

Lessons from the Madoff Scandal (and why we're different) (February 10, 2009)

What do the Royal Bank of Scotland, the Elie Wiesel Foundation for Humanity, Steven Spielberg's Wunderkinder Foundation, Zsa Zsa Gabor, Kevin Bacon, and the owner of the New York Mets have in common? They are all victims of the (alleged) \$50 billion Bernard Madoff Scandal.

This loss is a tragedy of epic proportions. However, the real tragedy is that if investors had followed some basic rules of prudent investing, these investments would never have been made. Many investors are now left wondering, "How can I be sure my money is safe?"

Here are a few tips that should help:

- 1) First and foremost, are your assets held directly by your investment advisor? This is referred to as "full custody". These are typically the situations where investors have gotten into trouble, because the advisor actually has custody of your assets. The better and safer relationship is referred to as "limited trading authorization". Here, your assets are held by a separate custodian, but the investment selection is directed by the advisor.

At Mainstay Capital Management we have limited trading authorization. Our client's assets are held by a qualified custodian, or within a 401(k) or 403(b) plan. Additionally, and very importantly, you never write a check to Mainstay Capital Management to deposit your funds for management. The check is written directly to a qualified custodian. We never actually have "custody" of your funds. Advisor's that do can theoretically do anything with that money. And, Bernard Madoff apparently did something very different than what his clients thought he was doing with their money.

- 2) Do you receive account statements from an independent, verifiable, third party? In the case of Madoff's clients, they received account statements from a brokerage firm that he was affiliated with. Therefore, the statements could be manipulated, and apparently they were.

At Mainstay Capital Management, we provide regular account statements for our clients. However, depending on where the assets are custodied, the client also receives regular account statements from a qualified custodian, or their 401(k) or 403(b) plan administrator.

- 3) Can you review your account on a daily basis? Investors with Madoff had no easy access to view their accounts.

Mainstay Capital Management clients can view their accounts daily via the web.

- 4) Does your advisor invest in publicly held, regulated securities? With Bernard Madoff, we don't yet know what, if any, investments were actually being made. Madoff was able to execute his massive fraud because he operated behind "a curtain". Other investors have gotten hurt by their advisor's investments in unregulated and/or non-publicly traded securities.

At Mainstay Capital Management we widely utilize open-end mutual funds as a key investment vehicle for our tactical asset allocation process. Publicly held mutual funds are a highly regulated industry. Mutual funds must have audited financial statements. Mutual funds do not perform their own accounting. This high degree of transparency in an investment is crucial.

- 5) Does your investment advisor make it difficult for you to withdraw your assets? Bernard Madoff reportedly discouraged investors from withdrawing assets and only allowed redemptions at specific times during the year. We now know that it was imperative that he controlled outflows so that he could keep the con going. A Ponzi scheme's success depends on gaining and retaining enough assets to pay-off existing participants.

At Mainstay Capital Management we don't play any games with surrender charges, cancellation charges, or multi-year commitments. We don't lose many clients, but if a client ever chooses to disengage our services for any reason, the client can do so at anytime with one toll-free call to let us know.

- 6) And finally, there is an old saying about something that seems too good to be true. Bernard Madoff's clients saw consistent, positive returns year after year, no matter what the market was doing.

At Mainstay Capital Management, we won't promise you a pot of gold at the end of every rainbow. And, at times your portfolio value may decline for a while. However, we are confident that over the long-term we will not only meet, but we will exceed your expectations.

For any questions about this report, contact Mainstay Capital Management toll-free at 1-866-444-6246.