

---

# Federal judge, who tossed Stephen Greco's sweeping RIA lawsuit, grants leave to refile with more facts and less 'overlong and needlessly complex' arguments

Judge LaShonda Hunt keeps long-running, widely watched case against Creative Planning, Schwab, Fidelity and TD Ameritrade hanging by a thread.

**Author Oisin Breen** September 27, 2024 at 10:22 PM



 **0 Comments**



LaShonda Hunt: They lack adequate factual content about defendants' conduct.

***Brooke's Note: Many RIAs left Wall Street to start their firms because they hated selling. But rare is the RIA that hates to be handed a referral. A referred prospect makes for the easiest kind of sale, and it provides an ego boost in the bargain. The downside of referrals is that the recipient doesn't have much direct control over receiving them – unless they pay a referral supplier. The power in a referral resides almost unilaterally with the person or organization that confers the referral – rather like a Pope or church with its blessing. That intrinsic power dynamic made this lawsuit interesting from day one because it suggested a different dynamic – and one that could be used in a legal proceeding involving the No. 1, No. 2 and No. 3 RIA custodians and their No. 1 RIA customer. It sounded too ambitious to be true. A judge is now ruling that that first impression in 2017***

*is the final word in 2024 – especially devoid of factual evidence – and leaves the narrowest path to appeal.*

Stephen Greco still has until Oct. 4th to refile his long-running RIA lawsuit, but the presiding judge signaled that his eight-year crusade to topple Goliath may finally be over.

Federal District Court Judge LaShonda Hunt dismissed the case, Sept. 12, but left the door open for Greco, CEO of Pandora Wealth, a \$205 million in managed assets RIA in Oakbrook Terrace, Ill., to refile on narrower grounds.

---

"Even reading the conspiracy-based claims in the light most favorable to plaintiffs, they lack adequate factual content about defendants' conduct to infer the existence of any agreement to engage in the schemes alleged," she wrote in court [filings](#) in the US District Court for the Northern District of Illinois.



Melissa Sherman: [Greco's] removal from prominent custodial platforms were entirely the result of [his] own behavior.

Named as defendants on myriad charges are Creative Planning (CP), the Charles Schwab Corp, Fidelity Investments, and now-defunct TD Ameritrade (TDA).

"This was a pretty decisive blow against Greco," says Ari Sonnenberg, a partner in the Boston law firm Wagner Law Group.

"[The suit] consisted of a lot of rhetorical allegations, but little to no facts to back up those allegations.

"When you go up against an organization that you know will have an excellent legal team...you can be certain that something like [factual issues] will be handily exposed." See: [Stephen Greco's quest to prove 'conspiracy' against his RIA has even the experts baffled.](#)

## Gratified

"Fidelity is pleased with the outcome," a company spokeswoman said, via email.

The complaint "failed to lay out a plausible case," a Schwab spokesperson told [Reuters](#).

"We're gratified with the court's decision," Creative Planning (CP) attorney, Adam Wolfson, partner at the Los Angeles firm of Quinn



Emanuel Urquhart & Sullivan, told [Citywire](#).

"We believe [Judge Hunt] dismissed claims that are meritless, and we intend to vigorously defend against any further action from Greco," Wolfson added.

Ari Sonneberg: "This was a pretty decisive blow against Greco."

RIABiz contacted Greco without success through both the Spotlight Asset Group – a co-plaintiff -- and Pandora, an RIA that he founded this past July.

As yet, neither Greco nor his co-plaintiff have indicated if they will take another shot at the case.

It would likely be very difficult to pull off since lawyers won't exactly be lining up to take up the matter, said Sonneberg.

Any filing "would either require that [Greco] find a law firm willing to continue to pursue this on a contingency basis, or that he lay out the expenses himself," he said.

## Threadbare



Active insights backed by 100 years of experience

[Today's Global Bonds](#)

[Why Now for EUR IG Credit](#)

[Changing Bond Correlation](#)

Hunt dismissed the case without prejudice, leaving open a window – albeit by a crack – to allow Greco to refile, with the proviso that his brief not be as “overlong and needlessly complex” as the initial complaint.

In her dismissal, Hunt leaned on legal precedent to emphasize that her decision was based on the plaintiff's lack of presented facts.

“[T]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice,” she wrote, citing a 2007 class action against Bell Atlantic Corp. brought by lead plaintiff William Twombly on behalf of consumers.

“This Complaint [was] overlong and needlessly complex. Plaintiffs included many irrelevant details, repeated the same information in several different places, and combined 15 causes of action against 13 defendants in a single case,” she added.

Conspiracy claims were rejected because they suffered from “fundamental problems,” and were riven with miscellany.

Hunt called claims of antitrust violations either implausible or “contradictory and conclusory,” while fraud claims were dismissed for a “lack of particularity.”

Greco and Spotlight's team also failed to respond to counterclaims, leading several other complaints to be summarily struck off.

## Twists and turns

Greco's long-running efforts against Creative Planning and other defendants went through so many twists and turns that industry experts were frequently left scratching their heads.

The root of his case against the defendants and his wider campaign began with a falling out with one-time employer Creative Planning and its CEO, Peter Mallouk.

Greco served as Creative's national director for wealth management between 2013 and 2017. At the time, CP managed roughly \$7 billion. It now administers roughly \$340 billion. See: [Peter Mallouk sets 'no upper limit' on 2025 M&A ambitions and is 'very interested' in buying super-peer RIAs worth billions.](#)

Greco spent just under five years working at TDA as a branch manager, and an undisclosed period at Schwab, court filings show.

Greco initially filed a whistleblower complaint with the Securities and Exchange Commission (SEC); Creative Planning countered with a lawsuit alleging disparagement.

He also filed a complaint with the Department of Justice (DOJ), alleging that CP, Schwab, Fidelity and TDA colluded in anticompetitive practices against Spotlight.

Both Schwab and TDA filed countersuits in 2019, alleging Spotlight tried to solicit their clients.

## Machiavellian leadership

Then in 2022, Greco filed a [199-page](#), 15-count complaint with the Federal District Court in Chicago, alleging that CP et al. engaged in anticompetitive practices, unfair competition, and other misconduct – not least an alleged attempt to “silence” and “retaliate” against Spotlight.

The suit alleged the defendants engaged in three separate types of injurious schemes (see table), including alleged violations of the 1970 Racketeer Influenced and Corrupt Organizations Act (RICO), which has been notably used to prosecute mobsters.

### The Alleged Schemes

#### 'The CP Fraudulent Growth Scheme'

allegedly involved CP in illegal transactions with celebrity Tony Robbins, illegal responses to SEC investigations, the mishandling of client funds, unfair use of custodian referral schemes, and anticompetitive M&A.

'The RIA Services Scheme' allegedly involved "conspiratorial and anticompetitive" custodians and CP, which employed aggressive M&A to dominate the market; then used group boycotts as a stick and lucrative custodial referrals of high-net-worth clients as its carrot.

#### 'The Silencing and Retaliation Scheme'

allegedly involved defendants' efforts to disrupt Greco and Spotlight through communications, legal actions, and custodial agreements.

Greco insisted that custodians, celebrities, and large RIAs were embroiled in shady dealings around client referrals. The charge drew the most sympathetic response from members of the RIA community.

The Greco/Spotlight suit alleged Mallouk engaged in "Machiavellian leadership" to game TDA referrals. It allegedly won nearly 50% of its referrals, driving CP's AUM above \$100 billion.

The lawsuit also alleged Mallouk and Robbins engaged in "collusive revenue sharing, kickbacks, incentives and disincentives," which advanced the RIA's interests over client interests. See: [Peter Mallouk-Tony Robbins partnership set to soar](#).

In 2022, CP's then legal counsel, Melissa Sherman, a partner at Kansas City law firm Spencer Fane, ridiculed the Greco/Spotlight conspiracy claims.



Adam Wolfson: We intend to vigorously defend against any further action.



Vetting for a volatile world.

[Our Vetting Process](#)

[Fixed Income](#)

[MDT ETF Funds](#)

"Mr. Greco's troubled departure from Creative Planning, lost partnerships, and removal from prominent custodial platforms were entirely the result of Mr. Greco's [own behavior and business practices](#) – not a grand conspiracy," she asserted.

## Custody roulette

Many RIAs lean heavily on lucrative referrals from custodians like Fidelity and Schwab, or from celebrities – as Mallouk [once did](#) in partnership with self-help guru Tony Robbins.

Yet smaller RIAs that can't afford high referral fees are often left to fend for themselves in a 'gray area' of the business.

Even leading RIA figures like Michael Kitces, founder of XY Planning Network, AdvicePay, and the Nerd's Eye View Blog, initially gave Greco's complaint the time of day,

"That Creative may have asked Schwab, Fidelity, [or] TDA to block a departing advisor from being on their RIA custodial platforms... is some really serious 'black-balling' kind of behavior from custodians," Kitces said in 2022.

Kitces declined a request for comment for this story.

“Folks that get iced out of referrals will continue to try to make that argument [there's a lack of transparency around referrals], says Sonneberg.

---

“But most RIAs will spend their time aggressively competing for and maintaining those referrals,” he adds.

“More importantly, Schwab, Fidelity, and other defendants are under no obligation to be more transparent.

“There are more than enough RIAs around that they don't really have to compete amongst themselves to find RIAs to which to refer – so there's not much to compel them to be more transparent,” Sonnenberg says.

## Branding puzzle

The good news is Greco's Pandora appears to still manage \$205 million – a healthy book of business. The bad news is it may be half of what it managed during his Spotlight days.

“Spotlight Asset Group has doubled in assets under management in each of the last two years and as of January 2020 they had approximately \$400M in Assets Under Management thru their 8 offices across the United States,” according to his LinkedIn page.

Greco only began to use the "Pandora" brand in June but he has had the “Pandora” RIA set up with the SEC since 2017, according to the FAQ on his website.

Prior to its resolution, the case against one of the largest RIAs in the world and the biggest custodians in the business had been labeled "malicious," and “meritless,” by lawyers and industry insiders.

*\* Spotlight and Pandora's Form ADVs ([here](#), and [here](#)) appear identical, down to the number of accounts (398), AUM (\$205,143,765), headcount (4), and advisor count (3). Their Form ADV2As again appear identical ([here](#), and [here](#)), and their ADV3s both direct to Pandora's ([here](#), and [here](#)).*

*\* Both Spotlight's [website](#), which still lists Greco as CEO, and [Pandora's](#) are also nearly identical, bar the arrival of wealth management associate, Nick Owens, on the latter firm's 'Who We Are' section. Pandora also lists itself as gaining SEC approval [on April 28, 2017](#), when Spotlight [did](#).*

Dublin-native and Edinburgh-based Oisín Breen has spent seven years writing about finance, including five whirlwind years diving into the advisor world for RIABiz. A widely published and well regarded poet with two full collections under his belt, Breen is also an academic in English Literature with a deep fondness for his Scottish rabbit, Hessel. [@Breen](#)

*ooke Southall and Keith Girard contributed to the editing of this article.*