

# US Bank, Funds Avoid \$25M Bond Fraud Suit With Settlement

By [Emilie Ruscoe](#)

Law360 (September 17, 2020, 9:55 PM EDT) -- U.S. Bank investors who claim it should have recognized a scam they fell victim to have agreed to settle their allegations against the financial services company, and the bank has likewise agreed to end its own countersuit, according to records filed Wednesday in a South Dakota federal court.

In a judgment released Wednesday that was requested by the parties, U.S. District Judge Lawrence L. Piersol dismissed with prejudice the suit brought by a pair of institutional investors: the Water Works Board of the City of Birmingham and the [Washington Suburban Sanitary Commission Employees' Retirement Plan](#).

Judge Piersol's order specified that he would retain jurisdiction of the matter and would handle any disputes that come up related to the settlement, and he put the parties on notice that neither plaintiffs nor defendants should expect to be awarded costs, expenses or attorney fees.

The parties told the judge in a stipulation they filed on Sept. 8 that they'd agreed to settle, court records show, heading off a trial that was supposed to start on Oct. 26, according to an April docketed scheduling decision.

The start of trial was near enough that on Aug. 21, Judge Piersol filed an order laying out exactly how it would proceed in person amid the COVID-19 pandemic, telling the parties that it would only have eight jurors instead of the normal 12; they could only have two people per counsel table; and each side could only have one other person in the courtroom. Anyone else who wanted to watch the trial could do so in a second courtroom across the hall.

The judge determined in June that the case [raised questions](#) that necessitated a jury trial in an order denying the bank's motion for summary judgment.

"Whether there was negligence by USB and whether that negligence proximately caused damages to plaintiffs is for the jury to decide," Judge Piersol said at the time. "Questions of material fact exist on these issues and plaintiffs' negligence claim will be heard by a jury."

In U.S. Bank's December 2019 summary judgment bid, it had argued that it shouldn't be held responsible for the funds' losses because it had been [acting as a trustee](#). As a result, it didn't have any legal duty to the funds outside of the trustee agreements, the bank said.

The latest order ends the funds' claims that a group of fraudsters [funneled their money](#) into bonds issued by a Native American tribe, which the bank enabled by cutting the investment checks anyway despite alleged inconsistencies in bond documents and payment instructions. The funds said they lost \$25 million from the fraud.

The parties did not immediately respond to requests for comment Thursday.

The investors are represented by Patrick T. Dougherty of Dougherty & Dougherty LLP, John G. Rich and Jessica A. Murzyn of [Rich Intelisano & Katz LLP](#), and Milton C. Ragsdale of Ragsdale LLC.

U.S. Bank is represented by Brendan V. Johnson and Timothy W. Billion of [Robins Kaplan LLP](#), and William Pentelovitch, Keiko L. Sugisaka, John Duffey, Judah Druck and Justin Rose of [Maslon LLP](#).

The case is [The Water Works Board of the City of Birmingham et al v. U.S. Bank National Association](#), case number 4:17-cv-04113, in the [U.S. District Court for the District of South Dakota](#).

--Additional reporting by Elise Hansen and Danielle Nichole Smith. Editing by Adam LoBelia.

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## Case Information

### Case Title

[The Water Works Board of the City of Birmingham et al v. U.S. Bank National Association](#) 

### Case Number

4:17-cv-04113

### Court

South Dakota

### Nature of Suit

Contract: Other Contract

### Judge

[Lawrence L. Piersol](#)



### Date Filed

August 23, 2017


## Law Firms

- [Maslon LLP](#) 
- [Rich Intelisano](#) 
- [Robins Kaplan](#) 

## Companies


- [U.S. Bancorp](#) 
- [Washington Suburban Sanitary Commission](#) 

## Government Agencies

- [United States District Court for the District of South Dakota](#) 

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