

Monitoring the Trial of Emmanuel Toto Constant: July 24th 2008: Emmanuel Constant is cross examined and closing arguments

Prosecution finished cross-examination of Constant and closing arguments were made today.

Cross Examination:

Constant: For my personal house, I would use a straw buyer.

Prosecution: Using a straw buyer is not a legal transaction, right?

C: No—yes. If Raphael finds someone to sign her house for her, that would not be illegal.

P: Is it illegal for a person to take out a mortgage for someone else? Why do you have a contract in your possession? Are you saying that you went into his stuff?

C: I went into his stuff in 2006.

P: Did you want to get arrested?

C: I did get arrested. I'm the only one who got arrested.

P: 40 people got arrested?

C: Not in this context. Everybody got immunity.

P: Except for you, right? Did you want to get arrested?

C: No.

P: [Refers to 3/16/04 email from Frank de Gras to Mr. Constant.] Did you know it was a fraudulent appraisal?

C: Yes.

P: Your honor, I think we need to approach...

P: You were going to submit a false mortgage application, right?

C: No. I met the appraiser for the first time in 2003 at D&M Financial in New Jersey.

P: And you knew he was a corrupt appraiser?

C: I didn't know until he moved.

P: You worked at D&M, right?

C: In 2004 and 2005.

P: And D&M was a corrupt bank, right?

C: Definitely.

P: And you were doing corrupt deals?

C: No.

P: You still had mortgage insurance papers in your possession?

C: Yes—I told Mr. Quinn I was going to get as many as I could.

P: Where did you get them?

C: At D&M.

P: And in 2006, D&M is not doing business anymore, correct?

C: No.

P: It's just a coincidence that he gave you \$5,000 the day after he closed his account?

C: It might be.

P: You lied to Mr. Quinn.

C: Yes, but Mr. Quinn lied to me first. About my situation, not to trust the police.

P: Did you lie to Gary Grant? You were making money from fraudulent deals, weren't you?

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C: I made money from all types of deals...

C: We were discussing the structure of the deal, but those deals never took place. He took care of the refinance himself.

P: It's just a coincidence that you got paid \$9,000 after that charge?

C: I acted as the go-between. I coordinated the whole deal.

P: And you thought Mr. _____ (couldn't catch name) was a real buyer? What did you get paid for it?

C: \$10,000.

P: This is a wire for \$31,000—two names.

C: She doesn't know which one goes for which.

P: Didn't you get the \$31,000 for Mr. _____?

C: [Doesn't answer. Judge tells him to answer.] No. I knew Mr. Crick was a forger in my dealing with him around 2005, but I was referring to the fact that he's the one who called a few times about the investigation.

P: You knew he was a forger, right?

C: Yes, I knew this since 2001...

C: It was sold for \$890,000 in 2007.

P: Didn't know that.

C: I had a no-question policy. Most of the fraudulent deals did not happen.

P: Did some happen? Did some deals go through?

C: Yes, and they never took place.

P: In general, most of your deals did not go through?

C: Most people approached me.

P: Pertego's (sp?) deal went through because of the bank. Did you get paid on that deal?

C: Professionally or the money that he owed me? \$25,000. I brought the buyer, and I went to jail for that deal.

P: Did you engage in mortgage fraud in that case?

C: I brought a straw buyer.

P: Is that mortgage fraud?

C: Yes. When I got arrested concerning that deal, I plead guilty. I plead guilty for what I did.

P: When you spoke to Mr. Quinn, you said you lied to him. So you lied then, but you told the truth about another fraud deal?

C: Mr. Quinn was very confrontational, almost menacing, almost threatening. Yes, I did lie to him during the second conversation. But the deals I am here for today, I have no fraudulent participation on my part.

P: D&M funded 153 Hall Street?

C: Yes—no, they did that through Duragency.

P: They funded it. Did they fund 87 Monroe?

C: Yes. I told him the truth. He didn't believe me, so I told him what he wanted to hear—concerning 153 Hall Street only.



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P: You were trying to get him out of being arrested? Whatever you told him in those circumstances you told him not to get arrested?...

P: No further questions.

Judge announces charges:

Count 1: Scheme to defraud in the first degree

Count 2: Grand larceny in the third degree

Count 3: Grand larceny in the second degree

Count 4: Falsified business records in the first degree

Defense Closing Arguments:

Long before Constant got involved, it was a corrupt industry. The question is: what did Constant do? What is he responsible for? In this case, 30 or 40 people were arrested, people with a lot of money—lawyers, banks, finance companies. Constant became a real estate broker. If a broker wants to make money, you have to hustle and want to form relationships with people. A broker can't create all this fraud by themselves. Everyone plays a small, little function.

If potential buyer lies to you or fills out the information incorrectly, how do you know? The question for these three properties: was he driving it? Was he part of it? A lending institution has to sign off on it; a lot of people committed fraud in this case. Constant said in his testimony that he knew it was a fraudulent industry. Eventually he became involved in fraudulent deal and was punished for that other crime, but he is not guilty of these.

Everybody who wants to stay out of jail made a deal with the government in this case. They all say, "Constant taught me what to do and how to find buyers." "He taught me" means "Attorney General, please don't prosecute me. I'll point fingers wherever you want me to. Don't even arrest me." Ask yourself: what did he teach them?" He didn't do anything. He was a real estate broker who brought a buyer to the table. You can be part of a team but not import your actions or intentions on anyone else. That doesn't mean he knows what he's doing, a that doesn't mean he's responsible for what he's doing. You do not see his signature or name on any of the documents presented during this trial. Raphaela said, "I didn't do anything wrong... I didn't know. Whatever Emmanuel told me, I did." But others who took the stand said they worked with Raphaela, not Constant. They are just trying to get out of going to jail. Raphaela currently has a house she purchased fraudulently. New York State is paying for her house.

Beyond a reasonable doubt—as long as there is one—the verdict must be not guilty. If evidence is not there, that's reasonable doubt. What are the witnesses' biases in this case? There's nothing illegal about buying a foreclosed property. There's nothing wrong with buying



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a house and flipping it. Justice can demand a verdict of not guilty. I'm confident we'll be able to return a verdict of not guilty on all the counts.

Prosecution Closing Arguments:

The Scheme was complicated. There were lots of players and names, like a baseball team. Some of the people are criminals, crooks, and swindlers. Constant testified, because he has to in order to avoid jail. He taught Walter. And the testimony was corroborated by documents. You won't see Constant's name in documents, but you will see it in the checks. Mr. Constant was a licensed real estate broker. You need a license to find buyers. Constant gets \$16,000 on that deal—one third of the profits—a fraudulent deal, with a straw buyer. Was the money stolen? Did these people, acting together, rob a bank, including Constant? 87 Monroe Street was originally owned by Val Crick. Mr. Crick admitted he has committed fraud after fraud and made so much money he can't even count it. Mr. Crick said the unaccounted-for money went to Emmanuel Constant, and the checks corroborate this. On the second day, he met with Mr. Quinn and lied.

We had an expert witness described loan process. Who comes in to save the day, to take property out of this straw buyer's home? Constant. Constant knows that everyone of those properties was purchased fraudulently. These deals could not have happened without Constant. A quote from Constant's conversation with Gary: "That's how I make money."

Judge receives note from jury requesting one of the pieces of evidence. Judge sends jurors home until Friday morning at 9 AM.