

Financial Fraud Alert

Who: *Plaintiffs:* RWRK Investments, LLC, Bonnie Barnett, Robert L. Kagan, Roger Wittenberns
 Defendant: TD Bank, N.A. and Frank Espinosa

What: This complaint stems from an alleged Ponzi scheme perpetrated by Scott Rothstein and his law firm, Rothstein, Rosenfeldt and Adler (“RRA”). According to the complaint, Rothstein’s Ponzi scheme involved “solicit[ing] investors to invest in purported confidential structured settlements [which] . . . were falsely presented as having been reached between putative plaintiffs and defendants based upon claims of sexual harassment and/or whistle blower actions.” Plaintiffs, who were allegedly investors in Rothstein’s Ponzi scheme, claim to have been “defrauded out of a total of \$800,000.”

The allegations further state that “[t]o further his criminal scheme, Rothstein regularly told investors that ‘RRA’s trust accounts were maintained with a well-established international banking institution. . . .’” Allegedly, “[t]hat well-established international banking institution was [defendant] TD Bank.” The complaint alleges that “TD Bank was the financial nucleus of the Rothstein Ponzi scheme as hundreds of millions, if not over a billion, of Ponzi scheme dollars flowed through TD Bank accounts.” The complaint states that TD Bank played a role in Rothstein’s scheme by “lull[ing] investors, including Plaintiffs, into a false sense of security by providing written assurances that settlement funds existed in separate accounts and could only be disbursed directly to the investors.” According to the complaint, assurances were provided by “so-called ‘lock-letters’ on TD Bank letterhead, signed by a bank officer, advising the investor that the settlement funds were locked up and could only be disbursed to the investor.” Plaintiffs allege, however, that these “lock letters . . . were meaningless as Rothstein could transfer funds from those accounts on line. . . .” In addition, the allegations state that TD Bank personnel knew that “Rothstein and/or his associate was supplying persons with fraudulent TD Bank balances in an effort to solicit clients for their fraudulent structured settlement business.”

The complaint states that “TD Bank profited from Rothstein’s scheme, earning monies from: (a) interest on investor monies deposited at TD Bank; (b) transaction and account fees that were magnified by and derived from Rothstein’s scheme; and (c) TD Bank benefitted from establishing relationships with customers that Rothstein brought to TD Bank.” Based on these allegations, the complaint alleges two causes of action against the defendants: (i) aiding and abetting fraud; and (ii) aiding and abetting breach of fiduciary duty. According to the complaint, Plaintiff seeks compensatory damages in the amount of \$800,000 plus interest and attorneys’ fees, costs and punitive damages.

Where: Circuit Court of the 17th Judicial District for Broward County, Florida

When: June 1, 2012

For additional information, please contact:

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