The Dialogues of Bernie Madoff’s Ponzi Fraud: An Exploration of the Discourses of Greed, Cliques, Peer Pressure, and Error

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ABSTRACT

Bernie Madoff defrauded billions of dollars from his victims. The crime of fraud and the so called sin of greed have been with us throughout known human history. Instead of looking at mere greed as the cause for fraud, this retrospective of Bernie Madoff’s fraud will examine the other reasons why, despite multiple warnings and red flags, smart savvy people who had been advised otherwise, still invested with Madoff. The culture of secrecy that Madoff constructed is deconstructed and explained as creating community. As well, the first person account of an academic who specializes in mental lapses, and who invested with Madoff, is given a textual analysis and some lapses are revealed and discounted.

KEYWORDS

Bernie Madoff, Error, Forensic Semiotics, Fraud, Greed, Ponzi Scheme

INTRODUCTION

As a culture, the discourses and narratives of crime hold our attention. We watch detective dramas and read detective stories and even whole genres of books and film have been dedicated to both fictitious and factual crime as a form of entertainment. We have all become amateur detectives and crime solvers and Monday morning quarterbacks, looking at news and crimes in retrospect, to come up with theories to explain what happened. We often dismiss the reason for a crime as simple greed; indeed the TV network CNBC produces a real crime show called “American Greed.” It is possible to problematize the concept greed into a discourse that breaks greed apart into meanings that form a tapestry of meanings. As a case in point, the show “American Greed” specializes in stories that describe that specific kind of greed that leads people to defraud each other and tends to specialize in the subgenre of fraudulent schemes called the Ponzi. While schemes like the Ponzi have existed for generations, we may well wonder why people still fall for them even though we hear about them all the time. And, while the word “greed” is indeed a simple answer to this question of credence of the fraud, “greed” explains away the discourse of the fraudster, rather than explaining what may actually be going on for them and for some victims. As a further case in point, and most relatively recently, we can examine one of the most infamous Ponzi schemes of recent history, that of Bernie Madoff, who reportedly stole over fifty billion dollars from his investors. While there are many articles written about Madoff’s crime and what his investors should have done, in terms of due diligence, there are very few articles written about what his investors did do at the time, because it is simple to say that

DOI: 10.4018/IJSVR.2017010106

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Madoff was a bad man and that his victims were simply swindled by a confidence man. The truth is as simple as that and more complicated, so, using the Bernie Madoff fraud as a place to start, the questions we will be pose throughout this exploration will be as follows: Given the fact that we can recognize Ponzi schemes almost immediately from the outside, and, aside from sheer monetary greed, are there any other reasons or factors that people still participated in Madoff’s fraud? Conversely, how much of a factor was sheer monetary greed, in the temporarily successful execution of Madoff’s scam? Or, and this is a controversial idea, is the victim of a Ponzi scheme, were Madoff’s victims, just as complicit and, if so, in what way or ways? We will see demonstrated that some of the victims of Madoff’s scheme may have thought that they were rationally investing money into a fund where the payoffs were guaranteed and were defrauded, but far more importantly, some may have been investing for less tangible reasons such as low self-esteem and even peer pressure.

A SHORT HISTORY OF GREED

What do we mean by the word “Greed”? Merriam Webster defines greed as “a selfish and excessive desire for more of something (as money) than is needed (Merriam Webster 2017).” Moreover, greed is shrouded in the mystery and the shame of being one of the seven deadly sins of Western culture. As Catholic theologian Christopher Kaczor explains, greed is classified amongst the other six “as one of the seven “deadly” or “capital” sins because it leads to other sins (Kaczor 2011). He goes on to explain that greed may lead to lying, to cheating, to stealing and to defrauding others and that therefore greed is viewed as one of the especially repugnant sins. But, to emphasize, greed, as a sin, is not seen as inevitable because the Christian view is to view sinfulness as a personality defect to be overcome through belief and work. Therefore, this explanation of greed describes why, as a culture, and even in the breach, we can point our fingers at the greedy fraudster. Greed, according to this view, and therefore fraud as a result of greed, has nothing to do with psychological issues and is instead seen as a moral failing. Therefore, in our culture, we feel free to criticize those who have been caught being greedy because we feel morally superior to them.

But, what does the word “fraud” actually mean? Black’s law dictionary defines fraud as: “A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment (Garner 2004).” On a more basic level, fraud is theft by trick or by concealment or by deceit. In terms of a textual analysis, a fraud is a specific kind of discourse between two parties where one, (whom we will call the fraudster), acts specifically to deceive the other participant or participants in the discourse, (we will call these other participants the victim or victims), by either creating a discourse where the fraudster materially misrepresents the opportunity presented in the discourse to the victim or where the fraudster creates a discourse where key data is intentionally withheld from the discourse and thus from the victim or victims. Also key to this fraudulent discourse is the fraudster’s intention to materially profit and also that the discourse causes the victim or victims to act to their own detriment because they give credence to the fraudster’s false discourse. This last phrase is absolutely a huge key to the puzzle so let us repeat it. The fraudster’s discourse causes the victim or victims to act to their own detriment because they give credence to the fraudster’s false discourse.

In the Western canon of literature, the first example of any fraud was most probably in the Bible. Although it was not a Ponzi scheme, in Genesis 27, Jacob with the aid of his mother Rebecca, purposefully wore a disguise and impersonated his brother Esau to deceive their father Isaac and to steal the blessing – the ‘Birthright’ -- that was due to Esau. More contemporarily, and closer to the topic at hand, we really have no idea exactly when or where the first Ponzi scheme originated although we do know that it certainly had been tried before. We do know that this particular form of fraud was named after Charles Ponzi, who was an Italian born American and who died in Rio de Janeiro in 1949. To define the original Ponzi scheme, and as the Securities exchange commission describes, “Ponzi initially bought a small number of international mail coupons in support of his scheme,” a
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