

THE ROLE OF MEDIA IN INFORMING THE PUBLIC AND PUBLIC ADMINISTRATION BODIES ABOUT ILLEGAL FINANCIAL PYRAMIDS.

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Abstract

Nowadays the media and investigative journalists take full responsibility for revealing and reporting many irregularities and notifying them to the public via common media. This is very important because the financial losses of investors due to the bankruptcies of the pyramids are significant. This weakens the public confidence in public administration responsible for law in the state. The authors of this article mainly say about responsible unmasking of illegal financial pyramids through the media in the context of social communication. The article provides clear recommendations for the media how to distinguish between a pyramid scheme and MLM. Such recommendations could increase the practical significance of the author's research for the readers and protect them from illegal investments.

Keywords: media, information transfer, responsible press, social communication, periodical, Network Magazine, financial pyramids, illegal investments, Polish law, public administration bodies.

Introduction

The purpose of this article is the analysis of the role of media not only showing everyday life of the society but also signalling problems of disclosing information about illegal investments in the form of a financial pyramid. Moreover, the financial losses of investors due to the bankruptcies of the pyramids are significant. Despite the repeated publicizing by the media of the problem of the functioning of the financial pyramids as illegal investments, despite many press articles and radio and television broadcasts showing many negative experiences of deceived people, this problem has not been systematically solved by Polish law. The financial losses that investors have suffered so far as a result of bankruptcies of the pyramids are huge. This situation significantly weak-

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ens confidence in public administration in the financial sector. Despite the pressure of the public through the media, the law in this respect has not been changed [Berzinoe J., 2013]. Therefore, the purpose of this publication is to present Polish experiences regarding financial pyramids and their unmasking by publicizing information on various affairs related to them through the media. It is the media and investigative journalists who take full responsibility for revealing many irregularities and notifying them to the public via common media. Where does such a desire for quick earnings and a decision to take the risk of investing in a financial pyramid come from?

It turns out that simply keeping money in a "piggy bank" or a "sock" or burying it in the ground or walling it up is not the best solution these days. The constant pursuit of increasing the value of savings generates demand for financial services and products of a savings and investment nature. Investors are tempted by the promised high rate of return on investment - even from 300% to 500%, which should already seem suspicious and require caution [Warzychowski M., 2017, p.25]. However, the desire for quick profit in a short time tempts new customers - investors and encourages risky financial moves. Meanwhile, the market for financial services and products also attracts cheaters, offering illegal investments and tempting with a vision to achieve significant profits in a short time. Customers often are not aware of the risk associated with the entity they entrust with funds, do not check it, but rather trust the recommendation of friends or succumb to charm of the person conducting the marketing presentation. One of such illegal investments is the "Financial Pyramid". The first large-scale financial pyramid called the "Securities Exchange Company" was created by Charles Ponzi [Darby, 1998]. Its mechanism was created in 1920 and since then it has been systematically developing in various parts of the world and in various types of economies [WP 2016, p.3]. This structure is called the "Ponzi Scheme" from the name of Charles Ponzi - the creator of the first pyramid in history. The pyramid he created consumed approx. USD 3 m) [Kutera M., (2016, pp. 49-50]. This phenomenon reached its apogee in 2008. At that time, the largest financial pyramid Bernard L. Madoff Investment Securities that was ever created was revealed in the US [Lenzner R., 2008]. Its creator was Bernard Madoff. Its customers were the largest banks in the world, universities, foundations, rich investors and people from the world of business, politics and culture. Madoff invested mainly in securities and real estate. The pyramid had almost 5,000 customers who invested a total of \$ 65 billion in it. In 2009, Bernard Madoff pleaded guilty to eleven charges against him. Despite repentance, he was sentenced to 150 years in prison [Pachucki M. 2016, pp.11-12]. His assets were estimated at just over USD 800 m [WP, 2016, p.5]. The fact that the funds entrusted by customers for the last 13 years of activity were not invested and it was only a financial pyramid without investment in products or services, was confirmed by the company's official receiver [Darby M., 1998].

As a result of the above information, this article attempts to answer questions about the scope of public media responsibility in highlighting the criminal activities of illegal financial pyramids. By stimulating public discussion on the awareness of financial pyramid activities and how to unmask them and avoid investing in them, responsible media also mobilize public administration to regulate and supervise this area. Economic fraud is not a new phenomenon, and history shows that they are always accompanied by financial scandals that were previously disclosed and widely publicized by the media. Often, it is only thanks to information publicized in press, on the radio and TV, and in broadly understood social media, that control of public administration bodies and law enforcement agencies begins. It is the phenomenon of signalling and publicizing this type of information in the media and tracing it on the example of financial pyramids in Poland, is the purpose of this article.

Responsible unmasking of illegal financial pyramids through media in the context of social communication and public administration activities.

Unlike in the United States, in Poland, due to the communist system between 1945 and 1989, the problem of avalanche sales did not exist at all. In Poland, the financial pyramids did not appear until the late 1980s. This idea was also caught up by native "entrepreneurs". One of them at that time was the well-known Lech Grobelny from Poznań, who founded his Bezpieczna Kasa Oszczędności [safe savings bank]. After political changes and the liberalization of the economy and the market, from around 1990's various types of financial pyramids from the West began to flow into our country. [WP, 2016, p.6]. Korporacja Budowlana Drewbud and Galicyjski Trust Kapitałowo-Inwestycyjny (abbreviation - GTKI) with its registered office in Rzeszow were created at that time. The "Trust" operated as a shadow bank without the consent of the National Bank of Poland. The "Trust" was founded by Stanisław Kotarba, a former non-commissioned officer of the Polish Army. He promised high profit on deposits and cheated 4,000 of his customers for the amount of approx. PLN 26.5 m [Maciejewski M., 2017b, p.5].

However, Amber Gold turned out to be the largest of all the financial pyramids in Poland. This pyramid caused many years of media discussion as to the effectiveness of regulation and supervision of state organs in this respect and in the respect of social responsibility.

Table No. 1. P. Masiukiewicz, Piramidy finansowe a regulacje i nadzór,

Item	Name of the business entity (investment company)	Year of charge or bankruptcy	Number of affect- ed cus- tomers	Estimated amount of loss
1	BKO Dorchem and L. Grobelny	1989	8000	USD 5,82 m
2	Korporacja Budowlana Drewbud	1990	22000	USD 36,40 m
3	Galicyjski Trust Kapitałowo-In- westycyjny	1992	4000	PLN 46.5 m
4	Skyline (Mariusz Kubata) [WP 2016, p.7]	1993	38000	DM 4.5 m
5	Warszawska Grupa Inwestycyjna	2006	1500	PLN 320 m
6	Interbrok Investment	2007	900	PLN 1 m
7	Kancelaria Finansowo – Ubez- pieczeniowa Limanowa	2009	150	PLN 13 m
8	Rentier DK Partnerzy	2012	no data	PLN 6 m
9	B.Baksik i Wspólnicy	2012	170	PLN 33.5 m
10	Fineroyal [Jadczak Sz. 2019]	2013	1200	PLN 83 m
11	AmberGold [WP 2016]	2013	15000	PLN 668 m
12	Pomocna Pożyczka (former PKF Skarbiec)	2013	48000	No data

Source: Masiukiewicz P. 2014, p.46

The financial pyramid is a financial structure in which the profit of a specific participant is directly dependent on the contributions of subsequent participants, standing slightly lower in this structure [Pachucki M., 2016, pp.7-10]. The mechanism of operation of financial pyramids consists in attracting as many participants as possible by their founders, who are encouraged by the promised profits and pay them money. Organizers usually encourage participants of the financial pyramid to recruit more people. Companies that create their business based on a financial pyramid do not invest investors' money. They only pretend to invest to hide their real nature and the fact that the participants' profits come primarily from the payment of subsequent members. In practice, financial services are rarely provided. To achieve its goals and activities, the financial pyramid requires an avalanche inflow of new members' cash. It causes that sooner or later such

a business collapses.

The hypothetical pyramid, which would require each participant to recruit six more investors, would already have to have participants at the tenth level, as a number 60% higher than the number of all Polish inhabitants. The required but unrealistic number of investors would have to reach 160% of the population in Poland [Antonowicz P., Ł. Szarmach Ł., 2013, p. 9]. However, at the thirteenth level, the number of participants would have to increase significantly and exceed the number of the entire population living in the world by 90%. This means that it would have to amount to an unrealistic number of participants 190% [Pachucki M. CEDUR, 2016, p.8]. If the amount of money paid by participants is small in relation to the new funds flowing into the system, the structure of the financial pyramid exists and works. According to the payment arrangements, the first participants of the pyramid encourage the next ones to join, counting on supposedly easy, reliable and high profits. The more the organizers manage to extend the period of new payments and the higher their level is, the more participants will be victims when the financial pyramid collapses. They often lose most or even all of the funds entrusted, because in fact the profits that the organizer of the pyramid shows are "paper" and in modern times - "virtual". Customer funds at the initial stage of the pyramid can actually be paid out. Those are deposits from other customers, and even funds previously deposited by the same customer [Luty P., 2017]. Withdrawing profits at the initial stage of the pyramid's existence, of course, is aimed at maintaining the pyramid for a certain period of time in order to get more new customers and encourage subsequent deposits. Participants in an illegal investment are often completely unaware of the true nature of the venture. They help to accumulate the largest possible amount of funds from their financial inflows to the budget of such a pyramid. This money goes to the owners of the pyramid and is also paid to earlier "investors" [Belianin A.V., 2001].

On illegal financial market, profit for customers is not guaranteed by the pyramid organizers. The return on investment of customers depends on the number of new customers attracted by current participants to the structure [Pachucki M., 2016, p.7].

The fact is that the pyramid organizer can encourage its customers with additional financial rewards to attract new participants. However, usually he himself tries to attract customers directly or through people specially trained and employed for this [Pachucki M., 2016, p.10]. The entire marketing of customer acquisition consists of misleading investors as to the actual operation of such an entity in order to obtain financial resources from persons interested in this business. In Polish as well as world law it is considered a financial fraud and has the features of a crime [Masiukiewicz P., 2014, p 53].

In many cases, MLM (multi-level marketing) is very easily confused with activities in the form of so-called financial pyramid. The structure of the financial pyramid is similar to the one that Multi-Level Marketing has in the business sector. The difference is the marketing plan in MLM that always offers specific products for example: cosmetics, cleaning supplies, dietary supplements and even services such as insurance services. Multilevel marketing activities are primarily the transfer of a product or service from the service provider to the recipient.

The multi-level term refers to the system of remuneration charged by the people who ensure that a given product or service is delivered. Sometimes in such organization, a lot of people sell little or no products or services. They buy them for themselves. This commission from those products and services is payed to the group leaders in MLM business. According to the marketing plan, the payments are always guaranteed in this business system. This makes the legal Multi-Level Marketing business different to illegal financial pyramid. In turn, the financial pyramid is a financial structure modelled on multilevel marketing and often mistaken for it. This activity of financial pyramids is also referred to as avalanche sales [Bienussa K., 2009].

In Poland, the company, Amber Gold, operating since 2009, offered deposits in gold

or platinum, allegedly guaranteeing some high profits (significantly exceeding the interest rate on bank deposits). In its ad, it used the slogan "Trust, security, profit" [JS, 2018]. Such a pyramid could last as long as the new cash inflow exceeded the sum of outflows, including interest due. The key to success was investor's confidence [Koker L., 2012]. In the same year, the Amber Gold pyramid was entered on the List of public warnings of the Polish Financial Supervision Authority [KNF, 2009].

The Commission also sent a notification to the prosecutor's office because of suspicion that Amber Gold was operating on the financial market without proper authorization. In September 2012, the Court declared the company bankrupt. Nineteen thousand people have been deceived by Amber Gold, and the amount of funds entrusted by them is over PLN 850 m. The criminal trial in the case began in March 2016. The files of the case covered 16,000 volumes, and the indictment nearly 9,000 pages [MM.PK., 2019]. This issue has been publicized by a lot of social media, causing a serious public discussion about the financial pyramids and their illegal activities. The magazine Forsal. pl wrote about the fact that while some politicians were trying to find out the intricacies of the Amber Gold scandal, proceedings were pending regarding another of the largest contemporary financial pyramids – DasCoin [Słowik P., Styczyński J., 2018].

It also turned out that "CL Singapore" company, which introduced the DasCoin cryptocurrency to the Polish market and encouraged to buy a license, only sold promises [KŁ, CNBC 2014]. The Office of Competition and Consumer Protection (UOKiK) suspected that this could be a pyramid, because the owner promised profits primarily in exchange for persuading other people to invest. UOKiK stated this in April 2019, i.e. only two years after Forsal.pl previous warning and comparing that entity to the typical "Ponzi scheme". Meanwhile, in September 2019, the Forsal.pl magazine again wrote about the ongoing proceedings in Poland regarding the largest contemporary financial pyramid - DasCoin. In this case, they are currently conducted by two prosecutors: in Warsaw and Wrocław [Słowik P., Styczyński J. 2019]. Officials from the Office of Competition and Consumer Protection (UOKiK) have been clearly saying for over a year that this entity is a typical Ponzi scheme. However, there are no binding decisions in the DasCoin case [Forsal, 2017]. The President of UOKiK accuses the financial pyramids of encouraging people to participate in an illegal business, and that the commission paid comes only from payments. Promoting financial pyramid systems is punishable even by up to 10% of the turnover of the pyramid's profit for its investors [Wagner K., 2017a].

Many TV journalists, such as TVN24 journalists, and journalists from daily newspapers and magazines are constantly warning about financial pyramids. These include, but are not limited to Omega, Hybryd Cykler, Alternet&AdBlast, Team-Coin and Network Magazyn.

Since its inception in 2003, Network Magazine has addressed the problem of illegal financial pyramids in a special way. It chose to show the legality and seriousness of business in the Multi Level Marketing sector as a special mission of its activity. The direct sales (DS) and network marketing (MLM) industries have often been associated with the illegal activities of financial pyramids. Hence, in the first issue of the magazine, which appeared in 2003, the editor-in-chief Maciej Maciejewski writes about his mission and "conjures" the Multi-Level Marketing system. Over the next years of his activity he cared, in the published articles, about showing the professionalism and serious nature of MLM, giving hardworking entrepreneurs the opportunity of high earnings [Loy M., 2003, p.4].

Network Magazine also writes about another scandal in which the Italian Competition Authority (ICA) issued a statement stating that Lyoness was a financial pyramid that used unfair promotional practices. The company received a fine of over EUR 3 m. The proceedings have been pending in Poland for 5 years. Recently, Network Magazine wrote about this venture, advertising itself as a network marketing (MLM) because of a decree prohibiting illegal activities of pyramids in Norway ("Lyoness - decree prohibiting illegal activities"). On December 19, 2018, a special meeting of the Italian Competition Author-

ity (ICA) stated that the promotion system used by Lyoness Italy, which had promised consumers a percentage return on the money spent on purchases at related outlets, was really misleading. In order to obtain a sufficient number of "shopping outlets", consumers had to pay a registration fee of EUR 2,400. They also had to recruit other consumers for the system and make other additional payments. The Italian authorities also stated that the Lyoness promotion system was presented in a misleading manner and without a thorough explanation of the functioning model during promotional events or on its websites. The company was penalized with EUR 3, 2 m fine. This is not Lyoness's first verdict [UOKiK 2017]. Similar decisions have been made, and judgments have already been passed in Austria, Sweden, Norway and Australia, where the project was considered a financial pyramid. It was not the first time that that company's practices have been questioned. The proceedings are still pending in France, Hungary and Lithuania. As Network Magazyn writes, in Poland the case is proceeding at a fairly slow pace. The Office of Competition and Consumer Protection has been conducting proceedings for 5 years. Probably for Polish officials, the fact that the company has changed its name, and soon there will be no one else to punish it is not enough. [Wagner K., 2017b, p.11].

The Office of Competition and Consumer Protection also suspects that there are systems in FutureNet and FutureAdPro that can be pyramid type promotional systems. Consumers may lose money. Therefore, it officially warns not to buy packages offered and not make enter friends into the system. FutureNet and FutureAdPro promise "profits" for those who persuade others to buy participation packages that cost from USD 10 to even over USD 1,000. In 2017, Network Magazine drew the attention of consumers to the case of risky investments, including in FutureNet and FutureAdPro, [mysc-getpaid20.pl 2017, p.19]. In particular, two companies manage websites in those investments: BCU Trading from Dubai and Futurenet Ukraine from Lviv. UOKiK initiated proceedings against them and charged them. The services are also interested in the District Prosecutor's Office in Wrocław, conducting proceedings under reference number PO 2 Ds. 63.2016. [Dziennik Zachodni 2019].

In May 2014, Piotr Masiukiewicz conducted a Delphi survey among 100 banking market experts. The respondents were, among others academic staff of domestic universities and practitioners - presidents and directors in commercial and cooperative banks. When asked if they saw a threat from the pyramids for the country's financial security system, as many as 78% of respondents responded affirmatively. When asked about the level of financial education, as many as 98% of respondents indicated it as insufficient, and 58% of respondents considered the scope of legal regulations in this respect to be insufficient [Masiukiewicz P., 2014, p.50]. The above data shows that the financial education system and the constant provision of information by responsible media are very important for the society.

As a result of so many scandals in Poland regarding particularly the financial pyramids, Network Magazyn decided to publish a special education edition of its periodical in 2017. The entire magazine is devoted to various financial pyramids and describes subsequent scandals related to them. He also explains when public administration and legal provisions enter into consumer protection, and why it is not so easy to catch criminals and stop illegal financial pyramids in Poland. For a state administration to deal with a crime that crime must occur and the victims must be harmed. Very often it happens that the participants of the illegal investment realize that they have been deceived only when the organizer of the deal has difficulty in settling the financial obligations of the promised payments or even when the pyramid collapses. Then often the owner of such a financial pyramid cannot be found and claims against it cannot be asserted. The problem is that the victims also participate in the crime and are complicit in it. As the editor-in-chief of Network Magazyn, Maciej Maciejewski writes, "An extremely important and also causing many problems in this case is the fact that since the amendment of the Act in 2004, imprisonment has been threatening both the initiators of such a venture, but also their

participants who recommended this system other people. For this reason, it is extremely difficult in Poland to assert rights or claims against financial pyramids "[Maciejewski M., 2017a, p.8]. The media inform that illegal asset management by investors is already punishable as a result of the notification of the Financial Supervision Authority Office under Article 171 & 1 of the Act, which is defined in the Banking Law [KNF, 2009]. This Act on trading in financial instruments provides for the possibility of imposing a fine of up to PLN 5 m. In turn, Article 99 § 1 and § 2 of the Act on public offering provides for financial penalties or imprisonment. This is the reason why many injured people do not report to law enforcement agencies that they have been deceived and robbed. They are aware that misleading the participants in the financial pyramid as to the actual mechanism of the functioning of such a structure in order to induce them to contribute funds may be considered the crime of fraud referred to in Article 286 § 1. of the Penal Code. The concealment by the organizer of information that is of significant importance to the acquiring customer is subject to Article 311 of the Penal Code [ArsLege, 1997].

M. Maciejewski comes to a certain conclusion, stimulating his readers to observe and inspiring to reflect and think. He claims: "Often, when I think of this type of existence, such a Platonic idealism, I get a beautiful Galbraith statement: "Inability is by no means a fucking excuse!" [Maciejewski M., 2017c, p.13]. Why are law and supervision always much slower than the market?

On the one hand, most media take responsibility to alert their addressees and educate them. On the other hand social media can be used not only to identify fraud but also we can consider them as means of joining a pyramid scheme. It turns out that some media explicitly advertise illegal financial pyramids.

The Network Magazine editor Maciej Maciejewski asks a lot of questions in this regard, among others: "Someone knows if Polish law provides for penalties only for initiators and decision-makers in financial pyramids, or for people who recommend such projects to other people, too? And what about the media that accept advertising from the financial pyramids? Isn't this misleading advertising banned? "According to him, such advertising is published by newspapers such as e.g. "Ranking MLM" and "Alter Bussines" [Maciejewski M., 2017a, p.16]. Such advertisements, often with the participation of well-known celebrities, are also published by private financial pyramid activists in social media, in other media and at so-called "events". Increasingly aggressive marketing that promises easy, fast and high profit is attacking the readers. The slogans they contain, such as: "making money without leaving home", "Mrs. X earns millions", "Family Y no longer has room at home to store its money", most often are an attempt to convince many people to risky investments in cryptocurrencies, gold, diamonds, various collector's items and other alternative "investments" which are often frauds or financial pyramids [UOKiK, 2017]. This research vector is very actual.

According to specialists of Monzo Bank Ltd, in recent months they have seen more and more customers falling victim to a series of pyramid schemes being circulated on social media [Gilson M., 2019]. In particular, fake news infiltrates social media channels at an unprecedented level. As a result, investment scams are on the rise.

Conclusions

Media education through a quick system of signalling and warning consumers on the investment market in this regard seems to be the key solution for quick unmasking and efficient deactivation of the phenomenon of financial pyramids. The media have a real challenge and a set goal to reduce, through their actions, the demand for this type of financial product - i.e. investing in illegal pyramids. It is thanks to the media that the Justice authorities can receive signals to control and act in the areas described in this article to act quickly, being equipped with appropriate legal instruments to enforce order in the area of public finance. Laws that protect consumers explicitly prohibit entrepre-

neurs from creating, operating and promoting financial pyramids. Marketing behaviors encouraging customers to illegal investments are included in the so-called unfair market practices. The President of the Office for Competition and Consumer Protection exercises supervision over compliance with this prohibition. In this case, the Penal provision of Article 15.1 of the Act on counteracting unfair market practices applies which says that anyone who uses aggressive market practice is subject to a fine. In addition, here applies the penal provision of - Article 286. § 1 of the Penal Code - on frauds, stating that whoever, in order to achieve financial profit, leads someone else to an unfavorable disposition of its own or someone else's property by misleading it or by using an error or inability to properly conceive an action, shall be subject to the penalty of imprisonment from 6 months to 8 years. But are these provisions actually properly and timely enforced in Poland?

This situation has unfortunately not improved in recent years in Poland. Although we have more and more procedures, theoretically designed to protect investors, but in practice there are only a lot of new documents, few of which are operational, and which are to calm the conscience of state administration. Unfortunately, we do not hear about any prevented fraud, closed financial pyramids and punishment of their founders, as indicated by Tomasz Jaroszek, the owner of the portal Doradca.tv. The sluggishness of public state administration to work closely with the media and to control various financial entities ex officio is not good and does not accelerate. According to T. Jaroszek, all this creates incentives for people who strain or break the law. Such action of state law enforcement agencies in Poland gives criminals the opportunity to earn a fortune, with relatively little responsibility [Magazyn DGP, 2018]. This is noticed by many journalists and the media. However, they are helpless and powerless in the above situation. The authors believe that best to summarize this article, and to make the reader to reflect in this respect, are the words of a journalist who has been fighting for over 15 years with the activities of illegal financial pyramids in Poland. Accused many times of defamation in his articles about the owners of illegal pyramids, after several lost court hearings and financial losses, the editor-in-chief and owner of the Network Magazine, Maciej Maciejewski reflects on the sense of his further activity in this area and asks the question does anyone still want to fight with the pyramids in Poland? These questions are still very important and we must boldly ask them all the time [R. Zarzycka-Bienias, M.P. Zarzycki, 2018, p. 59].

For now, since there are no victims, there are no witnesses in the courts. "This results in the sad reality that in this situation, even the "Fourth Estate", as the media is popularly called, is not able to responsibly perform its tasks, signalling to the public and public administration, information about dangerous criminal practices of various entities in the financial world in Poland.

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