

## PLANTATION BUILDINGS TOP \$52 MILLION

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# dbbr DAILY BUSINESS REVIEW

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#### ASBESTOS CLOSES COURTROOM

An asbestos problem has shut down another courtroom in the historic Dade County Courthouse, which would be replaced if voters approved a \$393 million bond measure next week. **A3**



#### RAINMAKERS LEAVE COLODNY FASS

Colodny Fass insists it is doing just fine and may even be expanding following the departure of three high-profile partners this month: Howard Talenfeld, Fred Karlinsky and Rich Fidei. **A3**

Karlinsky

#### MURDER CONVICTION OVERTURNED

The Fourth District Court of Appeal overturned the 2007 first-degree murder conviction of a man accused of gunning down a witness set to testify against him in a burglary case. **A6**

#### PRACTICE FOCUS: CRIMINAL LAW

In a lawsuit by a former spouse for negligent transmission of a sexually transmitted disease, the Fourth District Court of Appeal affirmed dismissal of the former wife's case against her former husband. The Fourth DCA said a "high-risk" sexual activity does not satisfy the foreseeability standard, writes former Judge David M. Gersten. **A8**

#### CORPORATE COUNSEL: RAISES ON WAY

A salary guide put together by Robert Half predicts that in 2015 in-house attorneys, particularly those with enough experience, will get a respectable bump in their starting sala-

# Five Years Later, Rothstein Leaves Mark on South Florida

by John Pacenti  
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Scott Rothstein left an indelible stain on the reputation of South Florida's legal community that lingers five years after the bombastic lawyer's Ponzi scheme and his 70-attorney law firm spectacularly imploded.

Yet the Rothstein case injected work—and lots of it—into a legal industry reeling from the Great Recession. Few major litigators, whether in criminal or civil law, missed out on a piece of Rothstein or the bankruptcy of his opulent Fort Lauderdale law firm, Rothstein Rosenfeldt Adler.

"I called it the Lawyer Recovery Act," said attorney Lawrence

Kellogg, a partner at Levine Kellogg Lehman Schneider + Grossman in Miami whose firm had tangential work in the case. "It's kind of a flip thing to say, but for people who do fraud work in this town it employed everybody."

Conventional wisdom among private attorneys in the case is the federal prosecutors would turn into a pumpkin this Halloween when the five-year statute of limitations runs out.

While most federal crimes are subject to the five-year limit, prosecutors may have some wriggle room when it comes to Rothstein-related crimes because TD Bank played such a



J. ALBERT DIAZ

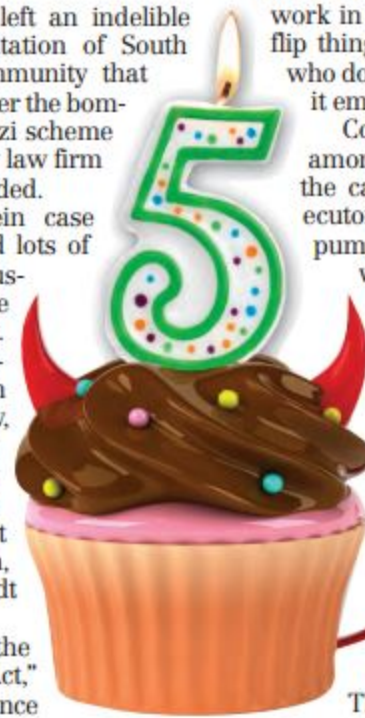
Lawrence Kellogg calls the Scott Rothstein case the Lawyer Recovery Act because of the work it produced for attorneys.

significant role.

"Given that the crimes affected a financial institution, the 10-year statute of limitations arguably would apply," said Marlene A. Fernandez-Karavetsos, spokeswoman for the U.S. attorney's office.

In the last five years, prosecutors charged more than two dozen peo-

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## FROM PAGE A1 ROTHSTEIN

ple, including nine attorneys, associated with the disbarred law firm chairman, now serving a 50-year prison sentence.

Lawyers, secretaries, bankers, mobsters and even a U.S. bankruptcy trustee panelist were caught in his web.

Bernard Madoff set the bar for pyramid schemes, but the audacity of Rothstein's \$1.2 billion ruse underscored why the Sunshine State is considered the nation's unparalleled capital of self-aggrandizing fraud.

He collected money saying he was financing bogus confidential court settlements and instead used the money to buy political influence and frivolous luxuries and corrupt the Broward Sheriff's Office, TD Bank and Coral Gables-based Gibraltar Private Bank & Trust.

"Scott Rothstein produced more legal work as a result of his Ponzi scheme than he did in 25 years of practicing law," said Akerman attorney Michael Goldberg, a fraud specialist who served as liquidating trustee in bankruptcy court for Rothstein's defunct firm.

He was one of many attorneys who lived and breathed the Rothstein case for years.

### FIT OF CONSCIENCE

There also was William Scherer, a partner at Conrad & Scherer in Fort Lauderdale, the foremost advocate for investor groups.

Scherer recalls watching the Miami Heat play on Halloween eve five years ago when he got a phone call about Rothstein skipping for Morocco. He returned to the U.S. in a rare fit of conscience to face charges.

"When it all hit the fan next day, my phone was ringing off the hook, and it has been ringing off the hook every since," Scherer said.

Attorneys leading the bankruptcy case were Berger Singerman partners Paul Singerman and Charles Lichtman, who did the heavy lifting for court-appointed trustee Herbert Stettin, a crusty former judge who recovered millions for cheated investors.

Attorney David Mandel, a partner at Miami's Mandel & Mandel, took TD Bank to trial and won a \$67 million judgment for a Texas group of investors, proving the bank was complicit, not just willfully blind, in Rothstein's scheme.

"Aside from keeping a lot of lawyers busy, Rothstein and his many helpers left a lot of carnage in their wake. Not least of which was the damage done to the legal profession," Mandel said. "Lawyers are going to be spending quite a while digging out from the dirt Rothstein bur-

### POST-ROTHSTEIN WORK

While numerous lawyers had moments in the Scott Rothstein spotlight, some individuals became closely associated with the cleanup phase.

#### • William Scherer and Harley Tropin

The two heavy-hitting litigators represented investors in numerous actions. Scherer, in particular, was a vocal advocate for his clients, railing at times against TD Bank and the court-appointed bankruptcy trustee.

#### • Herbert Stettin, Paul Singerman and Charles Lichtman

Stettin, a former Miami-Dade circuit judge, became the court-appointed bankruptcy trustee for RRA. Singerman of Berger Singerman was his lead attorney, tackling everyone who received a tainted penny from Rothstein and fighting off the U.S. attorney's office claim to the distribution of forfeited assets. Lichtman investigated targets for clawback lawsuits. His relentless questioning during depositions of RRA partners exposed the decadence of the firm.

#### • David and Nina Mandel

The attorneys represented Texas investors cheated by Rothstein in the only civil trial related to the scam, obtaining a \$67 million verdict against TD Bank.

#### • Valentin Rodriguez

The West Palm Beach attorney represented former RRA partner Christina Kitterman, the only co-conspirator to go to trial. He called Rothstein to the stand.

#### • Assistant U.S. Attorneys Lawrence LaVecchio, Paul Schwartz and Jeffrey N. Kaplan

Methodical and exact, the trio slowly rounded up the co-conspirators for five years.

ied us with, simply by being a former member of our profession."

West Palm Beach lawyer Valentin Rodriguez was the only lawyer to take a criminal case to trial. His confrontation with Rothstein on the stand provided one of this year's top courtroom dramas.

Rodriguez's client, former RRA attorney Christina Kitterman, was convicted. Her penance is a five-year prison term, among other things for making a 12-minute phone call on Rothstein's behalf while posing as a Florida Bar official.

"One thing that was accomplished by putting him on the stand—that is probably the only justice in this case—is that no judge in the Southern District will give him a reduced sentence," Rodriguez said. "They will read that transcript and learn who the true Scott Rothstein is."

### PROSECUTION DELIVERS

Despite some criticism for their methodical approach, Assistant U.S. Attorneys Lawrence LaVecchio, Paul Schwartz and Jeffrey Kaplan delivered on their office's promise to bring schemers to justice.

"The Ponzi scheme perpetrated by Scott Rothstein and his co-conspirators, many of whom held positions of trust in our community, was unconscionable. The magnitude of the billion-dollar scheme reached far and wide," U.S. Attorney Wilfredo Ferrer said. "The attorneys, staff and agents worked many long hours to ensure that this fraud was uncovered and that the perpetrators were brought to justice."

At Rosenfeldt's sentencing last month, LaVecchio said Rothstein's political connec-

tions with the likes of then-Gov. Charlie Crist and U.S. Sen. John McCain during his presidential campaign bolstered the scam.

By illegally bundling contributions, the political connections "cloaked" Rothstein with legitimacy, which he mined to lure investors.

When the Ponzi collapsed, Rothstein had parlayed his connection with Crist to an appointment to the Fourth District Court of Appeal Judicial Nominating Commission. RRA's name adorned sports arenas. Even the lobby of Holy Cross Hospital in Fort Lauderdale bore Rothstein's name for his charitable contributions.

"We didn't know what they were billing, but we sure knew—by having a good sense of what happens in the courthouse—they weren't involved in any cases that monumental, and they couldn't have generated the revenue necessary to pay for all these promotional events and staff toys," Lichtman said.

### PLEA BARGAINS

The criminal defense bar focused on forging plea deals.

Miami attorney Bruce Lehr, who represented Rosenfeldt, got him a 33-month prison sentence after he admitted to spending \$1 million on prostitutes, jewelry and exotic reptiles.

Fort Lauderdale attorney Fred Haddad got the other name partner, Russell Adler, a 2½-year sentence for election law violations.

Only a fraction of RRA attorneys at the labor and employment firm ended up in prison. Not among them, Marc Nurik represented Rothstein and now practices primarily in Los Angeles, where he said, "Not everything on the planet has the name Rothstein branded upon it."

"At the end of the day I'm very sad some of my ex-partners and people I knew and cared about ended up going to jail," he said. "I think the whole thing was just a tragedy for a lot of people in the community at large, and that is why I understand it still resonates even today."

The judiciary also stepped up in the multifaceted Rothstein case.

U.S. Bankruptcy Judge Raymond Ray, U.S. District Judge Marcia Cooke, Senior U.S. District Judge Daniel T.K. Hurley and Broward Circuit Judge Jeffrey Streitfeld all played critical roles.

### DEEP POCKETS

Rothstein lived like a monarch in his waterfront mansion, surrounding himself with the toys of the rich: exotic cars, luxury yachts, ridiculously expensive watches, living what he called a "rock 'n' roll lifestyle."

His collection of audacious assets and TD Bank's deep pockets set the stage for an unprecedented recovery for victims. Rothstein ran most of the Ponzi through TD accounts and ran "road shows" for would-be investors in branch conference rooms, giving him the staid trappings of legitimacy. A bank official even vouched for amounts in Rothstein accounts



MELANIE BELL

Akerman attorney Michael Goldberg said, "Scott Rothstein produced more legal work as a result of his Ponzi scheme than he did in 25 years of practicing law."

when money was flying out the bank's doors.

Besides the \$67 million verdict secured by Mandel, TD Bank paid \$400 million in settlements and government fines. A central figure in the scam—TD Bank regional vice president Frank Spinosa—was charged this month for his alleged role

in the scam, which included providing reassuring "lock letters" to investors.

"I have been involved in 150 Ponzi scheme cases, and this is certainly the best result I have ever seen," Goldberg said. "We were fortuitous that a very deep pocket was implicated in certain aspects of the fraud. It comes down to that."

Lichtman also exposed the decadence of the law firm and its partners through enlightening depositions of Rosenfeldt and others.

"We are equally proud at least from a civil standpoint making the actual wrongdoers have to pay a price for their complicity," he said.

### LEGACY OF MISTRUST

Attorney Andrew Hall, a partner at Hall, Lamb & Hall in Miami, said Rothstein's fall added an ominous undercurrent to the economic collapse since the fraud set a new standard for trust account misuse.

"This was the theme that ran through a lot of transactions," he said. "Instead of trusting the recipients receiving the funds to hold them in escrow, people started insisting on other requirements."

The Rothstein scandal also provided a steady diet of red meat for the media.

Rothstein liked to hobnob with organized crime figures at Runway 84 in Fort Lauderdale and kept call girls at a condominium across the street from RRA.

When one of the prostitutes threatened to go public about her tryst with Rosenfeldt, Rothstein called on his muscle at the Broward Sheriff's Office. She found herself on an out-bound jet.

Soon-to-be-ex-wife Kim Rothstein was caught hiding diamonds and other assets from federal authorities and is now serving an 18-month prison sentence. An infamous photo of her holding numerous shopping bags splayed around her like so much plumage ran repeatedly on television and in newspaper stories about her husband.

"It was like an ongoing television series. It included fast cars, pretty women, stolen jewelry and sex," said Chuck Malkus, author of "The Ultimate Ponzi, The Scott Rothstein Story."

Rothstein was a master at compartmentalizing. He told his co-conspirators and victims only what each needed to know. Auto magnate Ed Morse, whose son Ted was a Rothstein pal, was an early target of the scam.

"He would find your weakness and exploit," Rodriguez said.

Goldberg added, "Scott Rothstein is a lying psychopath who is no different than any other Ponzi scheme artist. He plays on human greed and weakness, and he is just the next one in a long line of con artists who have committed these frauds throughout Florida."

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