

Bitcoin Trader Targets Wells Fargo in \$18M Fraud Suit

Wells Fargo is accused of failing to investigate a Georgia attorney's law firm trust accounts after the bank was informed she was likely using the accounts to facilitate fraudulent transactions.

Atlanta attorneys representing Hong Kong trader GSR Markets Ltd. claim Wells Fargo failed to investigate Georgia attorney Diana McDonald's law firm trust accounts after the bank was informed she was likely using the accounts to facilitate fraudulent transactions.

Wells Fargo's decision to take no action and, instead, vouch for McDonald as a valued customer with a "high net worth," prevented GSR from recovering nearly \$1 million of the missing funds, according to newly filed papers in federal court in Atlanta.

GSR's amended complaint accuses Wells Fargo of aiding and abetting McDonald as the lawyer allegedly engaged in fraud, conversion and a repeated breach of her fiduciary duties. The Hong Kong firm is seeking \$18 million in compensatory and punitive damages from McDonald, several bitcoin brokers named as defendants in the suit and Wells Fargo. The suit claims that Wells Fargo shares liability for \$12 million of that amount.

"We categorically deny the allegations and continue to vigorously defend this case," Wells Fargo spokeswoman Dan Obrist said Tuesday. Wells Fargo is represented by Brent Hitson, a partner at the Birmingham, Alabama, office of Burr & Forman.

GSR initially lost \$4 million after wiring it to McDonald—the designated closing attorney in a bitcoin purchase deal that never took place. When GSR lawyers sought to recover the funds—which should have remained in escrow until the deal was consummated—McDonald repeatedly stalled before belatedly returning just half the money, according to a federal complaint GSR filed in Atlanta in March.

On March 8, Judge Mike Brown of the U.S. District Court for the Northern District of Georgia issued a temporary restraining order freezing multiple fiduciary trust, or IOLTA, accounts that McDonald had at Wells Fargo. The judge also ordered the bank to surrender \$310,000 to GSR—all that remained of the Hong Kong firm's allegedly escrowed funds.

GSR's counsel, **Richard Robbins** of Atlanta's the **Robbins Firm**, said in court papers that the bank also "ignored its own internal policies and procedures" by refusing to investigate the alleged fraudulent activity tied to McDonald's trust accounts.

When GSR "asked only for assurances that its money had not been removed from [McDonald's] escrow account, Wells Fargo responded that it was no longer going to talk with [GSR] about the fraud," Robbins said

in court papers. “Wells Fargo falsely claimed that some bank secrecy laws barred it from providing any information regarding [GSR’s] money, and said it required a court order before it could do anything further.”

Wells Fargo also ignored a request from GSR’s bank to reverse GSR’s original \$4 million wire transfer to McDonald’s escrow account after the bitcoin deal failed to materialize, Robbins said. The bank subsequently “did not respond to further communications.”

Wells Fargo was fined \$1 billion last year stemming from abuses in its auto lending and home mortgage practices.

It currently operates under a consent order with the Office of the Comptroller of the Currency after the agency determined the bank failed to put in place an adequate risk management program.

In the consent order, which Robbins cited, OCC held that Wells Fargo’s “failure to implement and maintain a satisfactory compliance risk management program has caused the bank to engage in reckless, unsafe, or unsound practices and violations of the law.”

GSR wasn’t the only one that alerted Wells Fargo to allegedly fraudulent activity linked to McDonald’s trust accounts, according to court papers. In January 2018, Nevada attorney Rena McDonald informed Wells Fargo that Diana McDonald’s trust account was apparently entwined in an alleged bitcoin scam, court papers allege.

Rena McDonald’s law firm—the McDonald Law Firm—bears the same name as Diana McDonald’s Georgia firm. After several people contacted Rena McDonald inquiring if she were the escrow agent for a number of bitcoin transactions, the Nevada lawyer contacted Wells Fargo and also filed a complaint with the FBI. The FBI also alerted Wells Fargo, according to court papers.

“Wells Fargo assured her [Rena McDonald] it would investigate, but upon information and belief, did nothing,” Robbins said in court papers.

GSR notified Wells Fargo of its own concerns this past January, he said.

“Had Wells Fargo taken action it was required to by law and by its own internal policies and procedures, GSR Markets’ money could have been preserved,” Robbins said. “Wells Fargo could have frozen McDonald’s and McDonald Law’s accounts, and ... could have reversed the wires McDonald had initiated.”

“Particularly given that this is an IOLTA account, i.e., an account expressly designed to hold money which does not belong to McDonald or her law firms, Wells Fargo’s inaction in the face of the owner of money in Wells Fargo’s account is, at a minimum, grossly negligent,” Robbins said.

DeKalb County attorney James Ward Howard, who was defending McDonald, formally withdrew from the case on April 11 after Robbins lawyers clawed back \$60,000 in fees that McDonald had paid him to represent her, according to court papers. After GSR secured the temporary restraining order, Howard said that, while there appeared to be “a fraudulent scheme” at play, he insisted McDonald also was a victim.

McDonald now represents herself, according to court records. She could not be reached for comment.