

DAILY REPORT

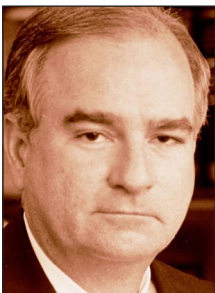
A SMART READ FOR SMART READERS

Accused of Fraud, Lawyer Tried to Pin It on Paralegals

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THROUGHOUT THE TWO WEEKS that disgraced Decatur attorney Chalana C. McFarland was on trial, her attorney never denied that mortgage fraud occurred in her law office. Instead, the question was whether McFarland knew about it.

On Tuesday, after about five hours of deliberation, a federal jury in Atlanta convicted McFarland of 169 criminal counts associated with an estimated \$20 million in mortgage fraud.



Thomas W. Thrash Jr.

After the jury issued its verdict, U.S. District Judge Thomas W. Thrash Jr., who presided over the trial, revoked the disgraced attorney's \$10,000 bond and placed her in federal custody.

Saying McFarland is a danger to the community, Assistant U.S. Attorney Gale McKenzie told the court that after a federal grand jury in

Atlanta issued a subpoena for McFarland's real estate closing records in April 2001, McFarland moved to Florida where she allegedly continued her participation in mortgage fraud transactions. She was working as a title agent in Florida handling real estate closings when she was indicted last year.

As a real estate lawyer in Georgia, McFarland presided over 100 fraudulent residential closings in a two-year-long scheme that enlisted mortgage brokers, loan processors, real estate agents, an appraiser and McFarland's own paralegals, according to testimony. Some participants in the scheme, who referred to themselves during the trial as "investors," earned

Instead, he said, McFarland, now 35, left the real estate closings primarily to others, including Brenda G. Brown, her paralegal. Brown has pleaded guilty to conspiracy to defraud, wire fraud and obstruction of justice and testified as a prosecution witness against McFarland.

"Chalana trusted and relied too much on those she thought were taking care of things in her office," Rowsey told the jury. "She didn't properly supervise them. She did not even know what was going on right underneath her nose."

McFarland did not even know how to use the computer software associated with the firm's real estate closings, Rowsey said. Instead, he told the jury, it was Brown who

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—Thomas C. Rowsey, defense attorney

between \$40,000 and \$60,000 for each property sold.

Throughout McFarland's 12-day trial, Cumming defense attorney Thomas C. Rowsey argued that McFarland was an inexperienced attorney just two years out of John Marshall Law School when she became an unknowing patsy of her paralegals, on whom she relied to run her real estate practice.

Struggling with marital problems, credit woes and a difficult pregnancy, McFarland "was not in the office as much as she should have been" during a two-year period when \$20 million was laundered through the attorney's escrow account, Rowsey told the jury.

"set up the real estate practice, recruited the fraudsters." He accused Brown of having learned the illegal practice of "flipping" properties from lawyers for whom she previously worked and then putting it into practice at McFarland's firm.

A property is illegally flipped when it is purchased from a seller and then rapidly (sometimes within hours) resold at an artificially inflated price to a middleman or "straw buyer" who secures a mortgage.

The resale loan, secured with the help of false statements on loan applications, typically is used to pay the original sellers. The remaining funds are divided among the scheme's participants, who may include

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corrupt appraisers, closing attorneys, real estate brokers and loan officers. The property eventually slides into foreclosure, and banks and title companies must absorb the losses.

'A Host of Lying Witnesses'

During McFarland's trial, loan officers with the American Mortgage Exchange, an appraiser, real estate agents, and McFarland's two paralegals—all of whom have entered guilty pleas for their roles in the \$20 million scheme—testified against the attorney. During closing arguments on Tuesday, Rowsey dismissed them as “a host of lying witnesses.”



Defense Attorney Tom Rowsey: Chalana was an inexperienced lawyer.

Rowsey suggested either that illegal closings were done without McFarland's knowledge or that forged documents were substituted in closing files by McFarland's paralegals. “Checks were cut by Brenda Brown without Chalana's knowledge to pay the co-conspirators out of Chalana's escrow account,” he said.

“Chalana was an inexperienced lawyer,” Rowsey said, who “didn't appreciate the extent and the depth of the cunning and conniving that took place in her office. ... The question is whether or not that accountability should be pursued in a civil

or a criminal manner.”

McKenzie, who has prosecuted dozens of mortgage fraud cases since 2000, argued that McFarland, as an official representative of the lender, should have been present at every one of the 100 fraudulent closings. As the lender's representative, McFarland was required to establish the identities of the buyer and seller, confirm that the required down payment was received, ensure that the property was being used as a primary residence and verify how the loan funds were distributed and to whom.

Instead, McKenzie told the jury, McFarland routinely signed inaccurate loan distribution documents, known as HUD-1 statements, failing to list multiple payments of tens of thousands of dollars in loan funds to third-party shell companies that were owned by other members of the fraud ring.

Far from being duped by Brown, McFarland “recruited Brenda Brown, knowing that Ms. Brown had been closing loans for two attorneys who were doing flips,” McKenzie told the jury. For every flipped property on which McFarland closed, she received \$4,000 “under the table” from the secured loans that lenders wired to her escrow account, the prosecutor said.

McFarland and one of her friends split the proceeds on several properties that McFarland flipped and for which she signed falsified HUD-1 forms, McKenzie explained. And McFarland recruited her relatives as straw buyers in several fraudulent transactions, then moved her family into one of the flipped homes, the prosecutor said.

Prosecutors said that after federal authorities began investigating McFarland and her cohorts, she obstructed justice by lying to federal prosecutors, claiming that subpoenaed files had been either destroyed in a storm or stolen from her office during a burglary she never reported to police.

In November 2002, midway through the federal investigation, McFarland was disbarred by the Supreme Court of Georgia for collecting title insurance premiums but failing to send them to the title insurance company that employed her. Those transactions were included as evidence against McFarland during her trial, and



FILE PHOTO

Prosecutor Barbara E. Nelan: She's into it over her eyeballs.

title company representatives testified as government witnesses in the case.

During closing arguments Monday, Barbara E. Nelan, McKenzie's co-counsel, scoffed at defense suggestions that McFarland was bamboozled by a staff she trusted.

“The defendant is an intelligent, articulate, in-control person,” the prosecutor said, noting that McFarland visibly was active in her own defense during the trial. McFarland also testified for more than a day in her own defense, often challenging Nelan as the prosecutor cross-examined her.

“Would you expect her to turn her practice over to paralegals?” Nelan asked. Was it plausible, the prosecutor said, to believe McFarland never looked at her escrow account records and therefore didn't notice millions of dollars being paid from real estate loans to third-party corporations?

Nelan reminded the jury that a number of the properties on which McFarland closed were flipped the same day, with attendant “huge price jumps.”

“She's not a stupid person,” Nelan said. “What did she think was happening?” Were there really 75 sellers willing to sell their homes at \$50,000 to \$100,000 below the properties' assessed value? the prosecutor asked.

“She's into it over her eyeballs,” the prosecutor said. “Her eyes are wide open. She knows everything that's going on.” **DR**