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Rothstein's general counsel sued for \$37.8 million

Investors threatened to "go public" months before the Ponzi scheme unraveled

By [Jon Burstein](#), Sun Sentinel
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[Scott Rothstein's](#) Ponzi scheme was almost exposed eight months before it spectacularly imploded in October 2009, according to a \$37.8 million lawsuit filed Thursday against the general counsel of Rothstein's law firm. Two investors threatened in February 2009 to "go public" with questions about Rothstein's investment scheme, prompting Rothstein to instruct his right-hand man David Boden to cut a confidential \$4.25 million deal with them, allege the bankruptcy attorneys attempting to recover funds for Rothstein's victims. The bankruptcy attorneys are suing Boden for the \$1 million he received while working at the [Rothstein Rosenfeldt Adler](#) law firm and an additional \$36.7 million in damages.

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The lawsuit brought in U.S. Bankruptcy Court in [Fort Lauderdale](#) is the latest in a series of "clawback" cases brought by the legal team for bankruptcy trustee Herbert Stettin.

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Stettin's attorneys allege Boden was a co-conspirator in Rothstein's Ponzi scheme, either actively participating in the investment fraud or ignoring so many red flags that he demonstrated a reckless disregard for the truth. Boden had to have known the returns Rothstein promised investors made no sense, according to the lawsuit. Boden's civil attorney, Todd Payne, could not be reached for comment Thursday, despite an attempt by phone.

Boden gave a tearful deposition to the bankruptcy attorneys in April 2010, saying he had no idea Rothstein's wealth was built on lies.

"You know, I didn't know the guy was a criminal," Boden said.

Rothstein, 49, is serving a 50-year prison sentence after pleading guilty to five federal charges in the \$1.4 billion investment fraud, the largest in South Florida history. His scheme relied on investors believing he was

raking in millions of dollars in whistle-blower and employment discrimination settlements. Those agreements never existed.

The bankruptcy attorneys allege Boden was supposed to be the "verifier" of 35 of those agreements, reviewing them to make sure everything was in order. He either failed to go over the documents or did review them and realize they were bogus, according to the lawsuit.

Boden also negotiated a deal with investors Gerald Brauser and Leon Brauser in February 2009 when they claimed their money was not being held in escrow as promised, the lawsuit alleges.

After the Brausers' attorney said they were ready to "go public" about Rothstein, Boden crafted a deal that "included representations from the Brausers that they had not gone to the authorities," wrote bankruptcy attorney Charles Lichtman.

Gerald Brauser could not be reached for comment Thursday, despite an attempt by phone.

Boden also did nothing when Rothstein was ripped off in a deal with Albert Peter, who was supposed to be his partner in an European cruise line venture, the lawsuit alleges.

"(Boden and Rothstein) knew they could not either sue for or report the theft of money to authorities that was already stolen," according to the lawsuit.

The bankruptcy attorneys want back all the money Boden made from the law firm, alleging he essentially acted as Rothstein's business manager and "did not appear to have performed any material legitimate duties for [the firm]."

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