

## TD Bank Dealt \$67M Verdict In Rothstein Fraud Suit

By **Max Stendahl**

Law360, New York (January 18, 2012, 6:16 PM ET) -- A Florida federal jury on Wednesday slapped **TD Bank NA** with a \$67 million verdict on claims it aided jailed lawyer Scott Rothstein's \$1.2 billion Ponzi scheme, a decision the plaintiff's attorney called a resounding win for victims of the fraud.

The verdict, reached Wednesday afternoon after nearly four hours of deliberation, would resolve claims by investment firm Coquina Investments LLC that TD Bank — where Rothstein and his firm held several accounts that allegedly contained settlement payments and investor funds — duped investors into feeding the scheme through wire transactions.

The ruling proved TD Bank was Rothstein's "partner in crime," according to David S. Mandel, an attorney for Coquina.

"The jury sent exactly the right message to TD Bank," Mandel told Law360. "This bank was integral to the fraud, and the fact is it could not have succeeded without their active participation in the Ponzi scheme."

TD Bank spokesperson Rebecca Acevedo said Wednesday the bank planned to fight the verdict.

"TD Bank is disappointed with the jury's decision and is considering all of its options," she said. "We still maintain that we were Rothstein Rosenfeldt Adler's bank and that it was Scott Rothstein who defrauded investors."

The lawsuit stems from Rothstein's scheme to sell shares in fake legal settlements. He pled guilty in January 2010 to five counts, including racketeering and fraud, and is currently serving a 50-year prison sentence.

Texas-based Coquina launched the suit in May 2010, alleging the TD Bank branch in Weston, Fla., allowed large sums of money to pass through Rothstein's accounts. The suit also claimed the bank failed to act on fraud alerts on the accounts, and that TD Bank employees knew about Rothstein's fraud and helped him carry it out.

Coquina's case was dealt a minor setback in October when a judge threw out claims the bank's conduct violated the Racketeer Influenced and Corrupt Organizations Act. But that ruling denied TD Bank's bid to dismiss fraudulent misrepresentation and aiding and abetting fraud claims, and sent those claims to a jury.

Last week, shortly before the trial began, Coquina lost a bid to have Rothstein appear at the trial as a witness, a move TD Bank had opposed on procedural grounds. But the bank may have had additional concerns: In a deposition taken in December as part of Rothstein Rosenfeldt Adler PA's separate bankruptcy case, Rothstein said the bank played a critical role in the scheme and could have easily halted it.

"Had they notified anybody, cut off our banking, it would have been impossible, at that time, to recover," Rothstein said under questioning Dec. 13.

On Wednesday, Mandel said he was confident heading into the trial that the jury would find the bank aided Rothstein's scheme.

"We had a jury question about damages after 10 minutes," he told Law360. "I think that says something about TD Bank's liability."

Coquina is represented by David S. Mandel, Nina S. Mandel and Jason B. Savitz of Mandel & Mandel LLP.

TD Bank is represented by Mark P. Schnapp, Holly R. Skolnick, Glenn E. Goldstein and Donna M. Evans of [Greenberg Traurig LLP](#).

The case is Coquina Investments v. Rothstein et al., case number [0:10-cv-60786](#), in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Keith Goldberg and Evan Weinberger. Editing by Sarah Golin.