



## **Six places to check out your investment advisor**

The Bernie Madoff scandal confirms what everyone already knew: no one is immune from getting scammed. The victims of Madoff's Ponzi scheme were the best and the brightest, millionaires and billionaires, some of them "captains of industry" and others from long established wealth. Many were friends and acquaintances from Palm Beach, no strangers to scandal and intrigue. But the scope of the Madoff scam seems to have shaken the moneyed foundations of the legendary island.

Many of us won't face the threat of losing billions, or even millions, to a fraudster or a crooked broker. But by taking a few precautions, we can avoid some of the most obvious problems by checking out our investment advisors and potential business partners and conducting our own "due diligence" on the person who may be handling our retirement and investment accounts. (For a good working explanation of "due diligence" visit our website at [www.radioinvestigator.com](http://www.radioinvestigator.com), click on Business and Corporate Services, Client Services, and Due Diligence.)

Is your advisor or potential partner on sound financial footing in his or her personal life? Does he or she have financial problems that might create pressure on them to make poor or unethical decisions with your money? In order to conduct your own due diligence investigation of your potential investment advisor, you will want to know several things: his or her full name, including middle initial (usually on the advisor's business card); approximate age; home address, or at least the municipality; and the name of the company the advisor is working for (again, on the business card). Don't worry about getting a date of birth or a social security number; personal identifiers rarely find their way into the public record anymore (but see step 3 below).

Five of the six places I'm suggesting to you are available online, locally, and are public record. One of the six may require you to sign up for an inexpensive service, but if you're serious about your financial future, you'll make the investment yourself, or call someone (like us) who can help you. Let's take a look at these sources by starting at the local county courthouse:

1. Property Appraiser: This is the place where records of homeowners are maintained by the county tax collector. Available online in most counties, information can be obtained by name or address. This will confirm if your advisor owns a home, and will usually indicate the purchase date and even the purchase price.

Why is this important? Home ownership is a sign of stability and a commitment to being someplace for a while. Unfortunately, for the past several years in the fevered real estate boom, home ownership has emerged as an “investment” strategy and many homeowners have started treating their homes as ATM machines. With the recent subprime “meltdown,” many people have found themselves *upside down* in their homes, with first and second mortgages, and even equity lines, creating debt in excess of the value of the property itself. You can find out if your advisor is *upside down* by going to step 2.

2. Official Records: These are maintained by the local clerk of court and consist of the deeds, mortgages, liens, judgments, and other documents that make up the lives of every citizen, rich or poor. A name search will provide a list of instruments recorded against your advisor, like that second mortgage or equity line we discussed in step 1.

You’ll also see some other interesting information, too, like liens and judgments. Is this important? Well, consider that casinos habitually record liens against players who fail to cover their losses in the player’s home county. Would it be important to know that your advisor has a lien filed against her by a Las Vegas casino? Or that he has a federal tax lien filed against him by the Internal Revenue Service for \$30,000? Or that he or she has mortgages of \$600,000 on a property that you know is now worth about \$450,000?

3. Civil/Criminal Suits: Again, this database is available through the local clerk’s office, usually online, and searchable by name (here’s where the middle initial is helpful). If your advisor has been sued by anyone locally, it will be recorded here, providing you with a case number and name of the plaintiff (the party bringing the suit) and the defendant (the party being sued). Is your advisor a frequent plaintiff or defendant? This could be important information in your analysis. In our litigious society, most people end up in a lawsuit occasionally. But be suspicious of anyone who ends up on either side of a lawsuit on a regular basis.

The suits will also identify whether your advisor or potential partner is a defendant in a criminal case. Looking at the case number will help you distinguish between civil cases, small claims cases, criminal felony cases, criminal misdemeanor cases, traffic cases, and criminal traffic cases, like DUI’s.\* If you identify a number of cases, write down or print out the case numbers, drive to the local courthouse, and ask to review the court file. These records are

available to the public almost without exception, and you can even obtain photocopies of specific documents if it is necessary to help you evaluate your due diligence.

Tip: If you find your advisor or potential partner has a traffic ticket (or a history of traffic tickets), a date of birth will be listed on the citation, available at the courthouse for personal review. The date of birth will help you in step 4, below.

4. Arrest History: In Florida, arrest histories are available online at the Florida Department of Law Enforcement (FDLE) website (<http://www.fdle.state.fl.us>, click on Criminal History Records Search) for a small fee, payable by credit card. You will need the subject's full name and approximate age, if you don't have a date of birth yet. (See step 3 about getting a DOB.) This report will provide you with any arrest by any law enforcement agency which submits arrest information to FDLE (not every agency does, but the vast majority do). This record will reflect arrests for any criminal infraction including drug possession or sales, theft charges, assault and battery cases, burglary, or domestic violence.

Keep in mind that if your advisor is licensed by the state (we'll get to that next), the chances are that he or she has either resolved a criminal history to the satisfaction of the licensing board (pretty picky folks, actually), or doesn't have one. Most licensing boards interface with the state law enforcement bureaus to check on licensees periodically; the licensing board will then conduct its own investigation and may suspend or take other disciplinary action against the licensee. These records of the agency investigation are also available for review.

5. FINRA: The Financial Industry Regulatory Agency is "the largest independent regulator for all securities firms doing business in the United States."<sup>1</sup> Follow this link to conduct a name search on your investment advisor (<http://www.finra.org/Investors/ToolsCalculators/BrokerCheck/index.htm>). To test this, enter the name "**Madoff**" and eleven results will come back, including two entries for **Bernard L. Madoff** and **Bernard Lawrence Madoff**. Clicking on the latter entry will take you to a summary page on Madoff, which includes a .pdf link to a 16 page report (as of December 2008) with an outline of the allegations made by the Securities Exchange Commission (SEC) against Madoff.

Prior complaints or charges will be documented in these reports, providing you with a regulatory history of your advisor. It will also include prior employers, which can, in turn, be checked for any problems or allegations, and their dispositions. Some advisors have a history of being associated with problem brokerages.

Also be aware that each state requires investment brokers and securities dealers to be registered with the appropriate financial services agency. A Google search

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<sup>1</sup> From the FINRA web site home page: <http://www.finra.org/index.htm>

will provide you with the web address of this agency, and a name search can be conducted at this site, as well.

6. PACER: This database is where you will find any cases filed in federal court across the country. It requires registration and a small fee, but its value is potentially huge in identifying civil suits and bankruptcy cases, and even criminal charges. It can be searched by name and/or case number, if you should have a case number to search. Follow this link to learn how to subscribe to this database: <http://pacer.psc.uscourts.gov/>. All bankruptcy cases filed in federal court can be identified using this database, and federal criminal cases (securities/wire/mail/mortgage fraud, drug trafficking, weapons charges, even certain child support cases) will also be disclosed.

Case Study: I once conducted a due diligence investigation for an investor that uncovered a prior federal conviction for mail and wire fraud by a person the investor was considering doing a multi-million dollar building project with. The conviction was disclosed by a judgment recorded by the Department of Justice in the felon's home county; the federal case number was listed in the judgment, which lead us to the indictment and sentence filed in another district. The felon did not have an arrest history, was not a registered securities broker, and was not overextended on his mortgage (steps 1, 3, 4, 5). But the judgment listed in Official Records (step 2) lead us to his federal criminal case (step 6).

As you can see, the investigation was thorough and took several hours of research time, and some patience in obtaining the court file from the other jurisdiction. The fee to the client was several hundred dollars, but considering that several million dollars was at stake, the money turned out to be a considerable savings over what might have been lost. Another investor was not so fortunate; he failed to conduct his own due diligence, and promptly lost his money. The case is now in litigation.

As every investor knows, "past performance is no guarantee of future returns." Due diligence investigations conducted in good faith and with tenacity are no guarantee that your investment advisor or future partner will help you make money or grow your wealth. But a good investigation will help you identify people you should probably stay away from, and provide you with the peace of mind of knowing that you thoroughly vetted your advisor or partner, and whatever happens to your investment, you went in with your eyes open. As a wealthy business owner once told me, "I'm not so interested in the return *on* my investment as the return *of* my investment."

**Disclaimer:** The preceding information is provided as a guide, and should not be construed as an exhaustive resource on the subject of conducting due diligence investigations and analysis. Investors considering making an investment or any business transaction should consult with their attorney, accountant and other

professional (including a licensed private investigator) before making the investment or transaction.

Call us at **561-687-8381** or visit us at [www.radioinvestigator.com](http://www.radioinvestigator.com) for more information about investment frauds and schemes, and to learn more about ways to protect yourself and your company from fraud, embezzlement and theft.