

Lawyer who set 'aiding and abetting fraud' legal precedent against bank shares legal blueprint



South Florida has long been an incubator of big-time, innovative financial criminals of diverse stripes – money launderers, fraudsters, fugitive dictators and a good dose of corrupt officials. That dubious distinction has made the local criminal and civil courts a rich source of novel, groundbreaking financial crime cases. None in recent years more vividly demonstrates this than the landmark lawsuit brought by Coquina Investments against TD Bank.

Coquina was one of many victims of the \$1.2 billion fraud and money laundering scheme of former Ft. Lauderdale attorney, now disbarred and imprisoned, Scott Rothstein. The Texas company sued TD Bank in 2011 for knowingly assisting Rothstein, a bank customer, perpetrate his fraud and launder his money.

In January 2012, a Miami federal jury awarded Coquina \$32 million in compensatory and \$35 million in punitive damages. The verdict was the first-ever based on the legal theory that a financial institution had "aided and abetted fraud" and money laundering by one of its customers.

The case establishes a template that may be replicated in other instances where fraud victims are left without much recourse against a fraudster and find the bank that provided banking services to the fraudster as a convenient, deep-pocketed source of recovery. The aiding and abetting theory against financial institutions could operate in the United States and all common law countries, such as those that emanated from the British Commonwealth.

Coquina lawyer, David Mandel, shares his blueprint

At the ACFCS Conference in New York last month, lead Coquina attorney, David Mandel, of Mandel and Mandel, in Miami, spoke and explained to the audience the legal framework he used to build his landmark case. He shared various case documents with the audience, including several that he had compiled reflecting the legal principles and cases that supported the novel legal approach he used in his court victory. In the document which follows, Mandel describes the 18 cases he uncovered in his

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research that support the "aiding and abetting" theory that US District Judge Marcia ___ Cooke, of the Southern District of Florida, approved.

In this document, Mandel explains the key legal principles that each case established and the elements of the outcomes that contributed to his own success in the Coquina suit. As fraud victims seek new avenues to hold third parties liable for their losses, the Mandel blueprint offers unique guidance into what it takes to bring such a case and potential compliance tips for institutions looking to avoid similar suits.

[View the chart of Mandel's referenced cases here](#)

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