

'Banks behaved irresponsibly'



Dr. Daniel
Fischer Photo:
Yonit Mozes

From his unique position as attorney to the victims of Bernard Madoff and Lehman Brothers, Zurich lawyer Dr. Daniel Fischer sheds some light on what connects scandals that rocked financial world

Yonit Mozes

Zurich lawyer Dr. Daniel Fischer plays a pivotal role in the aftermath of a number of the financial scandals that continue to rivet us all.

The 'Fischer & Partner' firm is currently in the process of filing a class action suit – the first of its kind in Switzerland – on behalf of clients devastated by the collapse of Lehman Brothers.

Fischer is also part of the international alliance of attorneys representing victims of Bernard Madoff's ponzi scheme and a fierce defender of Switzerland's infamous adherence to banking privacy laws.

Warm and energetic, Fischer is not discouraged by the prospect of a lengthy battle against powerful institutions. He contends that in the long run, banks will have to change their behavior if they wish to regain the public's trust.

So who are your main clients?

"I represent a large group of wealthy individuals in the Madoff case, many Swiss but some not from Switzerland. I also got requests from banks, asset managers, charity funds and some pensions funds. I'm checking what I can do about it. I also represent clients who were hurt by the collapse of Lehman Brothers. I'm preparing a class action suit against Credit Suisse on their behalf".

How much money did your clients lose in the Madoff case?

"At the moment, we're talking about some \$120 million. The initial sum for investing in the Madoff fund was \$500,000. It's different from the Lehman case, where people invested different sums of money in an attempt to make more money. Here, it's a saving case - people invested their savings".

In the Lehman case you're talking about a bank laying to clients about risks, but with Madoff it's about one person who defrauded everybody, and who did it for years. What can you do about it?

"Here too, we're talking about banks which behaved irresponsibly. It's about trust – banks which didn't check the fund's prospectus, who didn't make their homework. It's even more dramatic in this case".

Global case – global struggle

In February lawyers for Madoff's numerous victims joined forces to form a global alliance of attorneys. Fischer & Partner, founded in 1979, was one of the 34 law firms to take part in the Madrid summit. Among others, the alliance includes firms from the United States, Argentina, Chile, Ecuador, Mexico, Italy, Netherlands, Austria, Germany, Malta, Panama, and three firms from Israel.

You were quoted as saying that an international case must be fought internationally. What can an alliance like this do?

"The Madoff case created a big mess. We have hundreds of different laws, a lot of different jurisdictions. And we have to ask - where is the money? The point is that nobody could do everything. That's why we have to exchange information, expertise and research. If somebody already checked the jurisdiction somewhere, we don't have to do it again.

"We will also cooperate in different lawsuits in different places. And also cooperate in media efforts. The media is extremely important. Connection with the media enables us to tell people about the possibilities, and also to pressure the banks to change their behavior. Banks that can clear up all this in a very nice way – pay everybody – will benefit".

"There are questions of mentality and trust here. It's long run thinking. We have to regain trust in financial institutions. And the regulation will also change, will become stricter".

'America guilty of extortion'

Of all the cases on his table, Fischer sees the ongoing dispute between UBS and the United States over tax evasion charges as the most important.

The affair, which has stirred considerable uproar in Switzerland, began when the US requested the account details of some 50,000 Americans as part of a tax evasion investigation. The bank initially tried to fight the demand, but then agreed to pass on the details of 300 wealthy Americans. UBS then said that handing over any more details would be violation of Swiss banking secrecy laws.

On the whole Switzerland is not considered a tax haven, since the country is cooperative when it comes to fraud investigations. However, it is also very protective of banking privacy, and violations are considered a criminal offence.

Fischer represents a great many of the 300 people whose account details were surrendered. He claims that this was too a violation of the bank secrecy laws, and he plans to file a criminal lawsuit against UBS.

"What happened is that all the countries need money because of the financial situation. And somebody had to idea to trigger Switzerland, and so surely but slowly, it started. And then the Americans lost control a little - they demanded from UBS bank data of 300 accounts, and threatened to take away UBS's banking license in the US," he says.

"The Swiss are not used to these kind of threats, and UBS surrendered, and passed the information about these 300 people, thought they were protected by the bank secrecy, without even notifying them. These people, most of them Jews, had a very bad Purim".

"The Americans forced the Swiss to break their own law", says Fischer, and adds: "I couldn't believe it. If you asked me five weeks ago I'd say - no way. This is the first time in the history of bank secrecy that all the bank data was delivered. And now the Europeans smelled that something's going on, and they want data too".

"A lot of people do not go to Switzerland to hide money", he says, but insists that there are a lot of other reasons to invest there. Beyond the major losses suffered by the big banks, UBS and Credit Suisse, Fischer says there are a lot of small private banks which are doing rather well. Generally speaking, he said, the financial crisis has not exacted such a dramatic toll on the Swiss banking system.