

## HIGH SOCIETY THEFT: THE ASTOR CASE

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On October 8, 2009, a New York City jury found the late Brooke Astor's son, Anthony Marshall and his attorney, Francis X. Morrissey, Jr. guilty of defrauding Mrs. Astor out of millions of dollars in the last years of her life as she suffered from advanced Alzheimer's. The salacious trial captivated a city that is otherwise seemingly impervious to the tribulations of its rich and famous citizens. For the rest of us, the ordeal offered a rare glimpse into the family life of one of America's wealthiest women and most important philanthropists.

Brooke Astor was born on March 30, 1902 in Portsmouth, New Hampshire. Upon the death of her third husband, Vincent Astor, who inherited a fortune when his father, John Jacob Astor IV died on the Titanic, Mrs. Astor took control of the Vincent Astor Foundation. As chairwoman, Mrs. Astor oversaw the organization's philanthropic endeavors and was instrumental in giving away nearly \$200 million to various New York charities. Mrs. Astor was as famous for her quick wit and acid tongue as she was for her unparalleled generosity. She was often quoted as saying, "Money is like manure. It should be spread around." Mrs. Astor died on August 13, 2007 at the age of 105.

The Astors were certainly no strangers to the national spotlight, as the family's many charitable pursuits were often widely recognized and celebrated. The family, however, garnered a different sort of attention when, in 2006, Mrs. Astor's grandson, Phillip Marshall, initiated guardianship proceedings and accused his father, Anthony Marshall, of grossly mistreating Mrs. Astor and mismanaging her money. The story was an instant media sensation. Some reports say that Mr. Marshall withheld his mother's medicine and cancelled the centenarian's much needed doctor's visits, which caused Mrs. Astor's declining health to worsen, while helping himself to millions of dollars of his mother's money to support his extravagant lifestyle.

Although the guardianship lawsuit settled in just a few months, the battle over Mrs. Astor's vast fortune was just beginning. As a result of the Phillip

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Marshall's allegations, on November 27, 2007, the New York district attorney's office filed a sixteen count indictment against Mr. Marshall accusing him of grand larceny, conspiracy, possession of stolen property and offering a false instrument for filing. Mr. Marshall's attorney, Francis Morrissey, was also charged with fraud, forgery and conspiracy.

Mr. Marshall and Mr. Morrissey were charged with cheating Mrs. Astor out of more than \$60 million dollars by, among other things, inducing her to change her will three times in a period of three months to benefit Mr. Marshall even though she had been diagnosed with second stage Alzheimer's in 2000. The evidence introduced during the trial established that on December 18, 2003, Mrs. Astor signed a "First and Final Codicil" to her 2002 will, under which Mrs. Astor created and funded the Anthony Marshall Fund with nearly \$30 million dollars. Just over one month later, Mrs. Astor signed a second codicil, which would transfer \$60 million to her son, Anthony Marshall. Under the prior version of Mrs. Astor's estate plan, the money was intended for various New York charities. A third codicil was signed in March 2004 and directed Mrs. Astor's real estate to be sold and the proceeds distributed to her estate, of which Mr. Marshall was now the primary beneficiary. Mr. Marshall was also accused of manipulating his ailing mother to sell priceless art for which he took millions of dollars in commissions.

Mrs. Astor's poor health was certainly no secret to her many friends and family who testified during the criminal trial against Mr. Marshall and Mr. Morrissey. Witnesses, including Mrs. Astor's two grandsons, her famous friends, including Barbara Walters and Annette de la Renta, and her doctors testified that Mrs. Astor was frequently confused, suffered from memory loss, had difficulty speaking and often failed to recognize her own family members. The trial lasted an impressive five months. After eleven days of deliberations, the jury found Mr. Marshall guilty on fourteen out of the sixteen counts against him, including Class B larceny, which carries a mandatory minimum sentence of one year in jail. Mr. Marshall, who is eighty-five years old, faces a maximum of twenty-five years in jail for his crimes. Mr. Morrissey was found guilty of conspiracy and forgery and faces up to seven years in prison.

As of December 11, 2009, neither Mr. Marshall nor Mr. Morrissey had been sentenced for their crimes. A civil case has been pending in Westchester County, New York since 2007. In the civil action, which is essentially a will contest case, the issue is whether Mrs. Astor's 1997 will (under which Mrs. Astor left the majority of her fortune to various charities, including the Metropolitan Museum of Art, the New York Public Library and the Bronx Zoo), or later versions, including the January 30, 2002 will and three codicils (which leave the bulk of her estate to her son, Anthony Marshall) should be enforced. The civil case, which was put on hold pending resolution of the criminal trial, is scheduled to resume in early 2010.

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Despite the hundreds of millions of dollars at stake, the Park Avenue addresses and a cast of famous characters, at its core the Astor trial is not unlike other probate cases, which are frequently based on competing allegations of undue influence, lack of capacity and the manipulation of familial relationships for financial gain. Indeed, in July 2009, Mrs. de la Renta, Mrs. Astor's longtime friend and confidant was quoted, "This is not a society trial. If it could happen to Brooke Astor, it could happen to anyone."

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