

United States Court of Appeals

*For the Seventh Circuit
Chicago, Illinois 60604*

(Argued November 13, 2000 - Decided July 18, 2001)

October 12, 2001

Before

Hon. HARLINGTON WOOD, JR., *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 00-1215

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DANIEL A. KOSTH,
Defendant-Appellant.

Appeal from the United States
District Court for the
Central District of Illinois.

No. 98-40028-001

Michael M. Mihm, *Judge.*

ORDER

The opinion issued by this court on July 18, 2001 is amended as follows.

On Page 15, the second full paragraph of the published opinion in this matter is deleted, and in its place the following language is substituted:

3. Count III

This court charged that Koth knowingly made and caused to be made a false and fraudulent document when, on August 24, 1994, he submitted to the SBA the loan authorization and agreement providing for the \$151,000 SBA loan to Hillcrest. The count went on to allege that in that agreement, Koth “caused it to be falsely represented to the SBA” that “the proceeds of

the loan would be used solely to rehabilitate and replace Hillcrest property damaged and destroyed by disaster flooding,” when he knew that “a purpose of the application for an SBA disaster loan was to generate financial profit for Bi-State Developers [which he owned] so that the profit could be used to pay off preexisting debt of Hillcrest.” Once again, from the perspective we are required to use in evaluating a jury’s verdict and a district court’s denial of a motion for new trial, we see nothing that requires reversal.

On consideration of the petition for rehearing and rehearing *en banc* filed on August 15, 2001 by counsel for the Defendant-Appellant Kosth, all members of the original panel have voted to **DENY** the petition for rehearing. No judge in regular active service has requested a vote on the petition for rehearing *en banc*.

Accordingly, it is **ORDERED** that rehearing and rehearing *en banc* are hereby, **DENIED**.