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Jury returns \$67M verdict against TD Bank in Rothstein-related case



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TD Bank was hit with a \$67 million verdict Wednesday in the first trial related to [Scott Rothstein's](#) Ponzi scheme.

A Miami federal jury returned the verdict against the bank at about 1 p.m., deciding that [TD Bank \(NYSE: TD\)](#), helped Rothstein defraud a group of businessmen from Texas known as Coquina Investments.

The case went to the jury at about 5 p.m. Tuesday. They returned Wednesday morning to deliberate for four hours before returning the verdict.

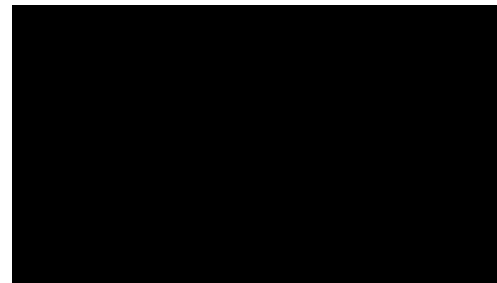


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TD Bank has been hit with \$67 million verdict in Scott Rothstein-related case.

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The Coquina group alleged that TD bankers, in particular former regional VP [Frank Spinosa](#), lied to them about the safety of their money and helped Rothstein deceive investors.

The jury awarded Coquina \$32 million in compensatory damages and \$35 million in punitive damages. The verdict is rare against a bank for aiding a Ponzi scheme, many of which were discovered during the recession that started in 2008.

The Coquina trial focused on a bank's responsibility to know its customers and to detect fraud under the Bank Secrecy Act and its anti-money-laundering provisions.

"I think we were all surprised at how much they let go. At any point, they [TD Bank executives] could have stopped it," said the jury foreperson, who asked not to be identified.

Coquina attorney [David Mandel](#), who argued during the trial that the bank acted with "arrogant and reckless indifference," said Wednesday's verdict says that banks need to be held accountable "for the devastation they inflict and the damage they cause. The Ponzi scheme would have been impossible without the bank, and I think it's clear the jury was angry about that."

TD Bank spokeswoman [Rebecca Acevedo](#) wrote in an email that they are disappointed with the jury's decision and considering all of their options.

"We still maintain that we were [Rothstein Rosenfeldt Adler's](#) bank and that it was [Scott Rothstein](#) who defrauded investors," she wrote. "We will continue to defend the bank against claims of wrongdoing."

Attorneys with Greenberg Traurig, which represented TD Bank, said, in light of some questions jurors posed during deliberation, they believed the verdict form may have been flawed and that the jury meant to award a smaller amount. However, the jury foreperson confirmed to reporters they intended to award \$67 million.

The trial began Nov. 1, but was interrupted by the holidays and by Rothstein's high-profile deposition in Miami in multiple lawsuits.

During the trial, the issue of [whether a bank's fraud alerts can be used at trial](#) was hotly debated. [Charles Intriago](#), a Miami attorney and money-laundering expert, noted that the Coquina trial could [send a message to other victims of Ponzi schemes](#).

"Victims around the country would be greatly encouraged if the plaintiffs are successful here in South Florida," he said in an interview last month. "There's very little jury sympathy for a bank, and right now is a rough time for a bank to be in front of a jury." On Wednesday, Intriago said the Coquina verdict was "seminal." He said there have been settlements and stockholder lawsuits against banks but "for a victim of a fraud, to win a verdict of this magnitude against a bank, is unheard of."

Rothstein, who was disbarred and sentenced to 50 years in prison, used his Fort Lauderdale law firm to entice investors into his \$1.2 billion scheme. He made up phony pre-lawsuit settlements for whistle-blower and sexual harassment cases, and told investors they were buying interest in the settlements.

But Rothstein needed banks to launder his money, and he needed bankers who did not ask questions about overdrafts or why he was moving large amounts of money rapidly between



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attorney trust accounts.

Coquina alleged TD Bank knew Rothstein was stealing client money from bank accounts. The bank countered with denials of actual knowledge, and accused Coquina of being greedy and ignoring signs of fraud. An expert hired by TD bank, [accountant Ivan Garces](#), said TD conducted "reasonable due diligence" regarding dozens of alerts generated by computer systems regarding Rothstein's accounts.

Another lawsuit related to Rothstein's Ponzi scheme is set for trial in March in Broward County Circuit Court. It's against TD Bank and multiple other defendants.

In that case, a separate group of Rothstein's victims, the so-called Razorback group, is suing for about \$200 million.

[William Scherer](#), the attorney who represents the Razorback group, said Wednesday's verdict is encouraging, although he said it doesn't necessarily set a precedent that will help him.

"I sat through the entire Coquina trial and they had an excellent jury," Scherer said. "TD Bank's attorneys tried to highlight errors and may try to appeal the case, but I think the judge did a fair job."

One thing that the Razorback lawsuit will have that wasn't presented in the Coquina case is Rothstein's own testimony. He said under oath in December that he bribed TD Bank employees with cash, but that testimony wasn't allowed in the Coquina case because of timing.

TD Bank has dismissed Rothstein's statements as coming from a known habitual liar.

[Click here to read more about Tuesday's closing arguments.](#)

Paul Brinkmann covers law, accounting, automotive, energy and environmental issues.

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