

# OF PONZI SCHEMES AND HOMEMADE CHILI

*A Seattle lawyer crosses paths with not one but two big-time alleged Ponzi scammers*

By Tom Brennan

**T**he cocktail-hour conversation was pleasant, the homemade turkey chili surprisingly good, and the after-dinner piano jam session festive and amiable. My Sarasota, Fla. dinner host, Art Nadel, entertained my family with jingles he had mastered while playing at Big Apple piano lounges to pay for college tuition many years ago. Although the twinkle was fading from his eyes, one could envision how this wiry, bespectacled 77-year-old former New Yorker once might have charmed new acquaintances.

I had taken a break from my law practice in Seattle to visit my Sarasota in-laws for Christmas in 2007. Neither my family nor I, nor even Nadel's wife, knew at the time that we were dining with a soon-to-be-notorious alleged Ponzi investment-scam artist. We were simply enjoying holiday-season cheer with the friendly next-door neighbor. A little over a year later, Nadel turned himself into federal authorities on charges related to investment fraud. It turns out that our avuncular host had allegedly defrauded 350 investors of \$360 million, according to the indictment filed against Nadel in U.S. District Court in New York.

Before his surrender, however, I crossed paths with Nadel again in Sarasota in October 2008, when the financial markets were sliding toward the third-worst year ever recorded in the history of the Dow Jones Industrial Average. Americans were keenly aware of the foul state of the financial markets and the fact that they were witnessing one of

the bleakest chapters in U.S. economic history. However, Nadel's anxiety was palpable as the hedge-fund manager bemoaned the monetary losses he was taking each day at his investment-management firm. I wondered why he wanted to talk about such a dismal topic—most people worked hard to avoid small talk about the woe-ful state of the financial sector.

In hindsight, it appears to investigators that Nadel was running a sham business façade and realized it was crumbling along with the equity markets. His head must have been spinning; his brain racing to devise an exit strategy. Three months later, he was a federal fugitive. He fled Sarasota when investors demanded a \$50 million payment he could not make. He hid from the FBI and federal investigators for nearly two weeks before turning himself in to authorities in Tampa. I was shocked to learn that this unassuming man could possibly have devised such a massive fraud and become one of the FBI's most-wanted fugitives.

This news struck a personal note. Coincidentally, for the past few years I had been working as legal counsel with court-appointed receiver Michael D. McKay on the largest Ponzi investment fraud committed in Washington state (*S.E.C. v. Zidar, et al.*). John Wayne Zidar and his co-conspirators bilked



Tom Brennan never meant to dine with a Ponzi schemer.

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about \$75 million from 6,000 individuals. I was incredulous at the coincidence that, both professionally and personally, I had crossed paths with two men who may turn out to be among America's most egregious and brazen Ponzi fraudsters.

And I was thoroughly disappointed. Working with McKay, I learned first-hand how this type of fraud devastates and humiliates its victims. Many lost their life savings after investing all of their resources in one of Zidar's fake investment plans. Some investors lost as little as \$1,000, most lost tens of thousands, and some lost millions.

Fortunately, federal officials acted quickly in the Zidar case and seized many of his bank accounts. Our receivership continued to investigate and pursue assets linked to the fraud. We recovered real property, jewelry, furs, vehicles, and gold and silver coin collections. The receivership has liquidated and distributed nearly \$25 million in assets back to the investor victims. Each received about 41 percent of his



or her loss—an exceptional amount, given the fact that victims of investment fraud typically recover pennies on the dollar.

The nature and scope of this type of fraud is far-reaching, convoluted and difficult to unravel. The money is often wired globally to remote banks and wasted on frivolous personal expenses. We traced money and assets to places like San José, Costa Rica; Marseille, France; and the West Indies. We recovered and sold an office condominium in San José, Costa Rica for \$165,000. We worked with the U.S. Postal Inspection Service to recover 1913 Chinese bonds and resell them to speculators for \$56,000. And we made numerous legal claims throughout the United States against individuals holding the proceeds of this fraud.

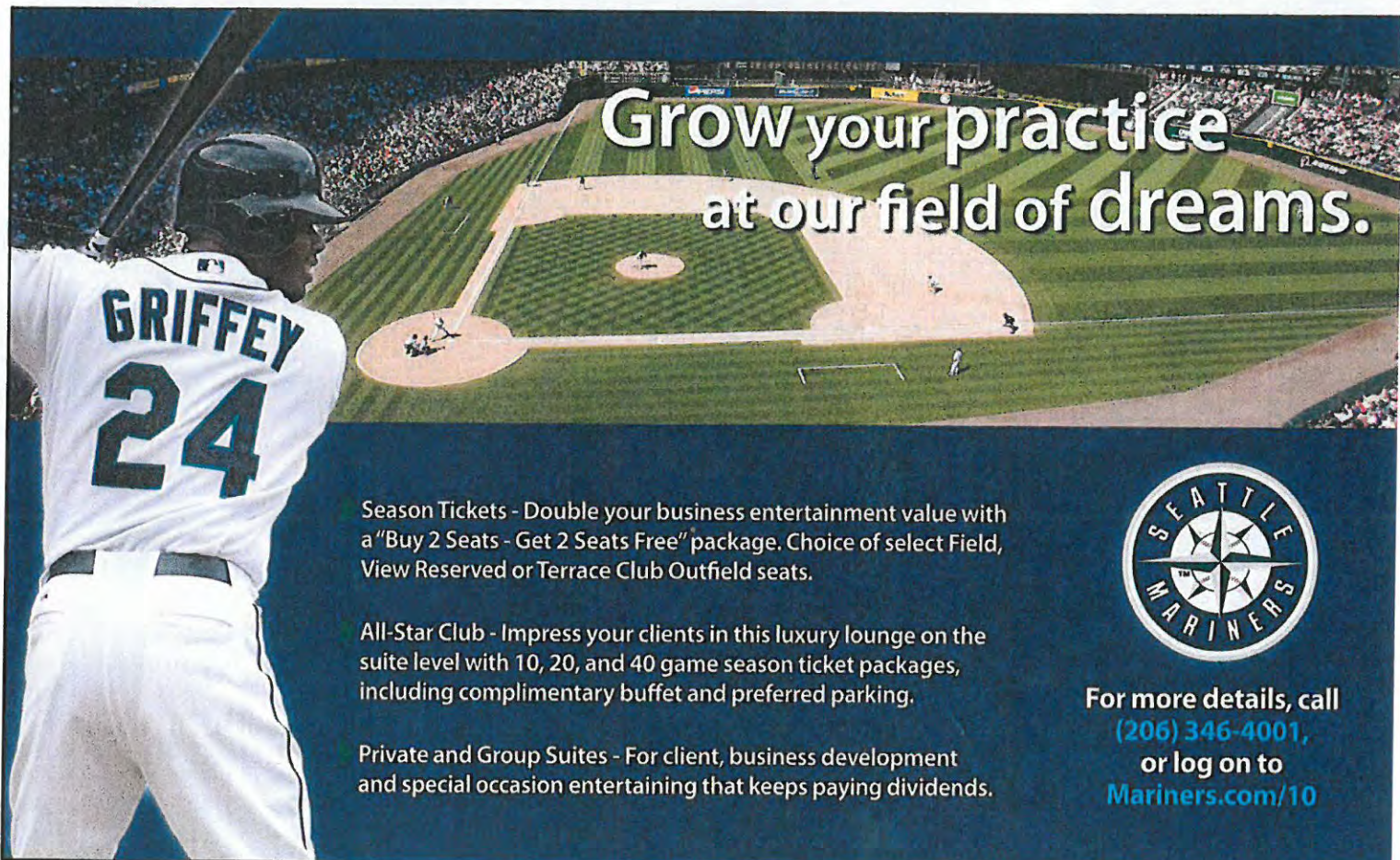
Trying to repair the damage done by this type of fraud can be time-consuming, frustrating and expensive. In the end, many of the victims will never recover emotionally or financially. But it was satisfying to alleviate as much pain as possible.

Nadel currently is being prosecuted in the federal district court for the Southern District of New York—the same court that sentenced Bernie Madoff to 150 years in prison. John Wayne Zidar recently was re-sentenced on appeal by the U.S. District Court for the Western

District of Washington to continue serving his 30 years in federal prison. It is very possible that Nadel soon will be housed for the remainder of his years in a federal facility with either Madoff or Zidar. If so, he may have prepared his last batch of homemade chili. **L&P**

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*When he’s not eating chili in Florida, Tom Brennan works at McKay Chadwell in Seattle, representing individuals and corporations embroiled in business disputes, and corporations responding to government investigations or state or federal regulatory agencies.*




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