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SCOTT ROTHSTEIN: Picking Up the Pieces

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\$41M settlement unsealed: TD Bank paid Rothstein creditor Emess



Paul Brinkmann Reporter-South Florida Business Journal Email LinkedIn Twitter

A judge's order has revealed that TD Bank paid \$41 million in September to settle a lawsuit with Brooklyn, N.Y.-based Emess Capital related to the Scott Rothstein Ponzi scheme.

The Emess settlement followed a \$67 million verdict against the bank in a similar case in January, and a \$170 million settlement in a case brought by the so-called Razorback group.

Emess had sued for \$33 million in damages connected to its investments with Rothstein. It was also pursuing punitive damages, which could have allowed a jury to triple the compensatory figure.

The Emess settlement was made public Tuesday because U.S. Bankruptcy Judge Raymond Ray is considering a new \$55 million settlement - and a bar against further lawsuits - between TD Bank and Herbert Stettin, the trustee overseeing Rothstein's former law firm.

The bank's role in the \$1.4 billion Rothstein fraud was highlighted by a judge's order in August declaring the bank knew about the fraud.

The bank has maintained all along that it engaged in no wrongdoing and that Rothstein is responsible for the losses investors suffered. In late January, the bank set aside \$255 million as a litigation provision.

Bruce Katzen, bankruptcy attorney with Kluger, Kaplan, Silverman, Katzen & Levine, said Emess was pleased with the result. "The potential for a punitive damage award appeared to be a motivator," Katzen said.

David and Nina Mandel represented Emess in the lawsuit.

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



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