

Attorneys Find Girardi's Sentence Brings Closure, Perhaps Not Accountability

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Tom Girardi's seven-year sentence for defrauding clients of \$15M brings closure but sparks debate over accountability, with attorneys questioning the State Bar's role in enabling his decades-long misconduct.

Some attorneys think Tom Girardi, at this stage of his life, received a prison sentence that doesn't rectify the harm he inflicted on the vulnerable clients he cheated, but did hold him accountable and brought a sense of closure to a decades-long scandal that has plagued the legal community.

Jay Edelson, the Chicago attorney who blew the whistle on Girardi's theft, leading to his downfall, raised concerns that the seven-year sentence undercuts the severity of his criminal misconduct. Edelson and others also noted the accountability of the State Bar, which enabled Girardi to cheat his clients and colleagues for over 40 years.

"The court effectively handed Girardi a double life sentence, ensuring he'll spend the remainder of his life behind bars, exactly where he belongs," Edelson PC founder Jay Edelson said in an email on Wednesday.

"Yet, I'm concerned about the broader message this sends to the legal community. Girardi is the Bernie Madoff of plaintiff's law, running a decades-long Ponzi scheme in which he stole hundreds of millions of dollars from clients and third parties, and bribed the California Bar to cover it up. His victims - and the legal profession as a whole - deserved a sentence clearly reflecting the full scope and severity of his corruption."

Madoff, a financial investor who was convicted of orchestrating a nationwide multi-billion-dollar investment scheme, was sentenced to 150 years in prison in 2009. He was 71 years old at the time and spent over a decade behind bars before dying in 2021.

"I think that type of sentence would have sent a much larger message," Edelson added.

Los Angeles criminal defense attorney Louis J. Shapiro opined that any sentence at this stage of Girardi's life didn't make a practical difference. "I don't even know that he'll understand what he's being punished for," Shapiro said.

"What came out of this is, it wasn't just Girardi who was involved. It was the State Bar as well. The message that attorneys are taking away is not to be careful with your client trust accounts. ... That's nothing new. I think the real message ... is how could the State Bar have allowed someone right

under their nose to be so complicit like this? And how did it go on for so many years undetected? Anything else is just in the shadow of that message."

In 2023, the bar released two reports that extensively detailed the agency's failures to act on more than 200 complaints against Girardi for over 40 years. In those reports, Girardi was found to have significant influence over the bar's then-staff, executives, judges and board members in the form of millions of dollars in gifts, travel, hotel stays, meals and party invitations in exchange for influence in the bar's decisions.

On Tuesday, the 86-year-old disbarred attorney was sentenced to seven years in federal prison by U.S. District Judge Josephine L. Staton in Los Angeles. He was convicted of leading a scheme at his defunct law firm that cheated multiple vulnerable clients out of over \$15 million in settlement funds during the final decade of his legal career. He was disbarred in 2022. *U.S. v. Girardi et al.*, 2:23-cr-00047 (C.D. Cal., filed Jan. 31, 2023).

The Department of Justice had sought 14 years for Girardi's four wire fraud convictions. However, Staton reduced the recommended penalty after considering his age, frail physical health and worsening cognitive impairment.

Some observers, including formal federal prosecutors, opined that Staton's ruling fairly weighed all these factors while still inflicting a punishment that reflected the nature of the crimes.

"Given Girardi's age and medical condition, it is a very strong sentence that the court imposed and reflects, I think, how serious the court found the crimes," McDermott Will & Emery partner Julian L. André said. "It's a very strong result for [the prosecutors] after having dealt with a very complicated case involving a number of very complex issues."

Jenner & Block LLP partner Carolyn S. Small, also a former prosecutor, said that although Staton imposed a reduced sentence, "it made sense given [Girardi's] age and health issues."

"Seven years is still a significant sentence," she added. "I think it's a serious sentence that reflects the seriousness of the crimes."

Criminal defense expert Dmitry Gorin, an Eisner Gorin LLP partner, said that although he was anticipating Staton would impose a sentence of more than 10 years, he understood why she didn't.

"In the big scheme of things, any amount of time for Mr. Girardi is pretty much a life sentence," Gorin said. "The judge is holding Mr. Girardi accountable and refuses to accept his mental decline as a basis to keep him out of prison. ... Seven years is still a long sentence."

Staton also ordered Girardi to pay more than \$2.3 million in restitution. However, André, a former federal prosecutor, expects the victims' recovery of that money is unlikely.

"Unfortunately, in fraud cases, by the time the fraud is discovered ... there's very little that the government can actually recover. ... It is unlikely," André said.

Gorin added that if Girardi - who according to his attorneys is broke and lost everything - has any equity, restitution could be paid from things such as future incomes through his estate or pending case settlements.

Since Girardi's jury conviction last year, his counsel urged Staton to keep their client in his lockdown Orange County memory care facility in lieu of imprisonment.

Beverly Hills personal injury attorney Michael E. Rubinstein said Staton was right to decline those arguments. "Courts don't always accept the government's recommendations 100%. Seven years seems to strike the right balance. He will be 92 or 93 when he's released but will still be committed to a serious amount of time for the crimes he committed."

Saul Ewing LLP partner Alope S. Chakravarty, a former prosecutor in Boston who's been following the case, said Staton's sentencing analysis followed a nationwide trend in many white-collar cases because judges have such limited incarceration options.

"The court considered [Girardi's mental health] and resolved it not by creating alternative commitment to home confinement or a medical facility, but rather by reducing the amount of imprisonment ordered," Chakravarty said.

"Because there are limited options for a court once they issue an order of imprisonment, and in a case watched by many, this court reverted to the norm. This is another gap that the sentencing commission may want to address."