



# DAILY BUSINESS REVIEW

**YANKEES' BELTRAN SELLS WESTON HOME**

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### LAW

#### PART OF MEDMAL LAW UPHELD

U.S. Circuit Judge Frank Hull wrote it was OK to require patient information in malpractice cases since plaintiffs voluntarily chose to sue. **A3**

#### THIRD DCA: READ THE FINE PRINT

The Third DCA rejects a passenger's negligence suit against Royal Caribbean Cruises, saying Miami federal court was the only place to sue. **A6**

#### STRIP MALL COVENANT UPHELD

The Third DCA says a Key West business owner can't add apartments to his strip mall units without permission. **A6**

#### STATE AVOIDS REDISTRICTING FEES

Raoul Cantero, an attorney for the Florida Senate in the fight over who should pay legal fees in the redistricting fight, said Florida legal history points to each party being responsible for their own legal fees. **A3**

#### COMMENTARY: NFL SUIT

The NFL concussion settlement presents a complicated situation because it provides for compensation at the front end, as soon as a player is diagnosed with a qualifying disease. As a result, the ratio of incurred-to-estimated future medical costs is inverted, writes law professor Alan B. Morrison. **A5**

### COMMERCIAL REAL ESTATE

#### MIAMI BEACH COLLEGE SELLS

Talmudic University, a seven-story college with more than 98,000 square feet of space on 2.29 acres on Alton Road in Miami Beach, was purchased for \$17 million. **A10**

## Former TD Bank Executive Indicted in Rothstein Case

by John Pacenti  
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After nearly five years, prosecutors unsealed a much-anticipated indictment charging the central banking figure in Scott Rothstein's \$1.2 billion Ponzi scheme.

Few suspected co-conspirators in the scandal loomed larger than former TD regional vice president Frank Spinosa. He faces a six-count indictment charging him with conspiracy to commit mail and wire fraud, which carry a possible 20-year sentence per count.

The indictment assigned to U.S. District Judge Beth Bloom in Miami comes just weeks from the expiration of the five-year statute of limitations for charging co-conspirators of the disbarred law firm chairman by Oct. 31.

"It's gratifying to all of the victims that one of the true villains of the fraud is finally being brought to justice," said attorney David Mandel, who represented Texas-based Coquina Investments LLC, an investor group that won a \$67 million verdict against TD Bank. "Spinosa played a critical role, and he is undoubtedly a corporate criminal of the first order."

Spinosa was a central figure in



J. ALBERT DIAZ

U.S. District Judge Beth Bloom was assigned the case against former TD Bank regional vice president Frank Spinosa.

the fourth-largest Ponzi scheme in U.S. history, said Chuck Malkus, author of "The Ultimate Ponzi: The Scott Rothstein Story." "Spinosa provided Scott Rothstein with false documents

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## Ex-Fugee Rapper Sues N.Y. Post for Defamation

by Adolfo Pesquera  
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Ex-Fugee rapper Pras Michel filed a defamation lawsuit in the Broward Circuit Court against the New York Post.

Michel, a Broward resident, claims the Post falsely claimed he failed to perform as the headliner at a Sept. 11 benefit concert for his own charitable foundation.

"Pras never guaranteed a performance at the event," said the complaint filed by Darren Heitner of Heitner Legal in Miami.

The article was published Sunday and was still on the newspaper website Friday afternoon. The complaint filed Wednesday states Michel demanded a retraction and apology by letter "for recklessly dragging his name in the mud," but the Post failed to comply.

The article also alleges the foundation, Hope for Them, bounced a check to the New York venue and falsely claimed MTV sponsored the fundraiser.

Pras objected to being tied to any alleged wrongdoing by

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## ROTHSTEIN

on TD Bank letterhead and lied to investors which allowed the fraud to continue," he said.

Spinosa's defense attorneys, Sam Rabin and Michael Schlesinger, have said their client was just another person duped by Rothstein.

Rabin said he got a call from prosecutors about the newly unsealed indictment while reading the newspaper at home Friday morning. "I laughed and said, 'Are you kidding me?'"

Rabin said the indictment came as a relief.

"He is relieved he no longer has to wait for this to happen. He can get around to defending himself," Rabin said. "He is not guilty, and he is looking forward to his day in court."

Rothstein is serving a 50-year prison sentence for operating the long-running settlement financing scheme, which collapsed during the financial crisis. Two dozen people have been charged with crimes associated with the disbarred attorney.

In civil depositions, Rothstein said Spinosa was his point man at TD Bank, where the one-time chairman of Fort Lauderdale law firm Rothstein Rosenfeldt Adler deposited much of his investors' money in 38 accounts.

TD Bank spokeswoman Rebecca Acevedo did not return a call for comment by deadline.

Rothstein recruited investors at "shows" conducted at TD Bank branches to induce them to put money into what they thought was a legitimate business buying confidential court settlements at discount rates from plaintiffs who wanted quick cash.

Rothstein testified he bribed Spinosa with \$50,000 cash, passing the money to him in a paper bag in a branch parking lot. He also said he bribed the Weston branch manager, Roseanne Caretsky, who has not been charged.

When asked whether Rabin thought Caretsky might testify against Spinosa, he said, "She might testify for us."

Spinosa, who was released on \$250,000 bond after his initial appearance Friday, was accused of producing so-called lock letters telling investors their money would be held safely at the bank until they authorized the release of funds while Rothstein cleared out the accounts.

"We will offer a very clear and concise explanation for the letters that were of-

ferred by him," Rabin said.

### GUARDED WITNESS

Spinosa was a pivotal witness in the Coquina trial, invoking his Fifth Amendment constitutional right to refuse to answer questions more than 150 times. U.S. District Judge Marcia Cooke in Miami told jurors they could infer from Spinosa's refusal to answer questions that his testimony may have been adverse to TD Bank.

In affirming the jury's \$67 million verdict, the U.S. Court of Appeals for the 11th Circuit, stated, "The chance is remote that Spinosa would have invoked his Fifth Amendment if he neither knew of nor participated in Rothstein's Ponzi scheme because doing so increased his own exposure to criminal prosecution."

Emails uncovered in June 2012 by Mandel show TD Bank executives knew of the lock letters produced by Spinosa and were concerned once the Ponzi scam unraveled.

The email chain showed Spinosa distancing himself from the lock letters, pleading with Kevin Gillen, president of TD Bank's Florida operation, to help "salvage his reputation." Gillen responded: "Those letters were provided by you on TD letterhead and signed by you. I think that is a statement of fact."

Spinosa was fired in December 2009 shortly after refusing to cooperate without having a lawyer present during the bank's internal investigation.

The indictment stated the lock letters signed by Spinosa and given to at least seven groups were essential to attracting more than \$250 million. Spinosa was accused of using scripts provided by Rothstein to reassure investors their accounts held million of dollars in them when they often had next to zero.

Spinosa is also facing civil charges by the Securities and Exchange Commission. TD Bank agreed to pay \$15 million to settle its SEC case.

In other Rothstein-related news, convicted hedge fund executive Frank Preve has agreed to testify against his former boss, hedge fund operator George Levin, in an SEC civil case.

U.S. District Judge Ursula Ungaro in Miami on Friday set an Oct. 22 trial for Levin, who ran Banyon Investments LLC, the primary feeder fund for Rothstein's fraud. The SEC is seeking a \$157 million disgorgement from Levin plus a civil fine.

Preve pleaded guilty to a criminal conspiracy charge for \$20 million of the fraud.

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