

## Madoff Hedge Fund Victims Get Their Due

Twelve years after authorities charged **Bernard Madoff** with orchestrating the largest financial fraud in history, investors in a fund that funneled money to the crooked financier have finally been made whole, with an investment gain of 50.4% as something of a salve.

And investors in a second fund that parked money with Madoff are expected to get their final distributions early next year, with a similarly robust return.

Both vehicles, Ariel Fund and Gabriel Fund, were among four funds once run by disgraced hedge fund manager **J. Ezra Merkin**, who took in more than \$400 million of management and performance fees through his **Gabriel Capital** for supposedly actively managing the funds when he in fact ceded control of much of the money to Madoff. Madoff, in turn, fabricated big returns and falsified assets, leading the investors to believe they were profiting handsomely.

In reality, Merkin's investors collectively lost \$1.2 billion in Madoff's epic Ponzi scheme.

Enter **Bart Schwartz**, the founder of **Guidepost Solutions**, a firm that cleans up financial messes and monitors legal settlements. A **New York State Supreme Court** judge appointed Schwartz to take control of Ariel and Gabriel in June 2009 with a mandate to liquidate the funds' assets and to return capital. While some court-appointed receivers sell assets quickly at fire-sale prices, Schwartz opted to choose his spots, waiting for more profitable opportunities. That approach slowed the process, but Guidepost contends it served investors well.

When Schwartz took over, Ariel Fund had \$622.6 million of assets and \$308 million of fictitious gains. By this September, when the 15th and final distribution went out, the fund had paid \$936.4 million to its 75 investors.

"To put this number into perspective, this is more than the fund's value at the start of the receivership even if you included cash *and* fictitious profits lost as a result of the Madoff fraud," Schwartz wrote in an Oct. 30 letter to investors.

Schwartz anticipates a slightly better result for Gabriel Fund investors, who should get their final distributions in early 2021. Gabriel was valued in June 2009 at around \$900 million, in-

cluding \$590 million of bona fide assets and \$310 million of fictitious assets. By the time the last payment goes out next year, the fund is expected to have disbursed about \$1 billion. The gains in both funds are net of fees.

Merkin had up to \$5 billion under management in four vehicles — Ariel, Gabriel, Ascot Fund and Ascot Partners — with \$2 billion to \$4 billion of that capital funneled to Madoff, according to various press reports. The Ascot funds, under the direction of a different receiver, have yet to be fully liquidated.

In 2009, the New York State attorney general at the time, **Eric Schneiderman**, filed suit against Merkin, alleging he fraudulently accepted fees for work he hadn't done. Under a 2012 settlement in which he admitted no wrongdoing, Merkin agreed to pay \$405 million over three years to compensate investors.

The arrangement didn't, apparently, leave him wanting for wealth. In June of this year, **Bloomberg** reported that Merkin had sued **AIG**, alleging the insurer owed him \$41 million for artwork and other items damaged in a 2016 fire at his Park Avenue duplex. The building has been home to former **Merrill Lynch** chief executive **John Thain** and **Blackstone** co-founder **Stephen Schwarzman**, among other financial luminaries, the news agency wrote.

Madoff, meanwhile, was sentenced in 2009 to a 150-year term, which he is serving in North Carolina. In February of this year, he filed for so-called compassionate release, saying he had just 18 months to live because of kidney disease. A federal judge denied the request in June, citing the severity of his crimes.

Schwartz, a former chief of the criminal division in the **U.S. Attorney's Office** in New York, founded Guidepost in 2010. In 2016, the **Department of Justice** assigned him to monitor **SAC Capital's** adherence to a settlement related to insider-trading charges that included a \$1.8 billion penalty and a two-year ban from running outside capital.

Most recently, the **University of Michigan** this month hired Guidepost to help it implement changes in the aftermath of sexual harassment allegations against a former provost. ❖