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Jury orders BMO Harris to pay more than \$550 million in Ponzi scheme case

By [Kevin Wack](#) November 08, 2022, 5:50 p.m. EST 3 Min Read



A Minnesota jury on Tuesday ordered BMO Harris Bank to pay more than \$550 million to plaintiffs after a trial in which the bank was found liable in connection with a multibillion-dollar

Once prejudgment interest is included, the Chicago-based subsidiary of Canada's BMO Financial Group could owe more than \$1 billion, though the bank said that it is entitled to recover about 21% of the total. The bank was sued by the trustee of the bankruptcy estate of the company that ran the Ponzi scheme.

"It has been a long, 14-year road to this verdict, and we are extremely pleased with the jury's decision to hold BMO Harris Bank accountable for its role," Michael Collyard, an attorney at Robins Kaplan who represented the plaintiffs, said in a written statement. "This is a fantastic result for the trust pursuing recovery for the people who lost money in this fraud."



BMO Harris said Tuesday that it intends to pursue all available legal options, including by appealing the jury verdict and the monetary award to a federal appeals court. *Daniel Acker/Bloomberg*

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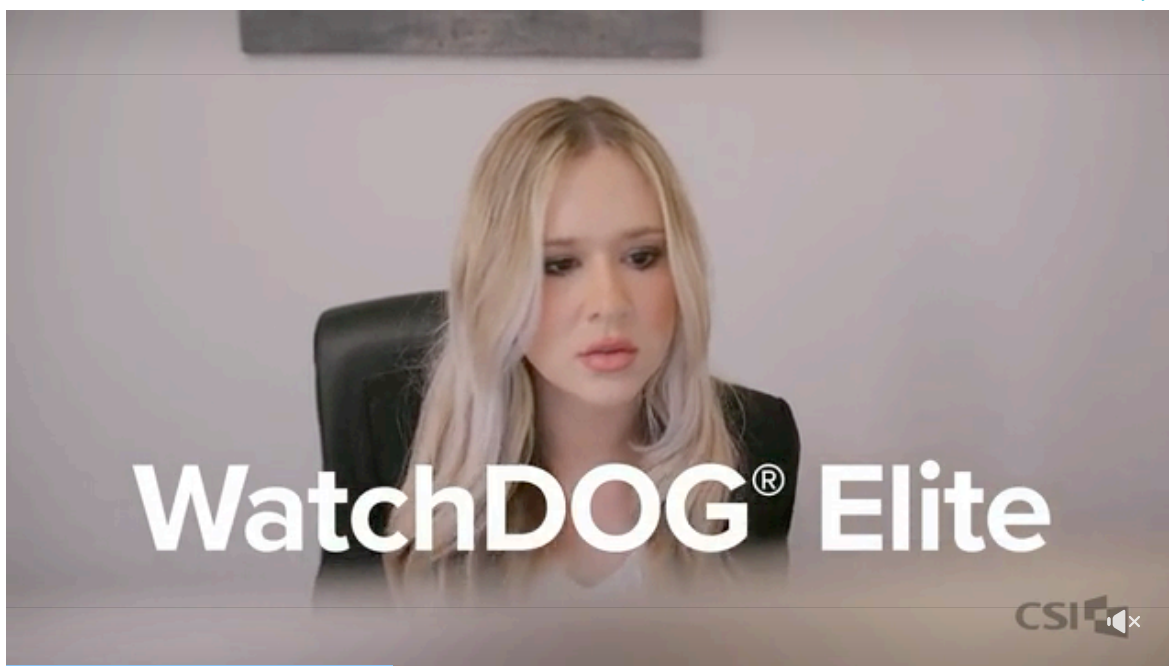
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"We are disappointed with the jury's verdict, which is not supported by the evidence or the law," a bank spokesperson said in a written statement. "We will file a number of post-trial motions with the trial judge to reverse the verdict or reduce the damages, and we intend to pursue all avenues to overturn the jury's verdict, including appeals. We are confident that we have strong grounds for appeal."

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BMO said that an earlier settlement in a related matter enables the bank to recover approximately 21% of any amount that it pays to the bankruptcy trustee.

The large award — lawyers for the plaintiffs said they believe it was the biggest civil verdict ever in Minnesota — illustrates the risks that banks shoulder when they take on the liabilities of companies they acquire.

Under the 14-year Ponzi scheme, which was run by Thomas J. Petters, money went into and out of an account that his company had at National City Bank and successor bank Marshall & Ilsley, according to court filings. Marshall & Ilsley was acquired by BMO Harris in 2011.

Lawyers for the plaintiffs alleged that the predecessor banks failed to respond to irregularities — facilitating and legitimizing the Ponzi scheme. BMO Harris denied the allegations.

In 2010, Petters was [sentenced](#) to 50 years in prison in connection with what the Department of Justice described as a \$3.7 billion scheme.

During the civil trial that began last month in Minnesota, U.S. District Judge Wilhelmina Wright told jurors that they could, but were not required to, draw an adverse inference about BMO Harris as a result of a finding that certain evidence had been destroyed.

Some records were destroyed by Marshall & Ilsley, but BMO Harris was also subsequently unable to locate additional records that were once in its possession, Wright noted in an opinion before the trial.

On Tuesday, the jury found in favor of the plaintiffs on a count of aiding and abetting breach of fiduciary duty. It awarded \$484.2 million in compensatory damages, plus \$79.5 million in punitive damages. The jury did not find in favor of the plaintiffs on three other counts.

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After the verdict, BMO said that it will record a provision of \$830 million in U.S. dollars, based on Tuesday's exchange rate. The bank also said that the provision will result in an after-tax charge of \$618 million in U.S. dollars during the fourth quarter.

In the quarter that ended on July 31, Toronto-based BMO Financial Group reported net income of \$1.02 billion in U.S. dollars, based on Tuesday's exchange rate.

The jury verdict comes as BMO Harris is seeking to finalize its pending acquisition of Bank of the West — a deal that would give the Canadian-owned bank a sizable presence in California and an entree into other Western states. BMO Harris [has estimated](#) that the deal, which was announced in December 2021, will close before the end of the year.

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