



MELAND | BUDWICK

BMO Harris Socked With \$24B Suit Over Petters Ponzi Scheme

<https://mbdev.aplussedv.com/2014/09/18/bmo-harris-socked-with-24b-suit-over-petters-ponzi-scheme/>

Michael Lipkin

Law360, San Diego (September 18, 2014, 10:57 PM ET) — A trustee for two bankrupt Florida investment firms on Thursday hit [BMO Harris Bank NA](#) with a \$24 billion adversary suit, alleging its Marshall & Ilsley Bank helped convicted Ponzi scammer Thomas Petters bilk investors out of \$3.7 billion.

M&I, which was bought by BMO Harris in 2011, allegedly knew Petters was lying to his investors when he told them he made money reselling consumer electronics to big-box retailers such as [Wal-Mart Stores Inc.](#) and [Costco](#) Wholesale Corp., the suit says.

M&I officials had seen what Petters told his investors, but knew no major retailers ever deposited money in Petters' account, according to the complaint.

"Petters did not act alone," the complaint says. "M&I was complicit in the scheme, serving as a critical lynchpin 'legitimizing' Petters' plot and facilitating it."

Plaintiff Barry E. Mukamal — the liquidating trustee for Petters feeder funds Palm Beach Finance Partners LP and Palm Beach Finance II LP — is seeking the \$23.6 billion that Petters' two purported electronics suppliers transferred to M&I.

"Tom Petters perpetrated the third-largest financial fraud in U.S. history," said Mukamal's attorney Michael S. Budwick of Meland Budwick, P. A. "Mr. Mukamal looks forward to trying this case before a Florida jury and holding the bank responsible for facilitating this massive fraud."

BMO Harris did not immediately respond late Thursday to a request for comment.

Thursday's suit is Mukamal's second against BMO Harris, joining a 2011 complaint



that sought recovery of fraudulent transfers from just a few months in 2008. The latest suit seeks recovery of transfers made from 2002 to early 2008.

Mukamal alleges M&I played along with Petters as he sought to pacify an investor who wanted his individual payments closely tracked and repaid as the specific electronics he was seemingly funding were resold. Petters told M&I before a meeting with the investor he had no intention of agreeing to the investor's demands, according to the suit.

"M&I participated in this charade, knowingly assisting PCI in making false representations to a PCI lender," the complaint says.

M&I also allegedly saw billions of dollars flow through the account, which nonetheless kept a relatively small average daily balance, a key indication of money laundering, according to the complaint.

In December 2009 a Minnesota federal jury [convicted Petters of running a \\$3.7 billion Ponzi scheme](#), handing down an unambiguous verdict that found him guilty of all 20 counts of fraud, conspiracy and money laundering he faced for allegedly masterminding the scam operated through his venture capital firm Petters Co. Inc. He is currently [serving a 50-year sentence](#).

PCI entered into Chapter 11 in October 2008, and its trustee Douglas A. Kelley has since [launched more than 200 adversary proceedings](#) in the bankruptcy case, seeking to clawback transfers made by the company in the run-up to the bankruptcy filing.

Kelley sued BMO in November 2012, calling the M&I deposits "astronomical."

Mukamal is represented by Michael S. Budwick, Solomon B. Genet, Zachary N. James and Joshua A. Marcus of Meland Budwick, P. A.; and David S. Mandel and Nina Stillman Mandel of Mandel & Mandel LLP.

Counsel information for the defendants was not immediately available.

The adversary case is Mukamal v. BMO Harris Bank NA, case number 9:14-ap-01660; and the bankruptcy is In re: Palm Beach Finance Partners LP et al., case number 9:09-bk-36379, both in the U.S. Bankruptcy Court for the Southern District of Florida.