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How the Lure of Easy Money Landed a DeKalb Attorney in Federal Prison

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It was the lure of easy money, the desire to live beyond her means and a belief that she could beat the system that enticed a novice DeKalb County lawyer into mortgage fraud, federal prosecutors say.

The odds of getting caught were slim, the punishment for a first-time, nonviolent offender generally light, Assistant U.S. Attorney Barbara E. Nelan told a judge last week.

In a scheme where a single fraudulently inflated home sale could generate up to \$100,000, the cash rewards seemed worth the risk, Nelan said.

Until now.

Last week, U.S. District Judge Thomas W. Thrash Jr. sentenced disbarred DeKalb attorney Chalana C. McFarland, also known as Chalana M. Cosby, 36, to 30 years in prison for her role in a massive fraud scheme that cost lenders more than \$11.5 million. Thrash said he intended the sentence as a warning to other real estate lawyers.

"It is inconceivable to me that a member of the Georgia Bar could participate in the level of criminal fraud, lying, stealing and obstruction of justice as Ms. McFarland has in this case," the judge said. "Throughout the whole process she has shown no remorse. She continued to try to persuade everyone that she didn't know what was going on.

"She knows what's going on. She's known what's going on all along. She went into this with her eyes open. It really was nothing but a fraud factory," Thrash said.

Noting that victims of mortgage fraud include not only lenders and title insurance companies but also neighborhoods blighted by foreclosed and abandoned dwellings, Thrash called real estate lawyers "the ones who are keeping the system honest."

"You are the gatekeepers," he said. "You should not be the ones feeding at the trough ... or you're going to federal prison. I'm going to get that message out."

Afterward, U.S. Attorney David E. Nahmias issued a similar warning to lawyers in Georgia, where mortgage fraud is more prevalent than anywhere in the nation.

"One of the linchpins in these cases is the closing attorney," Nahmias said. "We are putting closing attorneys on notice. We will look at them. We will focus on them."

To date, McFarland's sentence appears to be the stiffest mortgage fraud penalty nationally that has been handed down, said California attorney Rachel M. Dollar, the editor of Mortgage Fraud Blog. Dollar represents lenders seeking to recover funds lost in mortgage fraud.

### 'Serious Mistakes in Judgment'

Throughout her trial, McFarland attempted to paint herself as the naive victim of friends and employees who were the real architects of a fraud scheme that revolved around the purchase, artificial appraisal and price inflation, and rapid-sometimes same-day-resale of residential real estate.

The practice is known as flipping, because houses change hands multiple times within a period of weeks or months, escalating dramatically in value with each sale. To succeed, a scheme generally requires dishonest appraisers, mortgage brokers, loan officers and attorneys.

It's the attorney who creates misleading loan documents, allows the use of stolen identities for buyers or sellers, siphons loan funds from his escrow accounts to shell companies, and conducts the real estate closings, sometimes without a buyer or seller even present.

A successful scheme takes advantage of a real estate market that is based largely on trust and where quality controls by lenders before a loan is issued have grown increasingly lax.

Fraudsters siphon their profits from the loans they secure, often using stolen identities of individuals with clean credit ratings as straw buyers and sellers. Those mortgages are never repaid, and a flipped house eventually will slide into foreclosure.

In a public statement she made before Thrash sentenced her last week, McFarland acknowledged that she had made "serious mistakes in judgment."

"I placed the mantle of trust in others. I view myself as a disgrace to my family, a shame to my profession and a total imbecile for allowing myself to

be used," she said.

But McFarland also called the 170-count indictment naming her and a dozen others "a work of fiction," suggested that the government solicited and rewarded "perjured testimony" against her, and chided Thrash for siding with the government in her case.

## 100 Fraudulent Closings

The evidence presented against McFarland at her February trial suggests that she did not instigate the fraud scheme. When she located her practice in a Stone Mountain office building shared by the American Mortgage Exchange, the mortgage brokerage was already a fraud factory, using "ghost names" and false information to churn out applications that secured loans that were divvied up among the staff.

Employees of the mortgage brokerage have been prosecuted successfully for mortgage fraud and are in federal prison. Some of them testified against McFarland in return for more lenient sentences.

McFarland and her two paralegals eagerly joined in, said Latonia Cromartie, an AME loan processor serving a 46-month sentence for identity fraud and conspiracy to commit bank fraud.

Brenda Brown, one of the paralegals, was equally proficient in flipping properties, having learned to do so from another real estate attorney for whom she had worked as a paralegal, according to testimony at McFarland's trial.

The mortgage brokerage employees and their associates thought of themselves as an investment club, Cromartie testified at McFarland's trial. Each participant in the scheme had to find a buyer-either someone willing to allow his name to be used for a fee, or a stolen identity.

Cromartie said that AME employees had a deal with a pharmacy student at Florida A&M University, where McFarland received her undergraduate degree in communications, who stole other students' identification information. He charged \$10,000 for each stolen ID, Cromartie said. McFarland routinely paid him.

Cromartie said that closings were informal affairs where she and other loan officers would take turns signing the names of the "buyers" and "sellers." Down payments were not made at closings, despite the requirements of lenders, she said.

Each loan officer had a roster of "ghost names" used for signing loan applications. "Chalana was aware of the ghost names," Cromartie said. "They would sometimes call us by the names we had created."

After each closing, "the person whose deal closed would take the group out to dinner," she said. "Sometimes the law firm was invited as well. ... I would make \$40,000 to \$60,000 per transaction on the flips that were mine."

Cromartie said the scheme participants originally had planned to rent the houses they bought, then use the money to repay the loans. That plan failed, she said.

But McFarland insisted that mortgage payments on each flipped property had to be paid for a year, Cromartie testified. Otherwise, when a property went into default, the lender would be forced to buy back the fraudulently conveyed property. Sales of bundled mortgages to secondary lenders usually carry a one-year payback guarantee in case of fraud.

And if a lender had to buy back a lot of properties for which AME had arranged the loans, "that would cause an alarm," Cromartie said.

Cromartie said that McFarland kept the proceeds of 11 flips for herself. She often used the names of family members and friends as buyers, according to court testimony. McFarland and her husband, Kevin Cosby, both had filed for bankruptcy, but they lived in a \$250,000 residence that McFarland had purchased using her aunt and uncle as straw buyers.

McFarland earned standard legal fees of about \$600 to \$800 on each closing, plus a fee for selling title insurance. Then she received about \$4,000 under the table on each deal. From 1999 to 2001, until a federal grand jury began investigating AME and McFarland, she signed off on at least 100 fraudulent real estate closings and laundered more than \$20 million from lenders through her firm's escrow accounts, according to Nelan.

Disbarred in November 2002 for collecting title insurance premiums and keeping them along with her fees, McFarland departed for Florida. Once there, Nelan said, McFarland began flipping properties again, misrepresenting herself as a lawyer when investigators came calling.

### 'Touching,' But Not Effective

McFarland, who testified on her own behalf, called the \$4,000 fee allegations "an absolute lie." She insisted that marital obligations and a troubled pregnancy prompted her to turn over the management of her practice largely to her two paralegals. "They had my authority at various times to

sign my name," she said, "but never, at any time, did they have my authorization to sign my name to anything fraudulent."

McFarland also claimed that she believed her employees and AME staff were participants in a small investment club that dabbled in real estate. She had generously allowed them to pool their funds for safekeeping in her firm escrow accounts, she said. Her files that would prove her innocence, she said, were either stolen or destroyed during a storm.

"I know I didn't do anything," she told the jury. "I'm here today because I'm not guilty of what they've accused me of, and I want my life back."

Thrash was not dissuaded. Acknowledging McFarland's tearful statement at her sentencing last week, the judge suggested that people who commit white-collar crimes on a large scale generally are intelligent and articulate and often come from good families. "Their pleas for mercy are incredibly touching," he said.

"But all those characteristics are the same ones that make it possible to steal large sums of money. Ms. McFarland fits that pattern exactly."