

The New York Times

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October 9, 2009

Brooke Astor's Son Guilty in Scheme to Defraud Her

By JOHN ELIGON

The son of Brooke Astor, the philanthropist and long-reigning matriarch of New York society, was convicted in Manhattan on Thursday on charges that he defrauded his mother and stole tens of millions of dollars from her as she suffered from Alzheimer's disease in the twilight of her life.

The jury's verdict means that Mrs. Astor's son, Anthony D. Marshall, 85, faces a sentence of at least a year and as many as 25 years. A co-defendant, Francis X. Morrissey Jr., a lawyer who did estate planning for Mrs. Astor, was also convicted of a series of fraud and conspiracy charges, as well as one count of forging Mrs. Astor's signature on an amendment to her will.

The verdict drew the curtain on a long trial that cast an unflattering spotlight on one of New York's first families of high society. Henry Kissinger, Barbara Walters and Annette de la Renta, among others, testified that Mr. Marshall mistreated his mother in her later years and conspired to inflate his inheritance from her estate — largely to appease his wife, Charlene Marshall. Mrs. Astor died in 2007 at age 105.

As the verdict was read, Ms. Marshall sat stone-faced; moments later, while her husband went to meet with a probation officer, she left the courtroom, saying, "I love my husband." She and Mr. Marshall then held hands and ignored requests for comment before being whisked away in a black Town Car.

Although prosecutors were still determining how stiff a sentence to recommend, they gave a hint after the verdict was read, when Elizabeth Loewy, an assistant district attorney, asked Justice A. Kirke Bartley Jr. to increase the defendants' bail to \$5 million from \$100,000. Justice Bartley denied the request, and asked the defendants to return Dec. 8 for sentencing. Mr. Marshall and Mr. Morrissey, 66, staggered ashen-faced out of the courtroom without comment.

The defense is expected to ask the judge to allow Mr. Marshall to stay out of prison pending an appeal, which could take more than a year because of a long trial — more than 19 weeks — that produced about 18,000 pages of transcript and thousands more pages of exhibits.

"I'm stunned by the verdict, greatly disappointed with what the jury did," Frederick P. Hafetz, one of Mr. Marshall's lawyers, said outside the courthouse. "I think we have a strong appeal."

Mr. Hafetz did not elaborate on what the grounds might be, but motions by the defense lawyers throughout the trial offered some insight into what their next moves might be.

They are likely to keep a close eye on what jurors say in the coming days, particularly in relation to one woman who had asked to be removed from the panel this week because she said she felt threatened by

another juror's comments. The defense may also challenge the judge's decision to allow an independent expert on trusts and estates law to testify for the prosecution, as well as the strength of the evidence in the most serious charge Mr. Marshall was convicted of — first-degree grand larceny, for giving himself a retroactive lump-sum raise of about \$1 million for managing his mother's finances.

Mr. Marshall was found guilty of 14 of the 16 counts against him. One of the acquittals was on the other first-degree grand larceny charge, for selling a Childe Hassam painting that his mother owned for \$10 million and keeping a \$2 million commission on the sale. The other was on a lesser charge of falsifying business records.

The jury of eight women and four men sat through months of testimony and arguments in State Supreme Court in Manhattan, hearing detailed accounts of Mrs. Astor's luxurious life of summers on an estate in Maine and dinners with diplomats. Deliberations went on for 12 days, and appeared strained.

Thursday's developments drew reactions from throughout the social stratosphere in which Mrs. Astor traveled.

"The only reason we got involved in Mrs. Astor's treatment was to ensure she lived the last months of her life in comfort and peace," Mrs. de la Renta and David Rockefeller said in a joint statement released by their spokesman, Fraser P. Seitel. Three years ago, Mrs. de la Renta and Mr. Rockefeller helped put together the guardianship petition that first accused Mr. Marshall of mistreating his mother.

"Thankfully that was accomplished," the statement said.

Betsy Gotbaum, the city's public advocate and a friend of Mrs. Astor, testified for the prosecution and said that Mrs. Astor deserved better treatment from her son.

"Clearly, the jury thought he did something wrong," Ms. Gotbaum said. "I don't think he should go to jail, frankly. He's 85 years old. I think he's probably suffered enough."

At its core, this case was a story of familial dysfunction, provoked in part by Mr. Marshall's son Philip, who filed the guardianship petition three years ago. Philip Marshall was not in court on Thursday, but reacted with disbelief when told by a reporter of the verdict. "Oh my God," he said. "Wow. Wow."

In a statement released later, he only indirectly mentioned his feelings toward his father.

"I hope this brings some consolation and closure for the many people, including my grandmother's loyal staff, caregivers and friends, who helped when she was so vulnerable and so manipulated," he said.

The prosecution portrayed Mr. Marshall as driven to squeeze his mother for money at the urging of his wife.

Because many of the convictions were related to changes to Mrs. Astor's will that prosecutors said the defendants procured through fraud, Mr. Marshall would seem to be compromised when the battle over Mrs. Astor's estate — worth more than \$180 million when she died two years ago — shifts to Surrogate's Court in Westchester County.

Of the changes to the will, prosecutors vigorously objected to one executed in January 2004 that gave Mr. Marshall outright control of \$60 million of his mother's estate upon her death.

Paul Saunders, a lawyer for Mrs. de la Renta, said the main defense argument — that Mrs. Astor understood and consented to what her son was doing — had been undermined by the criminal verdict. “The jury clearly found that she did not,” he said. “That’s important because her mental capacity is the central issue in the will contest.”

Much of the contention centered on when Mrs. Astor lost her competency. Some jurors concluded that did not occur until 2005, while others, like Yvonne Fernandez, believed it happened as early as 2002.

One of the major points of discussion was the issue of the \$1 million retroactive raise, with jurors eventually deciding that Mr. Marshall misused his power of attorney to take that raise.

“How can he give himself a raise when he’s been abusing his power?” Ms. Fernandez said. “He was wearing two hats at that point.”

The defense may argue on appeal that, by the letter of the law, the power of attorney gave Mr. Marshall the right to give himself that raise.

When asked about the likelihood of Mr. Marshall’s serving time in prison, Ms. Fernandez said: “It is what it is. You make mistakes in life and you’ve got to take responsibility for them.”

C. J. Hughes, A. G. Sulzberger and Mathew R. Warren contributed reporting.

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