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Robert Altman's Acquittal Should Come as No Surprise

Splat!

So much for the Manhattan district attorney's celebrated case against Washington lawyer Robert A. Altman.

Altman's acquittal on charges of fraud, in connection with the illegal takeover of Washington's First American Bankshares Inc. by Bank of Credit and Commerce International, is unquestionably a personal triumph for him. It is no less a profound statement of integrity by the New York jury that last week found Altman not guilty. This was a victory for common sense in the face of the prosecution's attempt to sway jurors with the flimsiest of circumstantial evidence.

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In the final analysis the jury's unanimous vote to acquit is a reaffirmation of the considered judgment of knowledgeable observers who concluded long ago that there was no legal basis for an indictment of Altman.

There never was a case, really. There were no signed documents or credible witnesses who could prove that Altman and his mentor and law partner, Clark Clifford, ever accepted bribes from BCCI or lied to bank regulators about BCCI's role in First American, as alleged.

Manhattan District Attorney Robert M. Morgenthau proceeded nonetheless to bring indictments against Altman and Clifford, who is recuperating from heart surgery and was not tried along with Altman.

Whatever prosecutors believed to have been a viable case against Altman ended for all practical purposes the moment the presiding judge in the trial dropped four of eight charges that had been pending against him. Five months into the widely publicized trial, the judge ruled that the prosecution hadn't presented any evidence of fraud. The prosecution's case vaporized at that point.

The only wonder is why so many people were so taken with Morgenthau's pretrial bluster and pronouncements that a lengthy investigation by his office showed that Altman and Clifford had helped BCCI gain illegal control of First American and its subsidiary banks, including one in New York.

Morgenthau's zealous pursuit of Altman and Clifford didn't ring true from the beginning. He was seen by many nevertheless as the legendary crimebuster who dared to go where reluctant federal investigators and regulators feared to tread.

Clifford and Altman became easy targets after it was disclosed that BCCI had illegally gained control of First American. After all, they had represented BCCI before they agreed to take on a group of Middle Eastern investors as clients in a protracted four-year battle to buy control of First American. The fact that Clifford and Altman agreed to serve as the top executives at First American after the investors bought it in 1982 heightened suspicion of the two after it became known that BCCI had illegally gained control of First American.

To suggest, however, that Clifford and Altman somehow managed to deceive federal regulators is laughable. BCCI was well-known to U.S. banking regulators since the mid-1970s at least. Even then, there were serious questions about BCCI. It was only after charges of money laundering and other glaring irregularities surfaced in the early 1990s that the now-defunct Luxembourg bank suddenly became known as the "shadowy" and the "mysterious" BCCI, the so-called "bank of crooks and criminals."

The truth is BCCI had been given a free ride in U.S. banking before it managed to gain control of First American. Regulators were either inexcusably indifferent toward BCCI or were led to believe that its survival was somehow vital to national security.

Morgenthau and his bloodhounds looked in the wrong places for answers to the question that apparently prompted the D.A.'s investigation: How did a foreign bank gain illegal control of an American bank? Neither Morgenthau nor anyone else has found a way to get the answer from Agha Hasan Abedi, the former chief executive and mastermind at BCCI, who has managed to avoid extradition from the Middle East.

That leaves U.S. banking regulators and the CIA as sources of information, if a report a year ago to the Senate Foreign Relations Committee is to be believed.

How was it possible for BCCI to engage in so many criminal acts and arrange to take over a bank holding company in this country without U.S. officials knowing about it? That's the $64 million question Morgenthau should have been asking and probably still ought to pursue.

If he goes back 15 years, he will find an intriguing piece of information that came to light in the legal battle that the Middle Eastern investors successfully waged for control of Financial General Bankshares Inc. (later renamed First American Bankshares Inc.).

Douglas M. Kraus, then an attorney representing Financial General, warned in 1978 that he had uncovered facts which strongly suggested that BCCI "will effectively control the operation" of Financial General if the Middle Eastern investors were allowed to complete a tender offer for the company.

Kraus further contended that a review of Bank of America documents showed that BCCI or one of its affiliates had made substantial loans to the same Middle Eastern investors. Bank of America, it should be noted, had owned as much as 24 percent of BCCI's stock, before eventually selling its interest. So BCCI was not an unknown quantity even then.

According to an affidavit by Kraus, Bank of America had become disenchanted with BCCI over the latter's insider loan practices and a serious decline in BCCI's loan loss reserves.

None of that apparently tripped alarms at the Federal Reserve Board or at other regulatory and watchdog agencies, alerting them to be more vigilant where BCCI was concerned. In fact, they all approved the takeover of Financial General, knowing of BCCI's close ties to the buyers of record.

The trouble is, no one in authority appeared to be bothered by that relationship.