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## Ex-Bank Execs Acquitted Of Straw Lending Fraud Scheme

By **Jon Hill**

Law360 (February 6, 2019, 11:44 PM EST) -- A North Carolina federal jury on Tuesday acquitted a former community bank president and vice president accused of participating in a complex "straw lending" scheme connected to a multimillion-dollar payroll tax fraud, verdicts that follow a former account executive's dismissal from the case three weeks into the trial.

Ronald Earnest, the former president and founder of the South Carolina-based GrandSouth Bank, and Robert Taylor, a former GrandSouth VP, were found not guilty on conspiracy, bank fraud and a host of other charges brought by federal prosecutors in North Carolina's Middle District, where Bruce Gregory Harrison, the businessman at the center of the alleged scheme, was convicted of payroll tax fraud in 2011.

The result capped off a nearly month-long trial and roughly two days of deliberations by the Greensboro, N.C., jury members, some of whom hugged and shook hands with Earnest and Taylor after the verdict was announced.

"These people were wrongfully accused, and the government overreached," Deborah B. Barbier, an attorney for Earnest, told Law360. "The government perpetuated this theory that was just preposterous, and the jury saw that."

The case against the former bank executives began in 2016 and spun out of Harrison's earlier prosecution for tax fraud and other crimes. Harrison, whom the government has said failed to pay more than \$40 million in payroll taxes for employees of his North Carolina-based temporary staffing companies, is now serving a 12-year prison sentence handed down in 2012.

Federal prosecutors alleged that Earnest, Taylor and another GrandSouth employee — now-former account executive Shannon Drake — conspired with Harrison and a vice president running GrandSouth's factoring department, Douglas Corriher, to skirt the bank's legal lending limits and secure funding for Harrison's staffing business over a roughly five-year period beginning in 2008.

They did this, according to prosecutors, through the use of factoring agreements with what were essentially sham companies, whereby the bank would advance credit based on these firms' supposed accounts receivable. But the invoices that the bank was factoring actually belonged to Harrison's business, and the advances would get wired to an account he controlled, prosecutors alleged.

Prosecutors also said that Earnest and Corriher knew Harrison's business wasn't meeting its payroll tax obligations but kept the advances flowing, with the result that the Internal Revenue Service was cheated out of \$7.5 million in payroll taxes in 2009 and 2010 while the bank kept making money off the arrangement.

Corriher pled guilty to a single charge of tax fraud conspiracy in the summer of 2017 as part of a deal with prosecutors and was sentenced in December to 15 months in prison and ordered to pay more than \$7.5 million in restitution.

Trial commenced a few weeks later at the beginning of January, with Earnest, Taylor and Drake each facing more than two dozen counts from an indictment filed after Corriher's plea.

But by the 15th day of the trial, Drake, who managed the Harrison factoring accounts under Corriher's supervision, moved for a judgment of acquittal, arguing that the government's evidence had shown only that she did her job and not that she had the level of knowledge needed to have committed the alleged offenses. Prosecutors hadn't even proved that she knew what lending limits were, according to Drake.

U.S. District Judge William L. Osteen Jr. granted that motion, finding there wasn't evidence of intent on Drake's part and dismissing all the counts against her. Claire Rauscher, an attorney for Drake, said she's only seen something like that happen once before in her more than 30-year career as a criminal defense attorney.

"It's highly unusual for a judge to take an entire 27-count case away from the jury after a three-week trial," Rauscher told Law360, adding that the acquittal will allow Drake to begin restarting her life after two-and-a-half years of battling the case.

"Justice was served in the Greensboro federal courthouse this past week," Rauscher said. "A wonderful outcome for all of the clients."

The U.S. Attorney's Office for the Middle District of North Carolina declined to comment. Counsel for Taylor did not immediately return a request for comment.

The government is represented by Jeffrey A. McLellan and William M. Montague of the U.S. Department of Justice's Tax Division and Frank J. Chut Jr. of the U.S. Attorney's Office for the Middle District of North Carolina.

Earnest is represented by Joshua Brian Howard of Gammon Howard and Zeszotarski PLLC and Deborah B. Barbier of Deborah B. Barbier LLC.

Taylor is represented by James W. Bannister of Bannister Wyatt & Stalvey LLC and Wes J. Camden and Caitlin M. Poe of Ward and Smith PA.

Drake is represented by Claire J. Rauscher and Allen T. O'Rourke of Womble Bond Dickinson (US) LLP.

The case is USA v. Corriher et al., case number 1:16-cr-00205, in the U.S. District Court for the Middle District of North Carolina.

--Editing by Michael Watanabe.

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