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Jury: TD Bank failed to stop Ponzi schemer

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Toronto-Dominion Bank lost a $67 million jury verdict over claims it helped Scott Rothstein - the disbarred South Florida attorney who admitted running a $1.2 billion Ponzi scheme - by telling victims their money was safe as he depleted accounts.

A jury in federal court in Miami returned the verdict Wednesday in a lawsuit brought by Coquina Investments, based in Corpus Christi, Texas. The panel deliberated about four hours before reaching its verdict after a trial before U.S. District Judge Marcia Cooke.

"It was clear cut for us," the jury forewoman, Shonda Smith, said after the verdict. "We were all surprised at how much stuff they allowed to go through, all the deposits and transfers. At any point, someone could have stopped it."

On Tuesday, Coquina lawyer David Mandel urged the jury to award $32 million in compensatory damages and $140 million in punitive damages.

"They didn't lift a finger," Mandel said of the bank in closing arguments. "Once fraud was evident, it was their obligation to report it and stop it."

Wednesday's verdict was for $32 million in compensatory damages and $35 million in punitive damages, the type designed to punish.

"This Ponzi scheme would have been impossible if it weren't for TO Bank's actions," Mandel said after the verdict, referring to the Miami unit.

A spokeswoman, Rebecca Acevedo, said the bank is disappointed with the verdict "and is considering all of its options."

"We still maintain that we were Rothstein Rosenfeldt Adler's bank and that it was Scott Rothstein who defrauded investors," she said bye-mail, referring to the confidence man's law firm. "We will continue to defend the bank against claims of wrongdoing."

In closing arguments on behalf of the bank, Holly R. Skolnick said the Coquina investment firm must have known that returns of 50 percent in a few months were too good to be legitimate.

"It was obvious to Coquina that these were fraudulent investments," Skolnick, of the law firm Greenberg Traurig LLP, told jurors. "It had to be obvious. These deals make no sense."
In its complaint, Coquina said officers of the bank "played an active role in the scheme and facilitated its continued existence" by meeting with victims to create the appearance of a legitimate enterprise.

Fictional cases

While operating the fraud, Rothstein told his victims that they were buying stakes in settlements of cases about which his Fort Lauderdale law firm, Rothstein Rosenfeldt Adler PA, had amassed evidence and confronted potential defendants in sexual and employment discrimination cases. The settlements were fictional, as were the cases.

He used the bank to make payments to investors that supposedly came from the settlements, and to provide documents "to conceal the truth from the investors, to keep the investors and encourage them to re-invest, and to attract additional investors," according to the complaint.

Investors regularly met with bank Vice President Frank Spinosa, contributing to the "aura of legitimacy," Coquina said in the complaint.

Spinosa, who is no longer with the bank, refused to testify during the trial, citing his Fifth Amendment protection against self-incrimination.

The bank is facing three other suits by groups of investors claiming it helped keep Rothstein's fraud afloat by providing Rothstein with documents that he used to convince investors their money was safe and could be disbursed only to him, when he actually was siphoning money out of the accounts.

Cooperating

Rothstein pleaded guilty and was sentenced to 50 years in prison. He is cooperating with authorities and those seeking to recoup losses using lawsuits against third parties.

Seven of his employees and associates have been criminally charged. Five pleaded guilty, and two are awaiting trial.