

# The Southern Poverty Law (and Investing) Center

*Will SPLC, a Beneficiary of Financial Swindler Bernie Madoff, Return Its Madoff Money?*

By **PATRICK CLEBURNE**

**T**he incredible Southern Poverty Law Center money machine just keeps rolling on and on, according to its latest Form 990 filing with the IRS and its Financial Statement.

But the SPLC is rolling in an increasingly bizarre direction. For example: why exactly is it piling up its extraordinary, illiquid, secretive, never-touched money mountain? This kind of thing risks unfavorable IRS attention. And why does it need a bank account in the *Cayman Islands*?

Donations to the SPLC in the year ending October 31, 2009, were down 11.1 percent—to a mere \$28.8 million. But, because of a massive \$32.49 million (19.6 percent) increase in the value of its securities portfolio, the SPLC’s “Net Assets” rose to \$199.95 million.

In contrast, according to one report, many charities faced contractions in funds available of 20-30 percent over this period.

Operationally, things weren’t too bad for the SPLC either. Despite fundraising expenses of \$5.677 million, according to the 990, and despite supporting 206 employees (payroll \$12.312 million), the SPLC still managed to transfer a remarkable \$4 million (the same amount as last year) to its reserves—its so-called “Endowment Fund.”

In contrast, many, probably most, foundations must have had to invade their reserves in the arduous conditions of 2008-9.

With most charities, the term “Endowment Fund” would mean a pool of funds to which access is restricted, perhaps to income or a small percentage of assets.

This is not the case with the SPLC. Only a tiny proportion of its assets are restricted. The nomenclature is just camouflage. As Dan Borochoff, President of the watchdog American Institute of Philanthropies, told Bill O’Reilly in 2001:

*Patrick Cleburne, a frequent contributor to VDARE.COM, has scrutinized the SPLC’s financial records and documented SPLC’s aggressive investment portfolio.*

It’s not really an endowment [just] because the board called it that.<sup>1</sup>

What this means: approximately 13.9 cents of every dollar that the public gave to the SPLC in 2008-9 was promptly squirreled away into a management-controlled board from which, on the available public record, it *never emerges*.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances			
1	Contributions, gifts, grants, and similar amounts received	1a	26,861,268.
2	Government contributions (grants)	1b	48,333.
3	Membership dues and assessments	1c	26,428,592.
4	Interest on savings and temporary cash investments	1d	432,676.
5	Dividends and interest from securities	1e	40,806.
6	Net gain or (loss) from sales of securities	1f	406,618.
7	Other investment income (describe in Endowment Income)	1g	2,897,360.
8	Gross revenue from sales of assets other than inventory	1h	12,005.
9	Less: cost or other basis and sales expenses	1i	15,954.
10	Net gain or (loss) (attach schedule)	1j	<3,949.
11	Special events and activities (attach schedule). If any amount is from gaming, check here	1k	<267,820.>
12	Gross revenue (not including contributions reported on line 1a)	2a	
13	Less: direct expenses other than fundraising expenses	2b	
14	Net income or (loss) from special events (subtract line 13b from line 12a)	2c	
15	Less: cost of goods sold	2d	
16	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 15b from line 14)	2e	405,009.
17	Other revenue (from Part VII, line 10b)	2f	30,391,574.
18	Total revenue (add lines 1a, 2a, 2e, 2f, 7, 8d, 9c, 10c, and 11)	2g	15,907,663.
19	Program services (from line 44, column (C))	3	2,513,113.
20	Management and general (from line 44, column (D))	4	5,363,436.
21	Payments to affiliates (attach schedule)	5	6,614,362.
22	Total expenses (add lines 3 and 4, column (A))	6	23,777,212.
23	Excess or (deficit) for the year (subtract line 22 from line 18)	7	137,173,888.
24	Net assets or fund balances at beginning of year (from line 73, column (A))	8	9,797,739.
25	Other changes in net assets or fund balances (attach explanation)	9	152,886,049.
26	Net assets or fund balances at end of year (combine lines 7, 8, and 25)	10	

Difficult times did call for grave measures, however. The SPLC apparently did not feel able to accept VDARE.com’s helpful suggestion of last year that it make some donations (which it is quite entitled to do) to other leftist 501(c)(3) charities less wealthy than itself—many of whom were certainly suffering.

The SPLC also cut back its much-touted grants to school districts to encourage them to accept the egregiously-misnamed *Teaching Tolerance* anti-majority brainwashing kits by a striking 46.6 percent, to \$108,144—a miniscule 0.3 percent of the Center’s receipts from the public in 2009.

And (in a step that no doubt grieved the hearts of

the senior management, given their actual priorities) the “unfunded commitments to invest...in limited partnerships and LLC’s under capital commitment agreements” referred to in Note 4 of both the 2008 and 2009 audited Financial Statements fell by 15 percent, to \$7.056 million.

This brought these “unfunded capital commitments” down to 86.6 percent of 2009’s “Legal Services” expense from 103.8 percent in 2008.

What is this curious “unfunded capital commitments” item? It arises from the SPLC’s enthusiasm for putting its “Endowment Fund” booty in highly sophisticated investment pools, rather than just in simple equities, bonds, or (Heaven forbid!) deposit accounts. Generally, it is not uncommon for these investment pools, for instance in the venture capital or real estate fields, to get incoming investors to commit to a funding schedule as the underlying projects get under way.

What does this tell us about the SPLC?

It tells us that in the last two years the Center was budgeting to spend at least as much on arcane financial investments as it spent on its eponymous legal activity. Or, to put it another way, of every \$1 received from the public in 2009, 28.3 cents was spent on legal services, while the “capital commitment” for limited partnerships and LLCs at the end of the year equaled 24.5 cents.

As I said last year, the SPLC is in effect a modest public interest law firm and fundraising operation, linked to a very large, wildly aggressive investment pool. It’s really the *Southern Poverty Law and Investing Center!*

One wonders if the SPLC’s apparently very credulous donors realize this.

Contemplating the “Endowment Fund” reveals a great deal about the motives and outlook of the SPLC’s management.

In brief, they appear obsessed with manipulating money to make money. This is particularly true in view of recent changes evident in the 2009 reports. The structure of the portfolio looks like it could belong to a retired Goldman Sachs Partner, or possibly a very aggressive Family Office managing the fortune of an ultra-rich clan. There can be very few legal charities with this extraordinary appearance.

Usually one would expect that a charity with a large endowment would be interested in income, liquidity, and perhaps a little growth—interest-bearing instruments, bonds, possibly a moderate amount of high-grade equities.

Not the SPLC!

As of October 31, 2009, of the SPLC’s total investment portfolio of \$197,902,331, only \$48,772,162 (24.6 percent) was held in cash, interest bearing instruments, Treasuries, or equities for which its accountants could establish “active market” values.

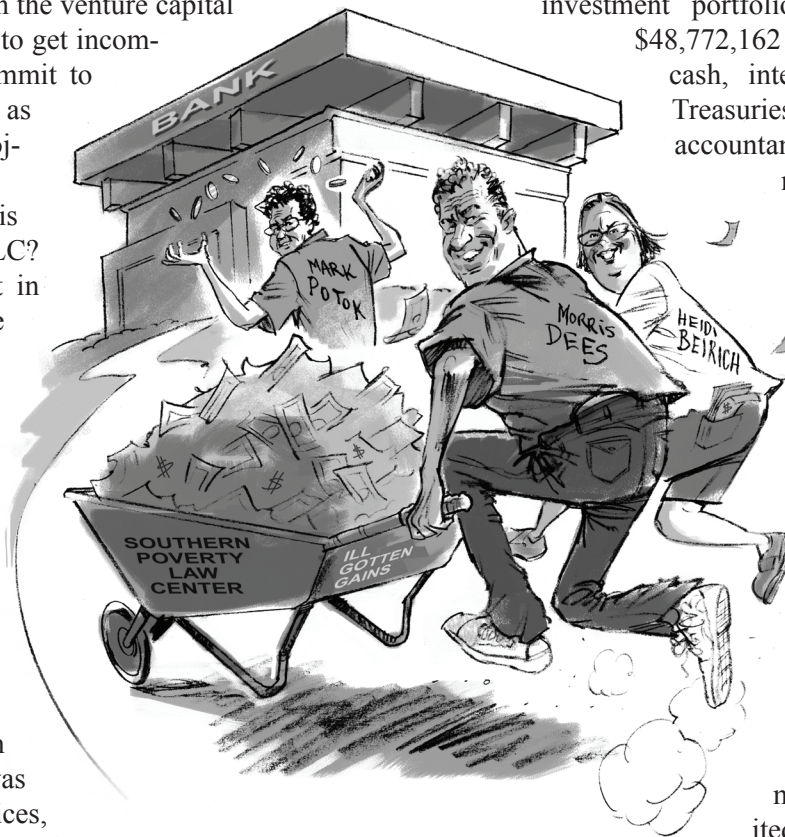
The balance (75.4 percent) was in various types of “alternative investments,” which needed less transparent valuation techniques. In 2008, only 49 percent of the portfolio was in such things.

What are these “alternative investments?” Note 4 in the Accounts says

The Center’s endowment fund investments include limited partnerships, limited liability companies, and offshore corporations....

The Center’s alternative investments themselves have interests in limited partnerships, U.S. and international public equities, private equity fixed income, real estate and commodities....Because alternative investments are not readily marketable, their estimated fair values are subject to judgment and uncertainty....

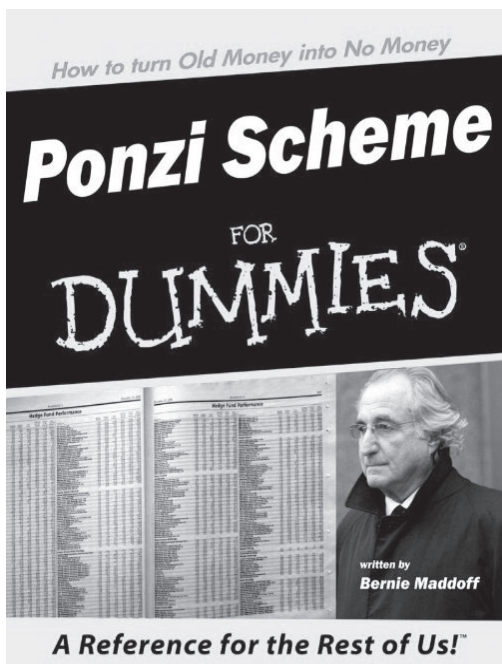
On Wall Street, “alternative investments” got a bad



name for illiquidity in the disruptions of 2008-9. The accounting profession developed a new way of valuing them.

The more transparent category (Level 2—“Inputs other than quoted prices...fair value is determined through the models or other valuation methodologies”) is used for \$119.1 million of the total SPLC portfolio (60.1 percent).

Level 3 (“Inputs are unobservable...and include situations where there is little, if any market activity... investments included in Level 3 include...alternative investments which are not redeemable...in the near term”) is used for a material \$30.08 million (15.2 percent) of the total portfolio.



Some might question the SPLC having such a large proportion of its reserves in illiquid (and presumably more risky) assets. It would certainly look odd for a normally-motivated charity.

But this would be to misunderstand what seems to be the purpose of these holdings in the SPLC’s case. There is no history and probably no intention of *ever* using these resources to sustain the Center’s operations. They are there to make the SPLC richer. In this context, a strategy of swinging for the fences makes sense.

Still, it has to be asked: why, in 2009, increase the proportion of “alternative investments” by half—to 78 percent in the case of the “Endowment Fund” narrowly defined? This was not a year in which this type of investment was favored. If more market gearing was desired, more speculative listed securities could easily have been used instead.

The VDARE.com hypothesis: privacy. As the SPLC increasingly moves into smearing other 501 (c) (3) charities such as the patriotic immigration reform groups, it can expect more attention to be paid to its peculiar finances. (For one thing, everyone is jealous!) By burying its holdings in these “alternative investment” entities, gains could be hidden for years, instead of immediately showing up in market valuations.

This is analogous to the Center’s real estate holdings: gross book value \$25.3 million, \$16.8 million after depreciation—but very likely worth far more than net book. (Real estate usually is.)

Increasingly, what the \$PLC is really worth will be known only to insiders.

One matter for which VDARE.com does not have a hypothesis: the new disclosure, on Page 5 of the latest 990, that the \$PLC now has an account in the notorious tax haven and money-laundering location of the Cayman Islands! (The previous year the answer to this question was “N/A.”)

Why would a tax-exempt American charity need any involvement in such a place? Appetite for exposure to a particular manager seems an implausible reason. Even quite small hedge fund and other “alternative investment” managers usually have look-alike onshore and investment offshore pools, the latter to accommodate investors who are able to avoid possible U.S. tax involvement. But the SPLC is tax-exempt.

At the very least, the Cayman Islands account demonstrates the extraordinary scope of the SPLC’s investing activities.

The SPLC carries no less than 95.8 percent of its investment assets in its piously misnamed “Endowment Fund.” The American Institute of Philanthropies, which exists to rank the financial efficiency of charities, is quite reasonably very hostile to excessive accumulation of reserves. It said in the April/May edition of its *Charity Rating Guide*:

AIP strongly believes that your dollars are most urgently needed by charities that do not have large reserves of available assets. AIP therefore reduces the grade of any group which has available assets equal to *three to five years of operating expenses*. [emphasis added]

The SPLC in 2009 had an investment portfolio equivalent to a thumping 6.6 years of what its 990 calls “Total functional expenses.” So it gets a resounding overall F grade from the AIP, in contrast to C- based on its operating ratios alone. This has been the case for

quite some years.

The lowest grade ranked by the AIP as “Satisfactory” is C-. The only other politically oriented charity to get an F based on excessive assets is President Carter’s Carter Center—which, however, was ranked A- on the basis of operations. (The only patriotic immigration charity to be ranked was FAIR, which got a B on operations—its endowment is apparently not large enough to matter.)



The SPLC cannot claim unstable inflows as the reason for its hoarding. In the last five years the “Gifts, grants, contributions...” category has ranged between last year’s low of \$28.8 million to the previous year’s high of \$32.4 million.

The SPLC appears to have an odd compensation structure. In 2009, its 206 employees were paid an average of \$59,765 (which is high: median household income in Montgomery, Alabama is about \$42,000; the cost of living is 77.4 percent of the U.S. average). But only two of its officers were paid more than \$300,000. Of the two SPLC enforcers with most public visibility, Mark Potok is only 7th in compensation at \$144,099. Poor Heidi Beirich once again does not make the “Highest Compensated Employee” list.

Highest paid duo Richard Cohen (President/CEO: \$345,490) and founder and evil genius Morris Dees (Chief Trial Counsel: \$348,420) occupy an unusual shared compensation perch. If the two incomes are amalgamated to give the high pinnacle structure more normal in U.S. charities and corporations, the resultant \$693,910 income would make its recipient 22nd highest paid Charity Executive, according to the AIP’s latest *Charity Rating Guide*—narrowly ahead of the ADL’s Abe Foxman at \$688,215.

How active can Morris Dees be at 74? Enough to need an unspecified amount of Chartered Air transport, according to the 990, and to accidentally spend \$2,144

from a corporate credit card on personal travel.

When reviewing the SPLC’s accounts last year, I suggested it might have been expected that the moderate return/low risk strategy alleged by Ponzi scheme operator Bernard Madoff might have attracted their investments. This is especially so given the ethnicity of the SPLC’s funding, reported in a recent Center For Immigration Studies backgrounder to be “anchored by wealthy Jewish contributors on the East and West coasts.”

Of course, it turned out the SPLC’s investment objectives were much too ambitious for it to be attracted by Madoff.

But there is a Madoff angle.

The Picower Foundation, set up by Jeffrey Picower, reliably reported to have been the biggest beneficiary of the Madoff scam,<sup>2</sup> apparently gave the SPLC a total of \$2.9 million.<sup>3</sup>

Picower was found dead in his Palm Beach swimming pool last fall. His estate is reportedly about to settle with the court-appointed Madoff trustee by returning at least \$2 billion.<sup>4</sup>

Helpful suggestion: Madoff left many destitute elderly in his wake. The SPLC should return its Picower money to the Madoff trustee for their benefit. After all, it’s conventional for politicians to return tainted campaign donations. (Suggest this to the Madoff trustee.)

So what is the SPLC’s mad scramble for enrichment all about?

Does the controlling clique at the Center one day intend to throw off its mask, perhaps after Dees’ death, let fundraising wither, and draw out massive salaries with minimal activity—a pattern not unknown in foundations with inherited endowments? (My personal guess.)

Or must America continue to put up with its reckless and dishonest allegations stinking up our public discourse in order to keep the SPLC trough replenished? Are these people as crazy as they are mendacious? ■

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**Endnotes**

1. “The O’Reilly Factor,” interview with Daniel Borochoff, February 23, 2001.
2. Jake Bernstein, “Picower’s Madoff Take Now Estimated to Be \$7.2 Billion,” *Propublica*, October 1, 2009.
3. Matthew Vadum, “De-funder of the Left,” *American Spectator*, January 5, 2009.
4. James Quinn, “Madoff fund to swell by \$2bn,” *Daily Telegraph* (U.K.), May 4, 2010.