is a [more consequential target](#) in any case — the sole big bank that survived the economic crisis with its balance sheet, image and chief executive, Jamie Dimon, more or less unscathed. Dimon, as a [Times Magazine cover put it in December](#), is “America’s Least-Hated Banker,” an unpretentious guy (and lifelong Democrat) whose self-professed mantra is “do the right thing.”

Picard’s litigation asserts that JPMorgan saw red flags about Madoff’s legitimacy yet never bothered to notify either the authorities or its own Madoff-invested customers as long as there was money the bank could scoop off the craps table. In one internal JPMorgan [e-mail cited in the lawsuit](#) — dated June 2007, some 18 months before Madoff’s arrest — a Chase investment officer told colleagues that he had heard of “a well-known cloud” over Madoff, including speculation that he was “part of a Ponzi scheme.” And yet, according to Picard’s brief, Madoff could freely cycle billions of dollars of his clients’ money through Chase accounts until the end — even as the bank itself was busily dumping \$241 million of its \$276 million in Madoff investments.

Late last month, in the days before the Picard suit was unsealed, Dimon [appeared](#) on a panel at the World Economic Forum in Davos, Switzerland, titled “The Next Shock, Are We Better Prepared?” and [complained](#) not for the first time — or the 10th — about what he considers unfair treatment by the press and the Obama administration. He’s just sick, he said, of the “constant refrain” of “bankers, bankers, bankers.” His arrogance compelled even the French president, Nicolas Sarkozy, no socialist, [to speak up and chastise American banks](#) for repeatedly defying “simple common sense” over the last decade. “The world has paid with tens of millions of unemployed, who were in no way to blame and who paid for everything,” Sarkozy said. “Too much is too much.”

Indeed. As if the Picard charges about the Madoff-JPMorgan nexus weren’t enough, last week a Dimon underling [had to publicly apologize before Congress](#) to military families for the bank’s financial abuse of Americans fighting in Iraq and Afghanistan over the same period. In violation of the

Servicemembers Civil Relief Act, designed to protect those serving overseas during their absences from home, JPMorgan overcharged at least 4,500 soldiers on their mortgages and illegally foreclosed on 18 of them. Many of these victims have been battling JPMorgan for years to get it to obey the law. Let us not forget that this is the one big bank that was considered Wall Street's model citizen.

As for the question posed to Dimon's Davos panel, the answer is No, for the most part, we're not better prepared for the next shock. It's not even clear we want to be prepared. The Financial Crisis Inquiry Commission was ridiculously under-supported by Congress — it had less than one-sixth the budget of the musical "Spider-Man" to shed light on years of opaque financial maneuvers by huge, lawyered-up institutions. Even its worthy final report's release was drowned out, as bad luck would have it, by the uprising in Egypt. Now the new conservative attack dog of the House, Darrell Issa, is [gearing up an inquiry of the financial crisis inquiry](#). His only conceivable purpose is to ward off any future attempts to pursue the still unanswered questions about the meltdown.


The commission's report, full of fascinating detail, received mixed reviews. One critic, Yves Smith, of the financial blog Naked Capitalism, [chastised it](#) for not digging into how the financial industry profited obscenely (and in her view, fraudulently) by deliberately creating "toxic instruments" like subprime-mortgage-backed securities just to bet against them. Michael Lewis, author of "The Big Short," was far more favorable about the report but scarcely less fatalistic. "I feel like we're living in a house built on sand because we didn't reform the system," he [said](#) on MSNBC's "Morning Joe." Noting that banks have returned to huge profits while helping themselves to zero interest loans, Lewis concluded that we still have "socialism for capitalists, and capitalism for everybody else."

But it's not just financial reform that has fallen short. We still don't have cops to catch those who break the law. Which brings us back full circle to Madoff. Not the least of his cautionary tale's subplots was the one starring Harry Markopolos, a private financial investigator and whistle-blower who [repeatedly contacted](#) the Securities and Exchange Commission for nearly a decade with evidence of Madoff's fraud — only to be ignored.

Markopolos was lionized on “60 Minutes” and published a book, “No One Would Listen,” dramatizing his lonely crusade. And where is the S.E.C. today? Caught in the federal budget freeze — and bracing for further cuts by the antigovernment, antiregulatory Republican House — the agency can’t hire the employees needed to enforce existing security laws, let alone new ones created by the Dodd-Frank financial overhaul. It must use archaic technology to chase high-tech trading systems that operate “at the speed of light,” as Mary Schapiro, the S.E.C. chairwoman, put it. The agency’s new whistle-blower office — created precisely to welcome informants like Markopolos — has been put on hold.

Determined as Picard, our accidental Pecora, may be, the fact remains that the time couldn’t be riper for the next Madoff, whether in a strip mall or in the elite gambling dens of Wall Street, to get in the game.

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