TRANSCRIPT OF PROCEEDINGS

UNITED STATES SENATE

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IMPEACHMENT TRIAL COMMITTEE

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IMPEACHMENT OF JUDGE G. THOMAS PORTEOUS, JR.

PRE-TRIAL DEPOSITION OF ROBERT CREELY

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Washington, D.C.

August 2, 2010

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IMPEACHMENT OF G. THOMAS PORTEOUS, JR.

PRE-TRIAL DEPOSITION OF ROBERT CREELY

CLOSED HEARING

- - -

MONDAY, AUGUST 2, 2010

United States Senate,

Impeachment Trial Committee,

Washington, D.C.

The pre-trial deposition of Robert Creely convened at 9:01 a.m. in Room SVC-214, Senate Visitors Center, Honorable Mike Johanns, presiding.

Present: Senator Mike Johanns, Member, Senate Impeachment Trial Committee; Congressman Henry C. "Hank" Johnson, Impeachment Task Force; Daniel C. Schwartz, counsel for Judge Porteous; Daniel T. O'Connor, counsel for Judge Porteous; Ralph Capitelli, counsel for the witness; Harold Damelin, Special Impeachment Counsel; Rebecca Seidel, counsel for the Senate Impeachment Trial Committee; Morgan Frankel, Senate Legal Counsel; Erin P. Johnson, Esq., Senate Impeachment Trial Committee; Derron Parks, Senate Impeachment Trial Committee; Sarah Novascone, counsel to Senator Johanns.

SENATOR JOHANNS: Let me go ahead and call us to order. This deposition is occurring in the matter of the impeachment of Judge G. Thomas Porteous, Jr. The Senate Impeachment Trial Committee has authorized this pretrial examination at the request of that judge. The witness at this pretrial examination is Robert Creely. Mr. Creely, please raise your right hand for administration of the oath.

Do you swear or affirm under the penalties of perjury that the testimony you shall give shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: To the best of my ability, yes.

SENATOR JOHANNS: Let me begin by introducing myself. I am Senator Mike Johanns of the State of Nebraska, a member of the Senate Impeachment Trial Committee. Would everyone please introduce themselves for the record. And I will start on my left-hand side.

MS. SEIDEL: Rebecca Seidel, counsel for the Senate Impeachment Trial Committee.

MR. O'CONNOR: Dan O'Connor, counsel to Judge Porteous.

MR. SCHWARTZ: Dan Schwartz, counsel for Judge Porteous.

THE WITNESS: Robert Creely, witness.

MR. CAPITELLI: Ralph Capitelli, attorney for Bob Creely.

MR. DAMELIN: Harold Damelin, I'm an attorney, special impeachment counsel.

MR. FRANKEL: Morgan Frankel, Senate legal counsel.

MR. PARKS: Derron Parks, staff director of the Senate Impeachment Trial Committee.

MS. NOVASCONE: Sarah Novascone, counsel for Senator Johanns.

SENATOR JOHANNS: Thank you, everyone. As parties have already been informed, this examination will last up to three hours. It is my intention that counsel for the House of Representatives will have the final 20 to 30 minutes, and I appreciate the counsel's cooperation in that division of time. I expect to continue right through that time divided as I have described. However, if someone is in need of a break, Mr. Creely, if you are also, just let counsel know, and we will accommodate that.

Also, unlike some depositions that folks

may be accustomed to, I do discourage what I've described as form objections unless a question is confusing to the witness, I don't intend to sustain the objections. I do want the deposition to proceed in a manner that gets to the truth. If the court reporter is ready, I think we're ready to begin. Congressman?

CONGRESSMAN JOHNSON: Yes.

SENATOR JOHANNS: Can you introduce yourself for the record?

CONGRESSMAN JOHNSON: I am Hank Johnson. I represent Georgia's Fourth District in the United States House of Representatives.

SENATOR JOHANNS: Welcome.

CONGRESSMAN JOHNSON: Thank you. And, sir, I would like to at this time make sure that the time that impeachment counsel from the House has to participate in this deposition at the end, if we would have 25 minutes, I think that would be sufficient for our purposes.

SENATOR JOHANNS: Great, I already announced just prior to your arrival that we will accommodate that. I, in fact, indicated that the last 20 to 30 minutes will be set aside for that purpose.

CONGRESSMAN JOHNSON: Thank you.

MR. CAPITELLI: Would you clarify again about the objections, Senator?

SENATOR JOHANNS: Well, you can make form objections. We'll note them for the record, but quite honestly, I'm going to let the deposition proceed.

MR. CAPITELLI: You'll let it go forward. All right.

SENATOR JOHANNS: With that, the witness has been sworn, and I'll turn it over to you for the start of the deposition.

MR. SCHWARTZ: Thank you, Senator. We appreciate it.

EXAMINATION

BY MR. SCHWARTZ:

Q. Would you please state your name for the record?

A. Robert G. Creely, C-r-e-e-l-y.

Q. You have been involved with the case involving Judge Porteous before; is that correct?

MR. CAPITELLI: Just one point before we start, I would like to just make certain that it is on the record that this deposition is being taken pursuant to the immunity granted my client through

the United States Senate request, the order.

SENATOR JOHANNS: That's correct.

THE WITNESS: May I also make a statement. I have probably a 45 percent hearing loss. Counsel has the same problem that I do, and I apologize if I ask you to repeat things in advance, so -- I can hear you.

MR. SCHWARTZ: That will not be a problem. Thank you very much.

BY MR. SCHWARTZ:

Q. What -- you were interviewed before by the FBI originally in 1994 involving Judge Porteous; is that correct?

A. Yes, sir.

Q. Were you -- you were also interviewed by the FBI in 2003; is that correct?

A. Correct.

Q. Prior to Judge Porteous's nomination, were you contacted by anyone else, Senate staff, for example?

A. No, sir.

Q. You also were interviewed before the grand jury in 2006?

A. Yes, sir.

Q. You gave testimony before the Fifth

Circuit in 2007?

A. Yes, sir.

Q. And were deposed by the House Task Force in 2009; is that correct?

A. That's correct.

Q. And also by -- and you gave testimony before the House Judiciary Committee in 2009?

A. Yes, sir.

Q. Have you had any other involvement in this matter, given testimony, been interviewed?

A. Yes.

Q. Would you describe that, please?

A. I was interviewed by -- it may have been a deposition that followed by the Members of the House attorneys at Mr. Capitelli's office, if my memory serves me correctly. And then I was likewise interviewed off the record before my testimony to the House at the impeachment proceedings conducted before the House Judiciary Committee. I may have been interviewed one other time, but for purposes of completeness, I think it was only those occasions that I just testified to.

Q. Thank you very much. What did you do to prepare for this deposition?

A. Nothing.

Q. Have you been -- have you spoken with anyone?

A. I met with my lawyer last night before dinner, I did not have dinner with him. We spoke over the telephone, I think Friday, maybe Saturday briefly. I did not go to his office to meet with him at anytime in preparation of the deposition, and I read my testimony that I gave to the United States House of Representatives Judiciary Committee. That's my preparation.

Q. Thank you very much. Let me ask you about your relationship with Judge Porteous. When did you first meet him?

A. I probably realistically first met him in 1994, maybe before that. We went to the same high school, but let's say 1994 would be fair.

Q. 1994 --

A. 1974, excuse me, I'm sorry.

Q. Thank you. What happened in 1974 that caused you to meet?

A. I was working as a law clerk at a law office in Gretna, Louisiana, and I met Mr. Amato, I was in law school, and I took the ferry from one side of the river to the other. And I met Mr. Amato, who was also taking the ferry to go to work.

I believe the roads were frozen that day, and he and I struck up a conversation, and he invited me over to his law office, which was Edward, Porteous & Amato, and a process began where I became employed over there.

Q. Did you have an opportunity to -- did you work there as a lawyer in that law firm?

A. Briefly.

Q. Did you have an opportunity to work with Mr. Porteous as a lawyer before he became a judge?

A. We're going back to 1974, but I worked for Judge Porteous before he was a judge, and my primary responsibilities at that law firm, if my memory serves me correctly, was doing real estate closings, mortgages for different lending institutions.

Q. Over time, did you become close friends with Judge Porteous?

A. Yes, sir.

Q. Were you very close friends? Describe your friendship with him.

A. I consider my friendship with Judge Porteous to be extremely close. Considered my friendship to be very close.

Q. You put that in the past tense?

A. Yes.

Q. Do you consider your friendship with him to continue to the present?

A. No.

Q. And how would you describe your relationship with him now?

A. I have no relationship with him now.

Q. Do you consider him a friend at this point?

A. No, I don't.

Q. Earlier were you close with each other's families? Did your families know each other?

A. Our families knew each other. I would -- so close? I was friendly -- I was close to his children. I was invited to their house at Christmas for a Christmas party along with 20 or 30 other of his mutual friends, but our wives weren't friendly. The judge and I and his children were friendly.

Q. In fact, his children referred to you as Uncle Bob; is that right?

A. They did at one time, yeah.

Q. Did you have any awareness of Judge Porteous's financial dealings, personal financial situation during those years?

A. I had aware -- yes, I was aware of Judge

Porteous's financial situation. Did I know what he had in his banking account, did I know whether he was delinquent on his house note or car note? No.

Q. Did he experience -- did you observe that he experienced any kind of financial difficulty?

A. Well, he told me that he was having some problems.

Q. When was that?

A. The first time he told me that?

Q. Yes.

A. I mean, you've got to give me some leniency, I'm going back 35, almost 40 years ago.

Q. I understand.

A. But I don't really remember. 1975, I'll take a stab at.

Q. Let's try to locate it in time. Was it during the time he was in private practice with you?

A. I don't know. I know it was after we left -- Jake Amato and I left -- I left the employment of that law firm, moved out with Jake about a year after I started working there, so I would imagine it would have happened sometime after I left that law firm.

Q. But you continued to be good friends with him after you left?

A. Yes, sir.

Q. When you and he worked together, did you go out to lunch regularly?

A. Actually, no, and the reason being is that the office had a kitchen, and they had a cook that cooked just about every day for everybody, so we ate in the office.

Q. And --

A. But I didn't have any money, so I couldn't take anybody -- I couldn't buy him a hamburger.

Q. Okay. When did you start going out to lunch with him regularly? What was -- was this when he became a state court judge?

A. Yes, sir.

Q. And did you go out with him for lunch frequently?

A. Yes.

Q. How frequently would you say?

A. I have no idea. I mean --

Q. Weekly?

A. No, I don't think it would be that frequently.

Q. Did going out to lunch together become somewhat of a habit between the two of you,

something that you did routinely?

A. We went out to lunch not routinely, but we would go to lunch, and if you're talking about a time frame of when? Before he became a federal judge?

Q. During the time he was a state court judge.

A. Yes, we went to lunch often.

Q. Okay. And was that customary for lawyers in Gretna to go out to lunch with judges?

A. Yeah.

Q. And while he became -- after he became a state court judge, you continued to go out to lunch with him?

A. Yeah, yes, sir.

Q. Did you go out to lunch with other judges, other state court judges?

A. Yes.

Q. Which ones?

MR. CAPITELLI: I would object to relevancy.

SENATOR JOHANNS: Overruled.

THE WITNESS: Probably every judge in the 24th Judicial District Court. Maybe not every one, but a lot of them, most of them.

BY MR. SCHWARTZ:

Q. Let's talk for a minute about geography. You were living in -- you were working in Gretna. Where is Gretna compared to New Orleans?

A. Gretna is on the west bank of the Mississippi River. As the crow flies, probably three miles from the central business district. If you take a straight arrow from Gretna, the Mississippi River, New Orleans -- to the Gretna courthouse?

Q. Just the area called Gretna.

A. Okay. Well, it's about three miles directly across the river. New Orleans is on the east bank of the Mississippi River, Gretna is on the west bank of the Mississippi River. Orleans Parish and Jefferson Parish, they are two different counties or parishes, however you want to describe them.

Q. And Gretna is in Jefferson Parish?

A. Correct.

Q. And you talked about the 24th Judicial District, is that how you phrased it?

A. 24th Judicial District Court, that's the name of the court in Jefferson Parish, the District Court.

Q. And it was on that court that Judge Porteous sat as a state court judge; is that correct?

A. Yes, sir.

Q. How many judges sat in that court?

A. I couldn't tell you. I don't know.

Q. Was it more than ten?

A. I would be guessing. I would say, yeah, probably toward the end of my working over there in 2000, around in that area, probably there was 10 or 12 judges over there.

Q. Okay. And was it customary for other lawyers to have lunch with state court judges in Gretna during those days?

A. The word customary -- I've seen a lot of lawyers at lunch with different judges, both plaintiff lawyers and defense lawyers.

Q. When you had lunch with judges, who paid for those lunches?

A. I did or if someone else invited me, they did.

Q. Did the judges ever pay for those lunches?

A. The only judge that ever paid for lunch was a judge by the name of Martha Sassone. She

bought dinner for me one time.

Q. But in every other case, you or another lawyer would pay for a meal with -- that included a judge?

A. Yes, unless it was a committee type thing, campaign committee thing, in which case the committee may have paid the lunch.

Q. And that's just the way things were done down there, right? Did you have any -- did that raise any concern in anyone's mind?

A. I don't know what you mean down there.

Q. In Gretna.

A. I'm kind of taken aback by the down there stuff.

Q. I apologize.

A. All right, but I mean --

Q. Is that the way things were done in Gretna?

A. That's the way I noticed things done in Colorado when I lived there, too.

Q. So that's not unique to Gretna, but that's what happened.

A. I think it isn't.

Q. When Judge Porteous took the federal bench, did you and he continue to have lunch

together?

A. Very much less frequently.

Q. Why is that?

A. Because Judge Porteous acquired a new group of friends. I didn't particularly want to continue our friendship to the degree that we did before or had before, and so it's a combination of the two, and I became extremely busy during those years pursuing very complex cases that I was handling, and I didn't have much to do with Judge Porteous when he became a federal judge.

Q. Did you and Judge Porteous ever take any trips together?

A. Yes.

Q. What kind of trips?

A. Well, when you talk about trips, are you talking about like a fishing trip that would take four hours? We took fishing trips together. We went fishing together. We went on a couple of -- I think three hunting trips outside of the country during the 20 years that I knew him. I went to Las Vegas with him, which is the subject of questions that have been asked of me, and that's about the best I can recall right now.

Q. When you went on these fishing trips, did

they -- did other people go or was it just Judge Porteous?

A. Other people went.

Q. Other judges?

A. Sometimes other judges and other lawyers, defense lawyers, plaintiff lawyers, yeah.

Q. And who paid the cost of those fishing trips?

A. If it was on my boat, I paid for it. If somebody invited me to go fishing, they would have absorbed the expenses.

Q. So when you invited people on to your boat to go fishing, you paid for all of it?

A. Yeah. It's kind of like if you invite somebody over to eat, you don't give them a bill before you leave your house. It was my boat, and if somebody came fishing with me, I didn't ask people to contribute to -- expenses were not that great to go fishing.

Q. What about when -- you went on hunting trips, you said, out of the country?

A. Uh-huh, yes, sir.

Q. Those were the trips into Mexico; is that correct?

A. Yeah.

Q. Were there any -- were you thinking of anything other than the trips into Mexico?

A. No, that's the only hunting trips that I went with him outside of the -- went dove hunting in Mexico.

Q. And you invited him on the trip?

A. I invited him and a lot of other people.

Q. Including other judges?

A. I believe so, yeah.

Q. And who paid for those?

A. The way I remember it is if you have ten people that go, you get one that goes free. And we would always have at least ten people that would go. So does that answer your question? I paid for myself, and I think he was the tenth wheel, so to speak.

Q. So he would go on the free ticket?

CONGRESSMAN JOHNSON: He's leading the witness on a regular basis now, and we object.

SENATOR JOHANNS: Overruled. Continue your questions.

THE WITNESS: I'm sorry?

BY MR. SCHWARTZ:

Q. So Judge Porteous would go on the free ticket?

A. Generally. I'm not saying that was exactly what happened, but there was a free ticket. And I'm not saying we didn't pay for it. We very well could have. But you're talking about something that happened 15 or 20 years ago.

Q. Thank you.

A. With the exception of one trip, I think, which happened maybe 15 years ago, thereabouts, when he was a federal judge.

Q. And was anything different other than the fact that he was a federal judge?

A. No.

Q. And did you have any concern about taking judges on hunting trips or fishing trips?

A. Concerns about what?

Q. That's my question. Did you have any kind of a concern? Did it raise any question in your mind?

A. No.

Q. Did you ever appear before Judge Porteous when he was on the state bench?

A. Yes.

Q. How many times?

A. Two times.

Q. Did you -- in those days, as I read your

testimony in other cases, you were doing a number of divorce cases; is that correct?

A. That's all I did when he was on the district bench was divorce cases. He didn't do divorces.

Q. So he never presided over any divorce cases that you had?

A. No. He may have -- I may have put a settlement on his record. In other words, it was agreed to before the divorce court, and we had to go roam around and find the judge that would accept the two lawyers' settlement, you had to read it on the record, and he had to sign off as district judge to the consent judgment. Now, he may have done that, but I tried one jury trial in front of him and one interdiction proceeding in front of him on the state bench.

Q. What is an interdiction proceeding?

A. An interdiction proceeding is when you -- you put someone's financial -- finances, you put them under the direction of another person. It was an elderly woman in her 80s, best I can describe it. She had a daughter that didn't take care of her. Tied her up in a bed. She defecated on herself, she had fecal material between her toes, and her

daughters took pictures.

And so we wanted to get -- the daughters wanted to bring the grandmother into the home with them to take care of her, and we had -- the lady's daughter opposed it for whatever reason, and that is -- I was asked by another lawyer to try to help him try this case because he felt so bad about this situation, and I did. And I felt bad about it, too.

Q. What happened in that case? What was the result?

A. What happened? I tried the case, and the judge interdicted, gave the -- you know, the powers of the lady to handle her financial matters. She basically awarded custody of the old -- the older lady to the young daughter -- the grandchildren.

Q. So the result you were seeking was achieved?

A. Yes.

Q. And that was before Judge Porteous?

A. Yes, sir.

Q. And did you feel you had received any special treatment in connection with that case?

A. Absolutely not.

Q. You had a jury trial in front of him as well?

A. Yes, sir.

Q. Do you recall the name of that case?

A. I read it in the transcript.

Q. Is it Serigeny?

A. Serigeny, yeah, something like that.

Q. I have it on my notes as spelled S-e-r-i-g-e-n-y, is that about right?

A. It's about right, yeah.

Q. What was that trial about?

A. It was a construction failure at a fishing marina. The contractor built a bulkhead, and the bulkhead failed and collapsed into the bayou that it was abutting or fronting on.

Q. And which -- were you representing the plaintiff or the defendant?

A. I was representing the plaintiff.

Q. And how did that turn out in front of the judge?

A. Well, the judge didn't rule on it, the jury did. It was a jury trial. The jury ruled in my favor.

Q. Okay.

A. In my client's favor.

Q. You were very good friends -- you testified you were very good friends with Judge

Porteous during that time, you had taken him to lunch and on trips. Do you think that that resulted in your receiving any kind of special treatment or favor from the judge?

A. No. And as a matter of fact, there was a post-trial motion that I filed after the jury verdict was rendered. If I recall back in the -- whenever that time frame was in Louisiana, and probably other parts of the country, there were a lot of insurance company failures, and there was some bank failures, if I'm not mistaken.

And this insurance company that insured the contractor was in distress, and I was afraid that they were going to go insolvent. They posted a surety bond -- if I need to explain that, I will -- as collateral for the judgment that was rendered. And the rumor was -- and it was by a sister company of the insurance company, and the rumor was the company was going to go broke.

I filed a motion to test the solvency of the surety in front of Judge Porteous. He denied my motion to test the solvency of the surety, and the company went broke, and I lost my judgment. I had to pursue the Louisiana Insurance Guarantee Association, and I received a fraction of what the

jury awarded me.

Q. So you did not achieve the ultimate result that you had hoped for?

A. I lost the motion to test the solvency of the surety. He ruled against me.

Q. Did you have any cases in front of him on the federal bench?

A. One.

Q. And what case was that?

A. It was a class action lawsuit that originated in the Civil District Court for the Parish of Orleans, and it was -- I was lead counsel in that case. A discovery motion -- I've already testified to this, but there was a discovery motion that was filed by me to obtain records from the defendant, which was I believe Union Planters Bank, and the lawyers for Union Planters Bank didn't want to give me the records and filed an injunction proceeding because the trial court judge in District Court ordered the production of the records that I wanted.

They then filed an injunction in Federal Court. The injunction proceeding was randomly allotted to Judge Porteous. Before you get an injunction, you have to get a temporary restraining

order. And you are required to notify opposing counsel, so I got a call from this firm saying we're bringing a motion for temporary restraining over to -- it got allotted to Judge Porteous, we're going to have him sign it. If you want to be over there, be over there.

And I don't remember if we had a telephone conference or if we had a face-to-face meeting, but the minute that the judge talked to me, I was advised that he was granting the defendant's temporary restraining order, and setting the hearing for the preliminary injunction within the time frame required under the Federal Rules of Procedure, it's either two or ten days, I forgot, and he basically said I would be wasting my time. If I wanted to make a record, I could make a record.

I did make a record. He ruled against me, like he said he was going to rule against me at the pretrial conference, and I had to take an appeal to the United States Fifth Circuit Court of Appeals to have him overruled, because he was wrong.

Q. And the Fifth Circuit overruled him?

A. Yes, sir.

Q. How long did that take?

A. It took a long time. It took a long

time. Probably a year.

Q. And did you feel you had received any special treatment while you were a lawyer in front of his court?

A. You can't be serious? No, I didn't feel like I got any special treatment getting ruled against like that, particularly when he was wrong.

Q. Did you -- were you friends with other state court judges?

A. Yeah. You see, lawyers become judges, and when you're friends with a lawyer and he becomes a judge, you don't terminate your friendship with him. So, yeah, I'm friends with a lot of judges -- I was friends with a lot of judges.

Q. Are there any particular judges that you're particularly good friends with?

A. In state court?

Q. In state court.

A. Yeah.

Q. Which ones?

A. Martha Sassone, Ross LaDart.

Q. The last, I'm sorry?

A. LaDart, L-a-D-a-r-t. I'm trying to go through in my memory the list of judges over there. It's getting foggy, but just about every judge that

sat on the bench, I was friendly with at one time or another.

Q. And did you have cases in front of them while you were friendly with them?

A. Sure. Yep.

Q. For example, how many cases did you have in front of Judge Sassone?

A. I don't know. I really don't, counsel.

Q. Okay. Or Judge LaDart?

A. I don't think -- Judge LaDart just got on the bench, and I think I was -- my venue of practice was blending over into Civil District Court, which is in New Orleans, so I don't believe I had anything in front of Judge LaDart.

Q. Did you -- when you were in the -- during this period from -- did you receive any curatorship appointments from any of these judges, like Judge Sassone?

A. I can't recall receiving curators from Judge Sassone. I may have. I may have received curators from other judges. I remember receiving -- yeah, I got some curators from other judges.

Q. Judges who were your friends?

A. I'm sorry?

Q. Judges who you considered to be friends?

A. One I didn't really consider to be a friend, and he assigned me to a curatorship that I asked him to please take me off of that caused me a considerable amount of aggravation, and he wouldn't do it.

Q. But some of the others were from judges you considered to be your friends?

A. Yes.

Q. And did you feel there was anything improper about appearing before any of these judges who you considered to be your friends?

A. No.

Q. You said you do not consider Judge Porteous to be your friend now. When did you change your view of your friendship with Judge Porteous?

A. In 2003.

Q. What happened in 2003?

A. I believe I was set upon by a group of FBI agents inquiring about his conduct.

Q. And why did that cause you to cease your friendship with Judge Porteous?

A. Why did that cause me to cease my friendship with Judge Porteous? I don't know. I just hadn't talked to him since then, and I think you know the evolution of this, and so I became

increasingly unhappy with him as this continued to progress.

Q. So are you unhappy with him now?

A. Very.

Q. Let me talk further about the time that Judge Porteous was on the state bench, which just to help you and everyone else in the room was between 1984 and 1994. During that time, did Judge Porteous ever ask you for money?

A. Yes.

Q. When was the first time that happened?

A. I don't remember.

Q. Was it when he was on the state bench?

A. That's the period you're talking about, isn't it?

Q. Did he ask you for money before he was on the state bench?

A. He may have, yeah, but I don't -- I don't have an exact memory. That's 34 years ago. I don't have an exact memory of when it first happened, but it happened.

Q. And do you recall the circumstances of the first time he asked you for money, what he asked for, how much you gave him?

A. No, I don't. You're talking about the

first time he asked me?

Q. Yes.

And how frequently did he ask you for money?

A. Over the ten-year period of time?

Q. Yes.

A. That's hard to say. He would ask me for money. It wasn't weekly. It was more monthly. It started out as a -- kind of like, you know, he was short of money, like you got a couple of bucks or $50 or something like that? That's how it started. That's how I vaguely remember it happening, evolving or going, coming about. And I would accommodate him. I considered it an act of friendship at first.

Q. Did you give him money because he was a friend or because he was a judge?

A. Because he was a friend. I didn't practice in front of Judge Porteous. Very, very limited, limited, limited. We testified about that.

Q. Did you ever give money to other people who asked for money?

A. Yeah.

Q. What other people?

A. Friends.

Q. Any of them other lawyers?

A. I'm sorry?

Q. Other lawyers?

A. I used to send other lawyers business that I could have handled because they were my friends, and I knew they weren't doing very well. I can't offhand recall giving money like to other friends, but I was a very generous person. I used to -- but I don't recall, I don't recall giving money to lawyers.

Q. How about other judges?

A. No. You're saying like here's some money?

Q. Yeah.

A. No, I didn't do that.

Q. Did you ever keep a record of your gifts to Judge Porteous?

A. No.

Q. Why not?

A. Well, it's odd that you asked that. If I would have kept a record of my gifts to Judge Porteous, I don't know if those records could be retrieved 30 years later. I don't know if anybody could retrieve those records.

But the fact that I gave him cash, if I wouldn't have admitted that fact because it's the

right thing to do, I don't think anybody could have proven that, either, the fact that I gave him cash. The fact that I have decided to do the dignified thing and the correct thing and to tell the truth indicates that, one, that is a mental record. I gave him money. I don't have any documents and I don't think any documents have been presented to me to show or could have been shown that I gave him cash. I made that admission freely and voluntarily. I tried to do what was right.

Q. Okay. So there is no written record of the cash you've given him?

A. No.

Q. It's based on your testimony?

A. Yeah, my testimony.

Q. Okay. You've said initially that he would ask for $50 or a few dollars. Would you pay that out of your wallet?

A. Yeah. Yes, sir.

Q. Did there ever come a time when you -- he asked for more money than you had in your wallet?

A. Yes.

Q. And how would you pay that?

A. As I've testified to before, at first the requests for money were trivial amounts of money,

and I would just give it to him, and I don't want to be disingenuous to the judge, I've used that term before, I can't quantify the number of times I gave him 50 or a hundred. It may have been very infrequently, okay?

But on one or two occasions, he may have asked for $500, in which case I said, I'm not going to come out of my pocket with $500, I may not have had $500 in my pocket, probably didn't have $500 in my pocket. So I went to the office and told my law partner, our friend needs $500, I'm not giving it to him myself.

So what we would do is write a check from the office for $500 or whatever and cash it, and either he or I would give it to the judge. After we avoided him for weeks.

Q. I'm sorry, what do you mean after you avoided him for weeks?

A. Well, it got to be old after a while, after a number of years, if you have a friend that keeps coming to you for money, you get tired of it. And I got tired of it.

Q. Let me ask about your cashing checks from your law firm. Did you and your partner, Mr. Amato, maintain draw accounts at your law firm?

A. We had a number of accounts, but we had one account that we drew monies from for our own benefit and other expenses that we would run through the office.

Q. And was that -- that money, when you would write a check on your firm's -- well, let me step back. How did you get money from your firm on a regular basis, apart from the gifts for Judge Porteous? Did you do weekly draws?

A. Yeah. Yes, sir, I'm sorry.

Q. That's correct?

A. Yes, sir.

Q. And did you do equal weekly draws?

A. For the most part, yes.

Q. And did you try to keep your draws equal to ease accounting within the firm? Did the time ever come when you and Mr. Amato drew unevenly from the firm?

A. I'm sure that Mr. Amato or myself may have drawn unevenly from time to time, but as a general rule, we would draw evenly.

Q. And the money that you drew was taxable income to you; is that correct?

A. Absolutely.

Q. So at that point, it was not law firm

money, it was your money? It was not the money of Amato & Creely law firm?

A. No, it was my money.

Q. And the same is true for Mr. Amato, also, it was his money?

A. Yes, sir.

Q. When you made these gifts to Judge Porteous, did you take deductions for them?

A. Did I deduct out of his gift?

Q. No, did you make a -- did you count it as a business expense against either the firm or your own personal taxes?

A. I counted it as regular raw income. I got a W-2 or a 1099, whatever accounting document you would call it at the end of the year, and I would hand that over to my CPA, and I would be charged income taxes on that.

Q. But you didn't deduct the money that you had given to -- or claim a deduction for the money you had given to Judge Porteous?

A. Oh, no.

Q. That's because it was a gift, right?

A. It was a gift.

Q. You said that the money would be -- how would the money be given to Judge Porteous when you

had -- when you and Mr. Amato had given it to him?

A. I would hand it to him.

Q. And who would do that?

A. I know I did.

Q. And did Judge Porteous know that to be your money, or your money and Mr. Amato's money that he was getting the gift from?

A. I don't know what Judge Porteous was thinking.

Q. Did you tell him the money was from you and Mr. Amato?

A. I don't recall telling him that.

Q. You have talked -- we've referred before to curatorships. I know you've done this before because I've read your testimony, but for the people in the room and the Senator and Congressman, explain what a curatorship is, please.

A. It is a court appointment of a lawyer to represent an absentee defendant.

Q. And this occurred -- curatorships occurred at the state level, not the federal level; is that correct?

A. That's correct.

Q. When a lawyer was appointed, what were the responsibilities of that lawyer?

A. Well, I don't know. There are various types of curators from what I understand. And the type of curatorship he would send over would require -- it was an executory process type claim. Usually people who abandon their homes and didn't pay mortgage notes, and the bank foreclosed on the property, it would require the appointment of a lawyer to do things required by law, to locate the absent defendant, to notify he or she that their house was going to be foreclosed on.

And the requirement was to run an advertisement, to write letters to the last known address, certified mail, return receipt requested, make publication in the local newspaper, which was the Times-Picayune, and I believe that's about it.

When the registered letter would come back unclaimed and you didn't get any notification as a result of your newspaper ad, I was required to file what was called a note of evidence into the record saying that I ran the newspaper ad, and here's a certified copy from the newspaper, certifying that the ad was run the statutory allotted period of time. Two, here's the certified letter returned unclaimed. Three, I didn't get any phone calls from the absentee. And that was it.

That was all I had to do. It was all done by my secretary.

Q. Did these assignments ever require anyone to appear in court?

A. No.

Q. Who assigned the curatorships?

A. The judge did. Judge Porteous. Any judge can assign -- any curator that comes to your division, the judge whose division it goes to can give it to anybody he or she wants to.

Q. So any of the state court judges, Judge Porteous included, but anyone on that bench would have and assign curatorships, is that correct?

A. Right.

Q. How were they assigned? Were there any standards for assignment of curatorships?

A. Not that I'm aware of.

Q. In your experience, how were they assigned? What was the typical assignment? Was it to friends? Was it to --

A. Yeah, they went to friends. I mean, I can't get into another person's mind. I'll guess, you know. But I would assume it would be somebody the judge knew.

Q. You received curatorships; is that

correct?

A. Yes, sir.

Q. Did you receive them from judges other than Judge Porteous?

A. I already answered that. Yes.

Q. But you also received some from Judge Porteous?

A. I answered that, too. Yes.

Q. And to your knowledge, the judge had total discretion about to whom he could assign -- the judge had total discretion about who he could assign a curatorship to?

A. Yes, sir, that's my understanding.

Q. Do you have any idea of the number of curatorships you got from Judge Porteous?

A. Until counsel for the House of Representatives made a request from my former law partner's bookkeeper, I did not. A record was kept of everything we did in that office. One of the records was the curators.

I knew that document existed, and I even -- I think I testified to that before the grand jury. I think I remember reading that in my grand jury testimony, that there is such a document that exists. I was afraid to go visit the document

because if I would have damaged the document, somebody would have said I'm trying to cover something up.

So I never went -- the computer was in my law partner's possession, and I didn't ask to look at it, I didn't ask anybody to touch that document. It's there. It's probably still there today. As a matter of fact, I think it's been reproduced and given to counsel for the House -- United States House of Representatives voluntarily.

Q. Do you know what the number of curatorships as a result of that is?

A. Other than what I read in Mr. Baron's opening statement -- I think it's Mr. Baron's opening statement to the United States House, I personally don't know how many curators there were. I think at one time, I testified there was at least a hundred. I didn't tally the curators.

Q. Okay. So you have no independent knowledge of the number of curatorships at this point?

A. No.

Q. That you got from Judge Porteous or any other judge?

A. That's right. I don't know how many I

got.

Q. Thank you. I apologize for pushing back on some of these questions. As you know, I'm just trying to make sure the record is clear?

A. Push back. I would like to be able to get back home.

Q. Thank you. I appreciate that. Did the number of curatorships go up in the late '80s and early '90s in the Gretna area? Were there a lot more curatorships during that period?

A. I have no idea.

Q. Did you receive more curatorships during that period?

A. During the '80s and '90s?

Q. Late '80s, early '90s?

A. Did I receive more? I don't know. I haven't made a -- I don't know how many curators they had available to give out, and I don't know what percentage of them that I got. I got curators from Judge Porteous primarily, I got curators from other judges, but I don't know the total number of curators that were available.

Q. Thank you. Did you ever hire a lawyer named Gary Raphael?

A. No. I think my law partner did.

Q. But he was an employee of your law firm?

A. Yeah.

Q. Do you recall when that was?

A. No, I don't. I don't remember the year that that occurred.

Q. Did you hire him on the recommendation of Judge Porteous, or did the law firm hire him on the recommendation of Judge Porteous?

A. You would have to ask him. Do you want me to guess?

Q. Well, testify to your knowledge. If you don't know --

A. I didn't hire the guy. I don't mean, when I say the guy, to being disrespectful to him because he's a very nice man, okay? I don't mean to be -- when I say guy, I shouldn't have said guy. The gentleman.

Q. Thank you. Did he do any work for you, Mr. Raphael?

A. Yes, he did work for me.

Q. What was your opinion of his legal skills?

A. Well, I know where you're going with this question, and I just don't think it's fair, all right? I don't think it's fair to Mr. Raphael, and

I don't know if that means anything to you, but I don't think it's fair.

SENATOR JOHANNS: You do have to answer the question.

THE WITNESS: I thought he was competent.

BY MR. SCHWARTZ:

Q. You didn't think very highly of him; is that correct?

A. I didn't say that.

Q. Okay. Did you ever say to Judge Porteous -- did you ever speak with Judge Porteous about his legal skills, Mr. Raphael's legal skills or performance in your office?

A. Mr. Raphael was not a trial lawyer. Some of us are, some of us aren't. Like I wouldn't think you would be a trial lawyer. You may be, I don't know. But that doesn't mean that you're not a good lawyer. It doesn't mean you don't do good at what you do. Okay? But he wasn't a trial lawyer. I needed somebody to go to court for me, to help me in court, okay? So does that answer your question?

Q. And he couldn't do that, is what you're saying?

A. Some people don't have those skills. I can't write briefs real well, but I consider myself

a very good lawyer. I didn't -- I couldn't write a scholarly brief, but I still consider myself a good lawyer. I may be a bad brief writer, but I figured I was a half decent lawyer, and likewise I'm saying, I don't know what your particular skills are, you may not be good at everything you do.

Q. Well, thank you.

A. I mean, you may be good at everything you do. I don't mean to quibble with you. Mr. Raphael is a very honorable man, okay? A very honorable man.

Q. Did you ever talk to Judge Porteous about him?

A. About Gary?

Q. Yes.

A. Gary's wife and Judge Porteous's wife were best of friends. I didn't -- did I talk to Judge Porteous about Gary? I'm sure.

Q. And did you express your dissatisfaction with him to Judge Porteous?

A. I don't know if I did. I may have said something to Judge Porteous, but Gary worked for me -- when I say me, he did some things for me well after Judge Porteous became a federal judge, if my memory serves me correctly. So Gary worked and left

our office, I want to say, I'm just guessing, but sometime in the 2000 era, 2000, 2001, up in that range.

Q. Did Judge Porteous ever say to you that he was assigning curatorships to you to help you pay for Raphael's costs?

A. If Judge Porteous said that, I think he would be committing a crime. No, he didn't tell me that. But if he testified to that, he testified to that, but that is not what happened. Gary worked for me after he went to the federal bench.

Q. Did Mr. Raphael play any role in the curatorships that your firm received?

A. No.

Q. Did you at anytime see any link between the curatorships and the gifts that you gave to Judge Porteous?

A. Did I see a link?

Q. Yes.

A. There was never a link in my mind giving him money for curators. The thing that upset me was on one occasion, he called the office because I had been avoiding him at great length, and asked my secretary if I had been receiving curators or something to that effect, and I became very upset

about that. And I expressed my being upset about that to him, telling him that he had no interest in curators, and if he thought he did, please stop sending them because I didn't want the curators.

Q. You said he called and asked your secretary. Which secretary is that? What is her name?

A. I don't even remember. Dianne -- I think her name was Lamulle. She stopped working for me in '99.

Q. If he -- if Judge Porteous had not sent you curatorships, would you have continued to give him money, gifts?

A. Yeah, probably so. Yes, absolutely.

Q. Did you see any relationship of one to the other? Did you see any kind of relationship between the one and the other?

A. There was no agreement for me and him to exchange money for curators, ever.

Q. There was a time, you testified before, and you expressed today, that there was a time when you got fed up with giving him money. When was that?

A. I don't know.

Q. Had you received curatorships from Judge

Porteous before that happened?

A. I complained to -- I call him Porteous, I don't mean any disrespect by that, but that's what I call him, or called him. I complained before, I complained after. Yes.

Q. But you continued to give him money?

A. Yes.

Q. Why?

A. Because he was my friend.

Q. Did you think you were going to get anything in response?

A. I didn't get anything in response.

Q. Did you think you were going to get anything in response?

A. No.

Q. Did you actually feel he was taking advantage of you?

A. After a while, I thought he was abusing our friendship, yes.

Q. That made you angry? Did that make you angry?

A. Yeah, it hurt my feelings, it really did, you know. It hurt my feelings.

Q. When Judge Porteous went on the federal bench, he no longer had any control over

curatorships; is that correct?

A. I don't know if that's correct or not, but I don't know.

Q. Did you receive any curatorships from him after he went on the federal bench?

A. I didn't perform any kind of curator work for him after he got on the federal bench.

Q. You've said you have not -- did not keep track of the amount of money that you gave to Judge Porteous. Do you have any idea of the amount of money you gave him?

A. Do I have -- like an exact amount I gave him? No.

Q. You have -- in other testimony, you have testified that you thought it was between ten and twenty thousand dollars?

A. No, I think I testified that I thought it was around ten thousand dollars from me. That was a guess.

Q. From you. And it is just a guess?

A. It is a guess.

Q. And that would be $10,000 over the course of ten years?

A. Ten years.

Q. About a thousand dollars a year?

A. You can do the math, so can I, it's about a thousand dollars a year, yes.

Q. Do you think there was anything wrong with you giving Judge Porteous money?

A. Do I personally think there is anything wrong with giving a friend money? No.

Q. What about giving a judge money?

A. If a judge is my friend, and I don't practice law in front of him, I don't think there's anything wrong with it. He may have an obligation to report. I don't know what his obligations are, but I didn't practice in front of him. I did not go there.

Q. Did you ever give him money to get him to rule in a certain way in a case?

A. If I did, he didn't follow through with his end of the bargain on the two cases that really meant something to me, a lot of money.

Q. Did you give him money to get him to rule in your favor, encourage him to rule in your favor?

A. He didn't rule in my favor.

Q. But did you give him money with that intent?

A. No.

Q. You mentioned that you were contacted by

the FBI in 2003. Were you also contacted by the FBI earlier with regard to Judge Porteous's nomination?

A. No, I don't -- oh, yeah, right, correct. Yes, sir, I was. In 1994 and then in 2003 under other circumstances.

Q. At that time, you've said that -- or the FBI 302 says that you told them that you knew of no financial problems on the part of Judge Porteous?

A. It's been testified to before, and it's in the report.

Q. And you testified earlier today that you were not contacted by anyone else, the Senate staff didn't talk to you, for example?

A. Not that I recall, no, sir.

Q. Mr. Creely, did you have -- are you familiar with a case that was on the federal bench that Judge Porteous sat as a judge for called the Lifemark case?

A. I'm familiar with a Liljeberg case.

Q. Liljeberg. Liljeberg versus Lifemark, I believe, was the parties, the principal parties. Did you have any involvement in that case?

A. None whatsoever.

Q. Your partner, Mr. Amato, was involved with that, correct?

A. Yes.

Q. Did you -- during the time of that case, did you continue to see Judge Porteous?

A. Well, yes, and it's been gone over at least in three different sworn testimonies that I've given that I went to Las Vegas with him. That's been documented at least three times on the record.

Q. Any other times that you -- would you go out to lunch with him during that period?

A. During that case?

Q. Yes. During the pendency of that case.

A. From 1997 -- is that what you're saying? Is that what I read?

Q. 1997 to 2000 approximately.

A. I would have to say probably yes, I went to lunch with him.

Q. Did the Lifemark case ever come up in your conversations or discussions?

A. No. I wouldn't know what to ask him about the Lifemark case. I knew nothing about the legal concepts involved in that case, nothing whatsoever. That file wasn't even kept at our office from what I understand. I never reviewed the file, never talked to the client. I couldn't -- I wouldn't know who the client was if he walked in

this room right now.

Q. Are you familiar with another lawyer by the name of Don Gardner?

A. Yes.

Q. Is he another lawyer who practices in the New Orleans area?

A. Yes.

Q. Is he also a friend of Judge Porteous's?

A. Yes.

Q. Were you aware that Don Gardner was also involved in that litigation?

A. Yep. Yes, sir.

Q. Were you aware of the terms by which he was retained?

A. I became aware of the terms by which he was retained, yes.

Q. What was your understanding of that?

A. Well, to give you my understanding, I would have to tell you that it's been publicized in the newspaper in New Orleans probably ten times. I've read it in innumerable documentation that has been generated through these proceedings, but I was not aware what I read in the newspaper I think this past Saturday, that he got upwards to -- or there was upwards to a $200,000 bonus -- or maybe I read

it in your motion to dismiss, I don't know, these proceedings that was also published on the Internet.

But I did know he got a hundred thousand dollar retainer. I do know that for a fact. And I knew that probably around the time he got it because he -- I think he told me he did.

Q. And did you know at the time that he had an additional potential payment if Judge Porteous recused himself?

A. I can't honestly say if I came into that information then, or if I came into it as a result of the tremendous amount of press that this has gotten in New Orleans.

Q. And Mr. Gardner was on the opposite side of that case from your partner, Mr. Amato; is that correct?

A. Yes, sir.

Q. Let's talk for a minute about the bachelor party in Las Vegas.

A. Okay.

Q. Who was that party for?

A. It was for Judge Porteous's son. His son's friends were having a bachelor party for him.

Q. And it was in Las Vegas?

A. Las Vegas. It was a 72-hour trip, if I'm

not mistaken.

Q. Sounds exhausting.

A. Very exhausting.

Q. You went along on that trip?

A. Yes, sir.

Q. Do you recall how many other people were on that trip approximately?

A. How many?

Q. How many approximately were on that trip?

A. 20, 30, something like that.

Q. They were -- were they friends of -- who were they friends of? Judge Porteous's son or Judge Porteous?

A. A lot of young friends of Judge Porteous on that -- of his son on that trip, and there were a lot of older people that would have been my age and Judge Porteous's age. They would have been mutual friends of Judge Porteous and mine, more Judge Porteous's friends than me, but I was acquainted with them. An ex-brother-in-law came on the trip with me because he was friends with Judge Porteous's son, Michael, but, you know, does that answer your question?

Q. Yes. Thank you. And what did you pay for?

A. What did I pay for? That has been in the record so many times, but what did I pay for? I got -- I paid for a portion of a meal at a steakhouse. I didn't suggest the steakhouse. I paid a portion of a meal. And there's a photograph of me sitting at the table, myself, my brother-in-law, and two other guys, two other gentlemen who I can't place their names. That's who sat at my table.

It was basically an open bar in a steakhouse. I don't remember the name of the steakhouse. It was in Las Vegas. I assume the bill was quite large, although I don't know what the bill was, and I -- the way I remember it is when the bill came out, a number of people offered to pay a portion of it. My portion, and it's in the records, I had my credit card records subpoenaed, the exact amount, I don't know anymore, it's in the record. It was either 398 or whatever, 498, I don't know what the number was, but that was my portion of it. And with the tip, included the tip.

Q. And you and a number of other people threw credit cards in to pay for the check?

A. That's the way I recall. I don't think I could have paid -- I don't think the bill would have been -- if I bought the whole meal, I think the meal

was probably several thousands of dollars. I don't know. There was 20 guys, open bar. So I don't know. But what showed up on my credit card was an amount of money, and it's been shared with this committee and the -- what do you call it, the grand jury proceedings, all that was given up voluntarily by me.

Q. Why did you put in your credit card?

A. Why did I what?

Q. Why did you put in your credit card? Why did you pay for that, pay for a portion of that?

A. Why? Friendship.

Q. Friendship with Judge Porteous's son?

A. Yeah. I had four people at my table. One of them was my brother-in-law. I basically paid for the meal at my table is the way I looked at it. It was probably a hundred dollars a person to eat and drink there, and I, in essence, paid for my meal and three other people's meal.

Q. Did you -- what else did you pay for?

A. You know, that keeps coming up. My recollection is that there was a piece of paper that was showed to me that I paid for his room.

Q. His? Whose room?

A. Judge Porteous's room. And the way I

recall that, when I was subpoenaed to go to the grand jury, I voluntarily, you know -- they said will you bring these records, or we're going to have to subpoena them. I said, no, I'll bring them. It turned out they already had the records, however. I guess they can get anything they want. And they went over my credit card bill with me, and I don't know where that receipt is now after ten years, I have no idea where that receipt is.

And I went over each charge on my credit card at the grand jury, and the only card, the charge I could find was I paid for my brother-in-law's room, my room, and -- I paid for my brother-in-law's airfare, and that's all that showed up that I can recall, okay?

But there is a document floating around that I've been given, if I were to tell you Caesars Palace said you paid for the judge's room, and here's your signature on a piece of paper, can you dispute that? And my answer is if that's what it says, then I can't, but I don't recall having any financial credit card records that showed that. There may be. I'm not going to dispute a financial record. So that's my recollection.

Q. Do you recall whether you arrived at the

hotel in Las Vegas before Judge Porteous?

A. I don't know. I really don't remember. Maybe I did. No, I don't know. I was the last person to check in. I know that I was the last person to check in because my -- the reason I paid for my brother-in-law's room is his credit card didn't work, and so he was having trouble getting the credit card to be accepted, and I was in no rush to move into the room. He was embarrassed, so I think we stepped back and let everybody check in and then I completed the transaction to where I paid for his -- I offered my credit card for his room, my brother-in-law's room.

Q. But you have no personal recollection of paying for Judge Porteous's room?

A. Not unless there's a document that's put in front of me, and which I will not disagree with, there was something that was given to me with my signature on it. You know, I can tell you I didn't pay cash for it, so it would have to have been charged somewhere. And if you can show me the charge -- that's another ten-year old trip. I don't remember the exact details of it.

Q. There was a fishing trip that your partner, Mr. Amato, went on with Judge Porteous when

he was a Federal Court judge in which there is testimony that Judge Porteous asked for some money. What do you know about that?

A. I don't know anything about that other than what my law partner -- ex-law partner told me.

Q. Only what Mr. Amato told you?

A. Correct.

Q. Okay. Did you take any action after that fishing trip? Did you give any money or make any contribution?

A. I gave my law partner a thousand dollars.

Q. Again, you're referring to Mr. Amato, your law partner?

A. Yes, sir, my former law partner.

Q. Okay. But you have no knowledge about that event, other than what Mr. Amato told you?

A. No.

Q. What did Mr. Amato tell you?

A. To the effect -- and I think I've testified to this, and I defer to my testimony, is that he said he went fishing with Judge Porteous. Judge Porteous had a weak moment on the boat where he -- I want to say Jake said he somewhat broke down and told Mr. Amato in a remorseful way that he couldn't pay for his son's either -- I thought it

was tuition, but reading the testimony -- and once again, this testimony, what I remember gets so intertwined, because you read so much stuff that's said about this.

But I thought it was tuition, but in fact I was corrected, it was for the son's wedding party. But the judge broke down and needed money for a particular reason, and I now know from reading the transcript it was for his son's wedding party. My original understanding or memory was that it was for tuition. But he broke down, told him he needed some money, and that's what my law partner told me, and I was asked to give -- my law partner asked me to give him a thousand dollars.

Q. And you gave that in cash to your partner?

A. Yeah, after a considerable lapse in time, I avoided doing it, and I finally gave it to him.

Q. To your knowledge, did Mr. Amato give money to Judge Porteous before you gave money to your partner, Mr. Amato?

A. I have no idea.

Q. Why did you give your partner money to -- why did you give him the thousand dollars?

A. Why did I give --

Q. Mr. Amato the thousand dollars?

A. Because Judge Porteous was a friend, a friend, a friend. That's why. No other reason.

Q. In the course of that discussion with Mr. Amato, was there any discussion of the Liljeberg case?

A. I couldn't -- no.

Q. At some point in time, I believe when Judge Porteous became a federal judge, he had an investiture party, were you familiar with that?

A. I read that in innumerable proceedings, but that's the only way I became aware of that. When you say an investiture party, what do you mean by that?

Q. When he became a -- a celebration after the ceremony.

A. Yeah, okay. Yeah. I heard that that occurred.

Q. Did you contribute any money to that?

A. I don't remember even being involved in that, I really don't. I don't have a recollection of going to such a function. My office may have paid for such a function. I mean, we didn't have meetings, so to say, that you can't or can do certain things. I'm sorry, if Amato may have paid

for that, he paid for it. I don't know anything about that.

Q. There's also testimony in the record about -- that Mr. Amato had contributed some money to Judge Porteous's son with an externship here in Washington. Did you contribute to that?

A. I don't know anything about an internship or an externship here in Washington.

Q. And did you in the fifth year anniversary of Judge Porteous becoming a federal judge, there was a fifth year party with his clerks. Did you contribute any money to that?

A. Well, I mean, it came -- now I know that it was charged to my law office. I didn't attend, I didn't organize the party, and I can honestly tell you, I didn't know it was going to happen, but the office paid for it, because I read that it paid for it.

MR. SCHWARTZ: Senator, may I ask for a short break, so I can review questions and see what additional questions I would like to ask?

SENATOR JOHANNS: Sure. Why don't we break until 10:30.

(Recess.)

SENATOR JOHANNS: Let me state for the

record that we have all returned for the deposition. Reference was made at the start of the deposition about a -- about this deposition taking place under an immunity granted, so what I would like to do is make that order a part of the record.

MR. CAPITELLI: Thank you, Senator.

SENATOR JOHANNS: We'll pass that down. If you want to examine it to make sure that that's what you were referencing, that would be fine, and I would ask the court reporter to mark it, and if there is no objection, we'll make it a part of the record.

MR. CAPITELLI: Yes, this is Ralph Capitelli, this is exactly what I was referring to at the start of this deposition on behalf of my client that he was testifying pursuant to this order. Thank you very much.

(Creely Deposition Exhibit 1 was marked for identification.)

SENATOR JOHANNS: Are there any objections to making Exhibit 1 a part of the record?

MR. CAPITELLI: No.

MR. SCHWARTZ: None.

SENATOR JOHANNS: Okay, it's a part of the record then. Continue your questions.

MR. SCHWARTZ: Thank you, Senator, I appreciate it.

BY MR. SCHWARTZ:

Q. Mr. Creely, I would like to return to the question of Gary Raphael for a moment, and I apologize for that. I know it's not your favorite subject.

A. I didn't say it wasn't my favorite subject. I just don't think it's fair to attack another man in the way you're trying to do.

Q. Well, I'm not really trying to attack him. I'm just trying to establish the facts of what occurred. You had mentioned that you had talked to Judge Porteous about Mr. Raphael?

A. Yep.

Q. Did he say anything to you about what you should do with Mr. Raphael?

A. No, not that I recall.

Q. He didn't suggest to you that you should fire him if you're not happy?

A. He didn't tell me to or not to fire him. I didn't hire him, but he didn't tell me to fire him or not to fire him. I don't know what discussions you would be referring to, but in any event.

Q. You have no recollection of such a

discussion?

A. I have no recollection of a discussion.

Q. Did you -- you testified this morning that you had given gifts to Judge Porteous and given gifts to other people. Do you consider yourself someone who is -- who tries to help other people, gives them money when they need it?

A. Yeah, I've done that before.

Q. Why do you do that?

A. I don't know. I gave a homeless person $200 sitting in the French Quarter one day. I mean, I don't know why I do what I do.

Q. But you are -- you consider yourself a fairly generous person in that regard?

A. Yeah.

Q. Do you -- when you take judges and other friends out to lunch, do you consider that part of your generosity?

A. I don't take judges to lunch anymore.

Q. In the past, when you did.

A. Would I what now?

Q. Was that part of being a generous person?

A. It was part of being a friend. I don't know if you call it generous, but it's friendship.

Q. Those judges that you took out to lunch

when you did, they never -- you testified there was only one time that you recall when a judge had paid for a meal that you had invited them to?

A. Yeah.

Q. Why didn't they pay for the meal?

A. They didn't pay for the meal. I don't know why. I offered to pay.

Q. You offered to pay?

A. Yeah. Whoever was at the table with me, I offered to pay.

Q. When you had lunch with Judge Porteous -- or was it lunch and dinner or just lunch with Judge Porteous?

A. I'm sure there was a combination of both lunch and dinners that we've had together, but primarily lunch, unless we were fishing and he spent the night at my camp, we would probably eat dinner and breakfast together.

Q. Was that usually just you and Judge Porteous or would there be other people at the lunch.

A. It would vary. Sometimes just Judge Porteous and I, and sometimes there would be five or six other people and children, okay? And their kids, you know? There would be a lot of different

combinations.

Q. And you always paid?

A. Well, if I invited you to my house, if I had a house and I invited you over to my house, am I going to charge you for coming to my house? I own the place. If I take you on my boat, am I going to tell everybody, let's cut the bill up? I didn't do that with anybody. Nobody. I didn't do that with anybody.

Q. And similarly, when you took guests to a restaurant?

A. Correct. Likewise, if I would be invited by a guest, a lot of times they would pay, because they invited me to dinner.

Q. Were there times when Judge Porteous, that you participated in and Judge Porteous was a guest and someone else paid?

A. Possibly, yeah.

Q. Or other judges?

A. Yeah.

Q. And it sounds to me, but please correct me, that that was a sense on your part of being courteous and gracious and generous; is that correct?

A. I don't know what you would call it.

It's -- yeah, being courteous.

Q. And you didn't expect anything in return?

A. From Judge Porteous?

Q. Or from any of the judges that you --

A. No I can go through the list of judges that I've taken to lunch and I've gone to law school with that have run me through on several occasions, and they're still my friends, or they were still my friends.

Q. What do you mean run you through?

A. Rule against me.

Q. But you had no expectation that you were going to get any advantage from taking them out to lunch?

A. No.

Q. And you -- what about with the curatorships, did you think you were going to get any advantage by doing the curatorships?

A. I've already answered that, and the answer is no.

Q. Do you know what a kickback is?

A. You know, I actually looked up the definition and what is it, Wikipeka or whatever they call it, Wiki whatever, yeah, I have a general idea. Yeah, I know what a kickback is.

Q. What's your understanding of what a kickback is?

CONGRESSMAN JOHNSON: I'm sorry, would you repeat that? What is a --

MR. SCHWARTZ: What is your understanding of a kickback?

THE WITNESS: My understanding of a kickback is, say there's a contract to build a bridge, and I'm going to charge the customer a million dollars to build a bridge, and the customer says, well, I want a hundred thousand of the million dollars back, that's a kickback, I guess that would be a kickback.

BY MR. SCHWARTZ:

Q. Did you have any agreement with Judge Porteous in connection with either the curatorships or the meals or the money you gave him, you provided to him as gifts that there was a kickback involved?

A. No. Once again, I appeared before him three times, he ruled against me two out of three times on very large cases that I lost a lot of money on. I didn't get anything back, and I didn't expect to. That's what the Court of Appeals is all about. That's why you have a Court of Appeals on legal issues, you go to the Court of Appeals.

Every case I tried that involves a legal issue that concerns any kind of large amount of money, it's going up to the respective Court of Appeals. All legal issues are reviewable de novo by the appeals court, you know. It gets put in a book. It's used as precedent. So they're going to try to figure out what the law is before it gets published so that other lawyers don't quote the law wrong, that's how it works.

Q. But you didn't look at -- you didn't expect or Judge Porteous didn't expect, as far as you were concerned, that he was getting a kickback of any kind?

MR. CAPITELLI: Objection, can you clarify? You want him to testify as to what Judge Porteous thought concerning this being a kickback, what Judge Porteous's thought were?

MR. SCHWARTZ: To his knowledge.

THE WITNESS: I don't know what Judge Porteous had in his mind.

BY MR. SCHWARTZ:

Q. Did you consider that the money that you gave to Judge Porteous was in any way a bribe of Judge Porteous?

A. No.

Q. No?

A. No, sir, no, it was not a bribe.

Q. The lunches that you bought for Judge Porteous, were they a bribe for Judge Porteous?

A. No.

Q. And you had testified earlier that you saw no -- no linkage between the curatorships and the gifts that you gave Judge Porteous; is that correct?

A. Not in my mind, no, sir.

MR. SCHWARTZ: Senator, this has gone very smoothly today, much more quickly than I thought it would. What I would like to do, if it's all right with you, with the others around the table, is stop our questioning here, let the House do whatever cross it would like to do, and reserve five or ten minutes at the end to do any redirect that we find necessary.

SENATOR JOHANNS: Okay.

CONGRESSMAN JOHNSON: I would object, Senator Johanns. Counsel has had adequate opportunity to examine this witness on direct. He has gone over areas once, twice, sometimes three times. And in the interest of economy, efficiency and fairness, I think that once he gets his shot at

the apple, it's time for cross-examination, and redirect is just not in the best interests of justice here.

SENATOR JOHANNS: We'll go to cross-examination. You will be given a chance to do redirect. So let's proceed to cross.

MR. SCHWARTZ: Thank you.

SENATOR JOHANNS: So your objection is overruled.

CONGRESSMAN JOHNSON: Will that then give us an opportunity to recross?

SENATOR JOHANNS: Yes, this is all about trying to get to the bottom, to find the facts, so I'm going to be quite willing to allow the questioning to continue.

CONGRESSMAN JOHNSON: The only thing is we'll just have to stop at 12; is that correct?

SENATOR JOHANNS: That's our goal.

CONGRESSMAN JOHNSON: We'll have to finish by 12?

SENATOR JOHANNS: We have an hour and 15 minutes, so my hope is all of the questions will be asked by then if that's possible.

CONGRESSMAN JOHNSON: All right, we'll do our best. So at this point --

MR. DAMELIN: We'll just go switch sides.

EXAMINATION

BY CONGRESSMAN JOHNSON:

Q. Mr. Creely, you understand you are still under oath; is that correct?

A. Yes, sir.

Q. And you have been sworn to tell the truth, the whole truth, and nothing but the truth; is that correct?

A. Yes, sir.

Q. Now, tell me, is it true that you have voluntarily surrendered your license to practice law in the State of Louisiana?

A. That's correct.

Q. When did you do that?

A. I think it was effective January of 2010.

Q. And that was pursuant to a bar complaint that was initiated against you?

A. Well, that was a real peculiar set of circumstances. I testified before the House, and I testified before the -- I'm sorry -- I testified before the House, and I don't remember those dates, but it would have been prior to January 2010, and I also testified before the grand jury. I think some of those materials were sent to the Office of

Disciplinary Counsel in Louisiana.

Q. After your testimony before the House?

A. I think even the grand jury testimony may have been sent, which I don't think was appropriate. But in any event, after the grand jury testimony was given, I got a letter from the Office of Disciplinary Counsel suggesting that I may have some problems, and that they were going to not do anything until the grand jury testimony became public record, which would have been at the House proceedings.

Q. Okay.

A. Or something like that. Whenever the grand jury testimony would become public, maybe that happened after the United States Fifth Circuit Court of Appeals impeachment proceeding or the House, I don't remember. It was a very troubled time in my life, I apologize.

Q. But it was January of this year that you actually voluntarily surrendered?

A. Correct.

Q. There were proceedings already in place to discipline you for the allegations that came out in the grand jury testimony?

A. Yeah, it's peculiar. I got a

one-paragraph letter, about this big, and it had screening or something on the bottom of it. I think -- and don't quote me, this is about what I remember, pretty much this is accurate, it's screening, somebody apparently sent something to the disciplinary counsel, and then there's I guess a screening process, and it ended up on the chief disciplinary counsel's desk, and he wrote me --

Q. Kind of like under a probable cause that you may have violated the rules of ethics?

A. Professional -- yes, sir. I got a one-paragraph letter. I know of no formal charges that have ever been levied against me by the State of Louisiana Office For Disciplinary Counsel, other than I can only tell you who I think, Mr. Baron mailed a copy of my -- which is fine, mailed a copy of my testimony before the House to Mr. Plattsmeier, and -- who is the chief, he's the chief of the Office of Disciplinary Counsel for Louisiana Bar Association.

And I got a phone call from him that he wanted to me with me, I believe this is the way the scenario goes, so I had to hire another lawyer to go down there with me. And he said I'm going to begin proceedings unless you immediately agree to suspend

the practice of law. And I was confused because I envisioned that this was going to be a problem. And in all of my very large cases over the past years, I've been living in Colorado, I have systematically removed myself from lead counsel to second chair to third chair in these cases out of courtesy to my family because of the newspaper articles, and most importantly my clients because they were beginning to read all of this stuff that they love to write about things like this in New Orleans.

Q. So you've been preparing for possible disciplinary action against you which would result in the loss of your license to practice law in the State of Louisiana?

A. I suspected I was going to be embarrassed and didn't want to put my clients at peril having to go to court with -- and perhaps lose credibility with the judge, which would be to their detriment. So I stopped arguing cases for my clients' benefit probably, I think my last jury trial was 2006, maybe 2007, but I quit arguing motions in court.

Q. Are you testifying that you voluntarily surrendered your license to practice law in the State of Louisiana so that you would not embarrass your family and your clients?

A. My primary motive, I was trying to retire. After Hurricane Katrina, I lost everything I owned, my wife and I.

Q. You had no more money?

A. Pardon me?

Q. No more money?

A. Oh, I had money, but it's pretty hard to go through. I had an acreage in Colorado.

Q. Well, you did not want to retire from the practice of law at a time when you really had suffered a great financial loss, did you?

A. Well, the courts were closed for a solid year after Katrina. I dissolved my law practice and terminated all of my employees because the courthouse was flooded. It was closed in Orleans Parish for a solid year.

Q. Well, you're not really answering my question.

A. Okay, I'm very sorry.

Q. You did not intend to retire at a time when you had suffered great economic loss due to Hurricane Katrina and the courts being closed?

A. I intended to -- I had cases I had financial interests in that have these settlements have tails to where you get paid for work you've

done today three years from now, and I intended to --

Q. To follow through on those cases?

A. To follow through on those cases.

Q. So you could get paid?

A. So I could get paid.

Q. And you were also taking on other cases as well?

A. No, sir.

Q. You were not?

A. I did not take on -- I got invited to participate as lead class counsel in several cases that I declined, and I told the lawyers, which were my friends, that I would call it this Porteous business may cause me some problems one day, and out of respect to you, I don't want to put you in an embarrassing situation.

Q. Well, let me ask. This voluntary surrender of your license, it became public knowledge, did it not?

A. Yeah. Boy, did it backfire. It became headline news, and everybody wrote about it and wrote about it and wrote about it, so it had a real counterproductive effect. I could have -- and it was confusing.

Q. You may as well hung on in there, is that what you --

A. I'm sorry, sir.

Q. Is that what you're about to say, that you may as well have just hung on in there and fought the proceedings?

A. If I had to do it again, I would have hung in there and I would have agreed to a suspension, and then gone forward with the challenging of the matter at a disciplinary proceeding. I wouldn't have just resigned. I thought this would put at rest all of this seven years of you wouldn't believe the torture.

Q. The voluntary surrender, does it -- what is required for you to be able to reacquire your license to practice law?

A. I can't reacquire my license again.

Q. Now, are you also licensed to practice law in Colorado?

A. I was, and that was -- like you were saying about income, my wife and I were both licensed in Colorado. I was also required to resign or give up my license in Colorado as a condition of all of this, which I did.

Q. And so -- but it is possible for you to

get your license back through some kind of petition to the Supreme Court of Louisiana?

A. Unless I've been advised improperly, no.

Q. You would have to take the bar again?

A. I could take -- I don't think they would let me practice law.

Q. You would never be able to practice?

A. Never be able to practice for the rest of my life, right.

Q. And so you did that even though you have told this tribunal that you don't think you did anything wrong?

A. Yeah. And the reason why is just what I was telling this gentleman over here, and I'm sorry, but I misplaced his name, is that everybody has a particular skill set. My skill set is trying lawsuits.

Q. Something that you loved to do?

A. That's something I loved and would still like to do. I can't do that anymore. I try lawsuits. I didn't know what the law was.

Q. Well, you gave up that right voluntarily, even though you know that what you did with Judge Porteous, which gave rise to the bar complaint, was not, in fact, a violation of the rules of ethics; is

that correct?

MR. CAPITELLI: I don't know if that was his answer, but go ahead and clarify.

THE WITNESS: My answer is I'm apparently wrong, and that's what I'm saying. I didn't know that that was an unethical act, because I didn't have any business in front of him. The way I looked at it is, and I don't mean this -- if you were my best friend and you were a representative, and I didn't have any business in this whole place, didn't do anything before the House of Representatives, and you said I need money, I can't -- I need some help.

BY CONGRESSMAN JOHNSON:

Q. So there was no quid pro quo?

A. No.

Q. And there was nothing wrong with you helping out your friend, Judge Porteous?

A. In my mind, but not in the bar association's mind.

Q. So you just gave up without a fight and voluntarily surrendered and can never get your law practice -- your law license reinstated?

A. Yeah, because the act --

Q. That's what you've testified to?

A. That's correct, and to defend this matter

before the bar association, to defend the matter probably would have cost me upwards to the neighborhood of -- I've heard horror stories from friends to where they spent $450,000 in legal fees. Lawyers aren't cheap.

Q. What was your gross income for the year 2009?

A. What was my income?

Q. Gross income.

A. My gross income was probably in the $80,000 range.

Q. Let me ask you this: You say that you did not practice before Judge Porteous with the exception of three matters. One was a jury trial that you won a verdict on, $400,000 I believe was it? How much was the verdict?

A. The verdict? I want to say it was around $400,000, something like that.

Q. Or was it your attorney's fee that you finally got out of the case about $400,000?

A. Oh, no. The amount of money I got, if my memory is correct, was less than $400,000, gross to the client, and then that got zeroed out because of the insurance company went broke. I was trying to test the solvency of that. Okay, I went through

that.

Q. Yes.

A. The insurance company went broke, so I got zero. So then I had to file --

Q. So you didn't get any money out of the jury trial that you tried before Judge Porteous?

A. No, I got zero. I had to sue the state.

Q. Then you tried a, in effect, a guardianship case?

A. Yes, sir.

Q. Before the judge. It was a bench trial. And you were successful at that?

A. Uh-huh.

Q. And thereafter -- and those cases took place in state court, but thereafter there was a Federal District Court matter that was assigned to Judge Porteous randomly, a petition for an injunction, for a restraining order?

A. The defendants filed it.

Q. In state court. Excuse me, they filed it in Federal Court to remove a matter from state court.

A. Well, to enjoin the state court is the way I remember it. I don't remember all the nuts and bolts of the motion, but it was to enjoin the

state courts issuing an order because it was a federal statute I never heard of before, the MMTJ.

Q. And those were the only three matters you had before Judge Porteous personally?

A. Yes, sir.

Q. But you were a member of the law firm, correct?

A. Yes, sir.

Q. And your law firm partner was a man by the name of Mike Amato?

A. Jake Amato.

Q. Jake Amato, I'm sorry.

A. That's okay.

Q. And Mr. Amato, during the time that you were taking the judge to lunch and dinner and during the time -- and you were paying for the meals, and during the time that you fished and the times that you went on hunting trips and you paid for those excursions, and you were giving the judge cash money during those times, Mr. Amato did have matters before Judge Porteous; isn't that correct?

A. In state court?

Q. Yes.

A. I don't know. I don't -- I don't recall that he did. You would have to ask him. I don't --

I don't know if he did. You would have to ask Mr. Amato that.

Q. Now, you and Mr. Amato were the only principals in the firm?

A. Right. Yes, sir.

Q. But you had associates?

A. Yes, sir.

Q. How many associates did you have at your highest level? When I say at your highest level, I mean at the time when you had the most associates working for your law firm, how many associates would that have been?

A. I would say three or four lawyers.

Q. And what kind of work were they doing?

A. They were primarily doing Amato's -- Mr. Amato had a personal injury practice.

Q. Went to court quite a lot on that personal injury practice, didn't he?

A. Yeah, I think mostly the associates did a lot of that work.

Q. And those associates would be required to go to court, go to trial or at least do motions on those personal injury matters, correct?

A. I would imagine so, yeah, sure.

Q. And that was a pretty good hunk of the

business of Amato & Creely, correct?

A. Jake's stuff?

Q. Yeah.

A. It was -- yeah.

Q. That was his contribution to the --

A. Oh, sure, yes, sir.

Q. And so those associates you knew were appearing before Judge Porteous, correct?

A. I don't know that.

Q. You don't know?

A. If they were, they did. I mean, you would have to -- I don't know any specific case. You would have to ask Amato that. Mr. Amato and I didn't have the most perfect marriage, but we stayed married.

Q. Well, I tell you, you were business associates?

A. Yes, sir.

Q. And you did things together?

A. Yes, sir.

Q. And you -- it was a partnership where all of the money that was earned by the firm was placed into a firm bank account, correct?

A. Yes, sir.

Q. And out of that bank account, the firm

paid its expenses?

A. Yes, sir.

Q. And it also paid the senior partners, yourself and Amato?

A. Yes, sir.

Q. By way of weekly draws?

A. Yes, sir.

Q. And the draws were basically equal I think you've testified to, with some exceptions?

A. Correct.

Q. But as a rule, pretty equal, correct?

A. Yes, sir.

Q. And so you agreed with Mr. Amato on numerous occasions to pay money to Judge Porteous?

A. Yes, sir.

Q. You gave Judge Porteous cash after these requests were made?

A. Yes, sir.

Q. By Judge Porteous?

A. Correct.

Q. Didn't give him a check?

A. Didn't give him a check.

Q. Gave him cash?

A. Cash.

Q. Because cash was not traceable?

A. Cash is only traceable if you deny it -- I mean not traceable if you deny it. A cash business is a legitimate business. If you lie about it, it's not right. I haven't lied about it.

Q. But you were given immunity from the use of your testimony in criminal proceedings by the federal grand jury, correct?

A. And I've never one time --

Q. No, is that correct?

A. Yes, sir, that's correct.

Q. Okay. And so you knew that if you told the truth, you could not be prosecuted for perjury?

A. Absolutely.

Q. Or obstruction?

A. (Witness nods head.)

Q. Or making a false statement of any kind, obstruction of justice, correct?

A. Correct.

Q. So you had an incentive to tell the truth?

A. I would have told the truth regardless.

Q. And you did not reveal the truth that you were funding through cash payments president -- excuse me, Judge Porteous's lifestyle until you had been granted immunity from prosecution, correct?

A. That was one of the -- yeah. Yes. That was one of the requirements that was offered to me, I don't even think we bargained for it. I'm looking at my lawyer. It was, here's your immunity, come to the grand jury. We didn't like --

Q. I mean, come on now, Mr. Creely. You don't think that the grand jury, that the U.S. attorney's office would just issue you a blanket grant of immunity on its own motion without your lawyer actually requesting that for you?

A. I'm sure he asked for it. You would have to go through the scenario, but it was not lie --

MR. CAPITELLI: Can you clarify between a negotiated immunity or a -- for a plea bargain type thing versus a forced immunity where the Justice Department gives immunity, says they're going to call someone to testify, and then the lawyer asks for immunity and it's provided?

BY CONGRESSMAN JOHNSON:

Q. Bottom line, you received immunity before you revealed the fact that you were making cash payments to Judge Porteous, correct?

A. I was given forced immunity I think is the word I was looking for, yeah.

Q. You were given forced immunity?

A. Forced immunity.

Q. And you asked for immunity?

A. I believe upon advice of counsel, they asked -- I asked for immunity, yeah.

Q. And so once you were granted that immunity, that's why you told the truth, correct?

A. That's not the reason I told the truth, but that is part --

Q. Well, what is the reason that you told the truth?

A. Because I'm not going to stand -- I'm not going to lie about the situation, you know? I could have been given immunity and lied about the situation. Nobody's showing me a cash payment I made. I've always voluntarily tried to cooperate with you guys. When I say you guys, everybody, and I've been nothing but slammed for it. I've done everything I can to cooperate, every corner, every time anybody asks me to come talk to them, I tried to cooperate.

Q. Well, you know that you were under oath then, correct, when you testified before the grand jury?

A. Yes, sir.

Q. And you were also under oath when you

testified before the investigatory panel for the House of Representatives, correct?

A. Yes, sir.

Q. And you were also under oath when the Fifth District judges interviewed you pursuant to a inquiry into Judge Porteous, correct?

A. I was under oath I think at least two other times.

Q. Yeah, you were under oath before the House of Representatives in a hearing?

A. And a deposition I think they took of me.

Q. They took a deposition and you were under oath, and you were also under oath when you testified at the House of Representatives?

A. Always.

Q. And so from the time of your grand jury testimony, which was the first time you testified under oath, correct?

A. Yes, sir.

Q. You have had to be consistent in your subsequent sworn statements with what you said in the grand jury proceeding, correct?

A. You attempt to be consistent, yeah. It's hard to be, but you try to be as consistent as possible.

Q. So that's why you are not lying, that's why you have to tell the truth, correct, today?

A. Yes, sir, you have to tell the truth.

Q. It's not because of any great moral conviction, but it's simply because you've been granted immunity from criminal charges except insofar as perjury or false statements or obstruction of justice is concerned, correct?

A. Yeah, I guess the answer is correct.

Q. Now, your partner and your associates may -- or did have cases pending in Judge Porteous's courtroom during the time that you and your partner were giving Judge Porteous cash money under the table; is that correct?

A. I don't know if my associates had cases in front of him. They could have. I don't know that. I didn't have an associate that had a case in front of Judge Porteous. That's why I'm saying, I think the best evidence would be Mr. Amato, and I wouldn't doubt anything he said about that.

Q. Well, and the fact is that you and he being partners in business together, paying expenses equally, correct?

A. Yes.

Q. And sharing firm profits equally?

A. Correct.

Q. You wanted to help him along with his practice as much as you could, correct?

A. Of course.

Q. And so you and he paying Judge Porteous cash was a joint enterprise between you and Mr. Amato?

A. Yes.

Q. And you did that because Mr. Amato asked you to do it, correct?

A. I agreed to do it.

Q. Now, Judge Porteous I think you testified to on some occasions came to you directly and asked for money?

A. Yes, sir.

Q. But most of the time, it was through Amato that the request was made by Judge Porteous for money?

A. I don't think that I testified to that. I think my testimony was --

Q. Well, is that true or is that false?

A. I would think that would be inaccurate, yes, sir.

Q. That would be inaccurate?

A. Yes. I think most of Judge Porteous's

requests while he was on the district bench would have been to me.

Q. But you would go to Mr. Amato and say, listen, the guy's hitting me up for some change, and let's go ahead and give it to him, correct?

A. Yes, sir.

Q. Amato would sometimes come to you and say the same thing, correct?

A. I can't deny that, but that's not usually the way it -- that's not usually the way it worked. Usually he came to me for whatever reason, but he came to me.

Q. But the famous fishing trip where Judge Porteous broke down and confessed, I guess, to your law partner Mr. Amato that he needed some money for either his son's tuition or his child's tuition or his son's wedding, he did ask you, Mr. Amato, to share in that gift, if you will, to --

A. Yes, sir.

Q. -- Judge Porteous, correct?

A. Yes, sir.

Q. And you didn't hesitate?

A. No, I hesitated, but I did it. I hesitated. And I said I'm not doing this anymore, and it dragged --

Q. But you did it?

A. I did it. I did it.

Q. Did you do it because your partner asked you to do it?

A. Well, the judge didn't ask me to do it. My partner asked me to do it, and I don't know whether --

Q. And you knew that it would help your partner if you consented, correct?

A. It would help him?

Q. Yeah.

A. With the judge?

Q. Yes.

A. I don't believe that Judge Porteous would have ruled one way or the other with all this -- whether we gave him the thousand dollars, two thousand dollars or not.

Q. Well, let me ask you now, this payment for his child's tuition or for his son's wedding, $2,000, correct?

A. Yes, sir.

Q. You contributed a thousand?

A. I gave that to Mr. Amato, yes, sir.

Q. Both you and Mr. Amato drew a draw from the law firm account, and out of those proceeds, you

both converted the checks to cash, and then each of you contributed $1,000 cash --

A. I gave --

Q. -- to Judge Porteous?

A. I'm sorry. I gave Mr. Amato a thousand dollars, that's what I did.

Q. In an envelope?

A. No, I handed him a thousand dollars cash.

Q. And then the envelope was then given to Judge Porteous?

A. That's what I understand. I've read this, and that's what I understand. I read testimony refuting that, I believe, but my understanding is it was placed in an envelope and given to Judge Porteous's secretary. That's my general understanding.

Q. Okay. And this happened while Judge Porteous was serving as a Federal District Court judge, correct?

A. Yes, sir.

Q. Now, that was at a time when the Liljeberg case, also referred to as the Littlejohn -- Lifemark case --

MR. CAPITELLI: Lifemark.

CONGRESSMAN JOHNSON: -- was pending

before Judge Porteous, correct?

THE WITNESS: Absolutely. Yes, sir.

BY CONGRESSMAN JOHNSON:

Q. And so the firm is basically giving cash money to Judge Porteous who is handling a case that the firm has an interest in?

A. Yes, sir.

Q. Has a financial interest in?

A. Yes, sir.

Q. And this was a potential multimillion dollar verdict?

A. Potentially, yes.

Q. In a class action lawsuit, correct? Or it wasn't a class action?

A. It wasn't a class action.

Q. It was a complex litigation?

A. Which I knew nothing about because I asked Mr. Amato about that.

Q. But you did know there was a lot of money that was at stake potentially?

A. Yeah. Yes, sir, that's correct.

Q. And you wanted to get that money?

A. Of course, we all like to make money, yeah.

Q. And you knew it would look bad if you

gave Judge Porteous a check for a gift, right?

A. No question about it. It was a bad thing to do.

Q. Yeah.

A. I do know that was a bad thing to do.

Q. It had at least an appearance of impropriety?

A. Absolutely.

Q. But you would defend against that appearance by saying that it was only a gift?

A. Yeah, because -- do you want me to explain why? If you don't, I'll just answer. The reason being is that the limited amount of knowledge I had about that case -- and understand also they had a guy named Don Gardner who was on the other side, the guy's trying to, whatever he was doing, but that case was going to go to the Fifth Circuit Court of Appeals, no matter what happened in the District Court.

Q. Well, let me ask this question. You were aware that Judge Porteous may have been taking money from other lawyers, correct?

A. I think that probably, from my experiences, yeah. If he was your close, close friend, I think that -- I don't think I was an

isolated situation, but from just reading all this stuff, they seemed to mostly deny a lot of that, and it may be correct. It may be accurate what they're denying.

Q. Well, let me ask you this: You had no idea whether or not Don Gardner, the lawyer on the other side of the Liljeberg case --

A. It's a funny name, I don't understand it.

Q. You had no idea whether he was paying Judge Porteous cash money as gifts or not, correct?

A. Well, yes, sir. I think I testified on one occasion that he mentioned that he did. I think. But putting that in a time frame, I can't tell you the year, but he mentioned that to me, okay?

Q. Was it before the Liljeberg case?

A. That's what I'm trying to tell you. I can't put that in a time frame ten years ago.

Q. Okay. Well, at the time of the Liljeberg case, did you have reason to suspect that Judge Porteous was accepting cash money from the opposition on the Liljeberg case?

A. Do you want me to speculate?

Q. I asked you, did you have reason to believe or to suspect?

A. Did I suspect? I suspected that Judge Porteous is a very manipulative man, and I didn't think that I was the only person being leaned on by Judge Porteous.

Q. And so you thought it would be -- you and Mr. Amato thought it would be in your best interests to go ahead and kick Judge Porteous some cash money under those circumstances, correct?

A. That's not -- if you want to twist it that way, but that's not the way it was. I didn't think I was gaining influence from Judge Porteous by doing that, okay? I can only tell you that. And the reason being is that Mr. Amato was on one side of the case, Mr. Gardner was on another side of the case. Mr. Gardner went to the Las Vegas trip with me. I was never alone with Judge Porteous at any time on any of these -- this trip that's been made an issue here. And so -- and this case was never going to resolve itself in District Court. It was going to always, always, always go to the United States Fifth Circuit Court of Appeals.

Q. Well, certainly you would be helped by any pretrial and trial rulings that were made by Judge Porteous that would be favorable to your client or to the firm's client?

A. Regarding the cash of $2,000?

Q. No, regarding the Liljeberg?

A. Yeah, the Liljeberg case, you're talking about the $2,000 payment that we made?

Q. Yeah.

A. That case was under advisement. There were no more motions to be heard on that case.

Q. At the time that you gave the $2,000?

A. Yes, sir. It was under advisement for three years, I believe three years.

Q. And you had no idea whether or not Judge Porteous was getting payment from Don Gardner, the attorney on the other side?

A. I didn't care.

Q. At that time?

A. And I didn't care if he was. I didn't care.

Q. Did you ever consider that he may be giving money?

A. I tell you I had suspicions, but I had no proof, I had no proof of that. And the bottom line is -- I'm sorry.

Q. The bottom line is that Judge Porteous, as a Federal District Court judge with a matter pending before him, an official matter, hit Amato &

Creely or Creely & Amato up for cash money?

A. However you want to phrase it, hit me up, yep. He asked my law partner for $2,000.

Q. But you're not going to say that he had a bad reason for asking you for the money? You're not going to say that?

A. No, I don't believe that he -- he was asking, if I had -- I would have asked for more if I wanted a favor back from a multimillion dollar judgment, but he didn't. He asked for $2,000. If I was going to go in the tank, I would go big. I wouldn't go for $2,000.

Q. Well, some folks do a big lick and other folks just do it over the course of time, correct?

A. Yes, sir.

Q. And your testimony is that at least $10,000 cash over a ten-year period you gave to --

A. A thousand dollars a year, a month -- I mean a year, correct, that's $183 a month, yeah. That was ten years prior to that or five years prior to that.

Q. It could have been more?

A. Yeah, it could have been more, but I don't think it was.

Q. Now, there were also trips to Las Vegas.

A. That was a trip to Las Vegas.

Q. There were not two?

A. It was a trip to Las Vegas, I don't remember when it was, ancient --

Q. Was that the September 1990 fund-raiser for Bill Hall, correct?

A. Yeah, I left the group, I went home. I left everybody.

Q. But you were -- you took a trip to Las Vegas with Judge Porteous and others in connection with the Bill Hall fund-raiser in September of 1990, correct?

A. I gave Bill Hall a campaign contribution, and for that contribution, that was a trip to Las Vegas that we all went on is the way I recall. And on that trip, I recall a number of judges from Jefferson Parish being on that trip, Judge Cusimano was on that trip, there were a lot of people, they were all friends. And I spent the first night there, and I said I'm out of here, I can't take this anymore, I'm going home. I went and got on a plane and left.

Q. Did you give Judge Porteous any money in connection with that trip?

A. No, sir. I left the trip. I wasn't on

the trip 12 hours, and I got -- we got there at midnight, I think we left New Orleans at 11, we got there late that night, I think I spent the night and got up and went to the airport and took a special flight back to New Orleans, I said I'm out of here, I left.

Q. Then there was another trip to Las Vegas in January of '91, correct?

A. I'm not familiar -- what is this about?

Q. That's the one where the judge approached you as you were sitting at the poker table and knocked your chips down?

A. No, I don't believe that was in Las Vegas. That wasn't in Las Vegas.

Q. Where was that?

A. I don't know. I remember him being, and the best way I can say it is obnoxious with me.

Q. So if it was not in Las Vegas, then it means that there was a second gambling trip somewhere?

A. Either that or that we -- it could have been on the Gulf Coast, it could have been in New Orleans, it could have been someplace.

Q. So there may have been more than two gambling trips then, correct?

A. Yeah, more than the two Las Vegas trips, but not -- when you say trips -- I'm sorry.

Q. The bachelor party --

A. Uh-huh, yes, sir.

Q. -- for Judge Porteous's son, was that in Las Vegas?

A. Yes, sir.

Q. Was that a third trip to Las Vegas?

A. I don't recall three trips to Las Vegas. I only recall the two that you mentioned, the Bill Hall trip, which I did previously testify to, and the bachelor party.

Q. You do recall a CLE trip, continuing legal education trip to Vegas?

A. I don't -- you know, I don't recall a CLE trip to Vegas. We did a lot of CLE trips to the Gulf Coast, the Jefferson Bar Association did. They put on trips to casinos on the Gulf Coast, the Isle of Capri Casino was one, and we used to go to those. I don't know if I went to the gambling ones. I went to the ones before, like at the Emerald Beach before gambling was legal.

Q. Well, let me ask you this: You lied to the FBI about Judge Porteous, correct?

A. Correct.

Q. And you lied to them when?

A. Are you talking about the 1994 interview?

Q. Were there any other occasions that you lied to the FBI?

A. No, sir, not that I recall.

Q. And so you lied to the FBI because you wanted Judge Porteous to be successful in the nomination that he had received to the Federal District Court, correct?

A. I didn't want to hurt the man.

Q. So you lied?

A. I didn't tell the complete truth.

Q. Uh-huh. So you lied?

A. However you want to call it, Congressman. You can pound it in me as much as you want.

Q. Yeah. And this was at a time when you were pretty much sick and tired of the cash payments, being hit up for by Judge Porteous for the cash payments, correct?

A. I had been sick and tired of it for a long time before that, but yeah.

Q. And you considered it to be an abuse of your friendship?

A. Yes, sir.

Q. But you had cases pending, the law firm

had cases pending before Judge Porteous at the time you made the false statement to the FBI?

A. I can only tell you that I don't -- I don't know what cases were pending before Judge Porteous at that time. I can only tell you the only two cases I know about are the ones I was involved in. I'm not aware of any other cases. The best evidence to that would be Mr. Amato, and I would defer completely to his testimony on that issue.

Q. But you continued to view your relationship with Judge Porteous as one of friendship up until 2003, is what you testified to today; is that correct?

A. Yes, sir.

Q. And in 2003, that was when the FBI came to talk to you again about Judge Porteous?

A. Yes, sir.

Q. But this time it was about alleged corruption by Judge Porteous?

A. Yes, sir.

Q. And the FBI asked you about the curatorships?

A. Yes, sir.

Q. And at that point, you kind of cut off the relationship with Judge Porteous?

A. In 2003? The curators had been over with for seven years by then, nine years.

Q. Well, I know that, but, again, 2003 when the FBI came to talk to you, you halted your friendship with Judge Porteous?

A. Right, because on advice of counsel, I didn't want to talk to Porteous, have anything to do with Porteous to risk the implication that I was trying to confound any proceedings. I don't know what the proper terminology is criminally, but let's say obstructing justice in any way, I said I'm not going to have anything to do with Judge Porteous until this is all over with.

Q. Prior to that time, you continued your friendship and you continued to give Judge Porteous cash money on occasion?

A. No, I haven't given judge -- the only cash money I gave to Judge Porteous was 1999 after he became a federal judge. The $2,000 that we were talking about.

Q. You testified today that at first you considered the requests for money to be out of friendship?

A. Yes, sir.

Q. And but later you started feeling like

you were being taken advantage of?

A. Yes, sir.

Q. And you continued to give cash despite that, correct?

A. Yes, sir.

Q. You gave a false statement to the FBI in '94, correct?

A. I wasn't a hundred percent forthcoming with them, yes, sir.

Q. And you and Judge Porteous continued to go fishing?

A. Yep. Yes, sir.

Q. And did you all continue to hunt during that time period as well?

A. Probably. We -- hunting and fishing seasons would come and go in Louisiana, and I probably took him hunting, duck hunting.

Q. And all during that time, you were receiving the curatorships from Judge Porteous?

A. That's before '94?

Q. Yes.

A. Yes, sir. What's the question?

Q. And the curatorships yielded about $200 apiece or $175, whatever the case might be?

A. I've read the testimony, yeah, $175,

$200, something like that, yes, sir.

Q. And so I believe you have admitted in a previous proceeding that it could have been upwards of $40,000, the curatorships from Judge Porteous?

A. I didn't admit that. I don't think I testified to that, I think Mr. Baron testified to that in his opening statement to the House of Representatives is my understanding, but --

Q. Would you disagree with that figure?

A. I would have to get the number of curators, which I still don't know how many they were today.

Q. Would you disagree they would amount to approximately $40,000?

A. If you take the math and multiply it times the number of curators I got, whatever that number is, sir, I don't dispute --

Q. You said there were about a hundred curatorships you testified to today, correct?

A. That's what I thought at the time of my testimony, but I subsequently found out, I believe somebody from the House of Representatives asked for the list, and I said I knew there was a list, I testified to that at the grand jury. Somebody then got the list from our office computer, and I believe

--

Q. Okay. Well, let me stop there.

A. I'm sorry.

Q. Because my time is escaping.

A. I understand, sir.

Q. Gary Raphael, the attorney that Jake Amato hired, you both were responsible for paying him?

A. Yes, sir.

Q. And he actually was assigned to you on occasion to go to court?

A. He would very rarely go to court for me from my recollection.

Q. And Judge Porteous was the person who referred Mr. Raphael to Mr. Amato?

A. Correct.

Q. And you didn't like the services that were being rendered by Mr. Amato? They were not -- excuse me, by Mr. Raphael. They were not suitable for your end of the practice, correct?

A. What I used him for was to do paperwork, to do research, not to go to court. He's not a trial lawyer, and there's nothing wrong with not being a trial lawyer.

Q. Well, what do you mean he was not a trial

lawyer, what was he good at?

A. Working papers.

Q. He was good at working papers?

A. Putting pleadings together.

Q. And so you never did complain about his level of performance for the firm?

A. Did I ever complain about his level of performance for the salary he was getting, I don't know why he worked for us other than he had a very wealthy wife, I don't know why the man continued to work for us. I don't believe the salary was very high. We didn't pay him very much. So he was like -- I don't want to say anything to offend the gentleman, if you can understand. He did good at what he did.

CONGRESSMAN JOHNSON: Senator Johanns, I would at this time like to yield to co-counsel.

SENATOR JOHANNS: How much more time do you have?

CONGRESSMAN JOHNSON: About 20 more minutes.

SENATOR JOHANNS: I know it's 20 more minutes to 12, but how much more time do you have in questioning?

MR. DAMELIN: Probably five to ten

minutes.

SENATOR JOHANNS: Okay. And are you anticipating additional questions?

MR. SCHWARTZ: Yes, Senator, I am.

SENATOR JOHANNS: How much time would that be?

MR. SCHWARTZ: Probably ten minutes.

SENATOR JOHANNS: So we should be able to wrap this up around noon, but go ahead.

MR. DAMELIN: Okay, thank you.

BY MR. DAMELIN:

Q. Just to clarify some things that were testified to this morning, Mr. Creely. Let's go through, if we can, quickly the chronology with you and Judge Porteous and giving him money over the years, okay? While Judge Porteous was on the state bench, would he ask you for money?

A. Yes.

Q. And you would at first give him the cash that he asked for; is that correct?

A. Correct.

Q. And then did there come a time where you told him, specifically told him that you were not going to continue to give him cash?

A. Yes, I told him I was put out by having

to give him cash.

Q. You made that clear to him?

A. Very clear to him.

Q. And after that time, did Judge Porteous start sending you a large number of curatorships?

A. Over a ten-year period of time, there were a large number.

Q. After you told Judge Porteous that you were not going to give him money pursuant to his request, did he start to send you an increased number of curatorships?

A. Started sending me curators. I can't tell you how many. You have the records. You tell me.

Q. Answer my question, did he start sending you an increased number of curatorships?

A. Started sending me curators.

Q. Did you want those curatorships?

A. No.

Q. Did you request those curatorships?

A. No.

Q. Did Porteous at one or more points in time call your office checking on the curatorships?

A. Yes, and I've testified to that before.

Q. Can you just answer the question?

A. Yes.

Q. And then did he also on or about the time he called checking for the curatorships, did he also ask you for money?

A. At the same telephone --

Q. Not necessarily the same call, on or about the time that he called?

A. Yes, sir.

Q. And did you discuss Porteous's request for money with Mr. Amato?

A. Yes.

Q. And did you and Jake, you and Mr. Amato, jointly decide to take equal draws and then give the money to Judge Porteous that he had requested?

A. Yes.

Q. And is it correct that your estimation is both you and Jake gave him approximately $10,000 apiece over that period of time?

A. Yes.

Q. And after Judge Porteous took the federal bench, did he send you any more curatorships?

A. No.

Q. And after Judge Porteous took the federal bench, but for the one time that you've talked about in connection with the request on the fishing boat,

did you ever give Judge Porteous any money again?

A. No, sir.

Q. Okay. So after the curatorships stopped, other than one time, you didn't give him any money?

A. Our relationship pretty much got distanced.

Q. Could you just answer?

A. Yeah.

Q. And did you feel that the giving the money, did you feel uncomfortable doing this?

A. Yes.

Q. Did you feel, in fact, put upon by him?

A. I'm sorry?

Q. Did you feel put upon by him?

A. Yes, sir.

Q. Now, turning to the bachelor party in Las Vegas in May of 1999, this was while the Liljeberg case was under advisement, correct?

A. Correct.

Q. So Judge Porteous had not yet made a decision?

A. That's correct.

Q. Okay, we talked earlier, Mr. Schwartz had asked you about what you had paid for. You recall paying for a meal?

A. Yes, sir.

Q. Okay. You had some issue about whether or not you paid for his hotel room?

A. I did.

Q. Okay, did you also, and you testified to this in your grand jury testimony, did you also after the meal go with Judge Porteous, his courtroom bailiff, a fellow by the name of Ricky Windhorst, and another group of people to a strip club?

A. Yeah.

Q. Okay, and did you also at that strip club give one or more women a hundred dollars in cash for lap dances for Judge Porteous and Mr. Windhorst?

A. Yes, and I left the club immediately thereafter.

Q. Okay, but you did --

A. Yes.

Q. In addition to the other expenses we talked about, you also paid $200 in cash for the lap dances, correct?

A. Yes.

Q. Okay, and this monies that you paid in Las Vegas, the meal, the hotel room, and the lap dances, were those monies that came from the funds of Creely & Amato?

A. They would have been out of my pocket. It's my money, I guess.

Q. When you charged the meal, for example, on the American Express card, was that paid by you personally or that was paid by the firm of Creely & Amato?

A. Amato & Creely paid it.

Q. Okay. Now, on at least one occasion, to your knowledge, did Judge Porteous or his secretary come over to the firm to pick up money that he had requested?

A. One occasion, it's my understanding his secretary did.

Q. Did you personally complain to Judge Porteous about that practice?

A. I think that was the thousand dollars each --

Q. Did you personally complain to Judge Porteous?

A. No, not on the two thousand. If the two thousand dollar one is what you're talking about, no, I did not complain. I complained to my law partner because I didn't talk to Judge Porteous --

Q. Did you ever complain to Judge Porteous about sending his secretary over to come over and

pick up money at the firm?

A. I may have.

Q. Okay. You had mentioned earlier this morning that some other judges may have sent you curatorships over a period of time; is that correct?

A. Yes, sir.

Q. Okay. Did any of those judges ever ask you for cash either before or after they sent you the curatorships?

A. No.

Q. Okay. Did you ever give any of those judges that sent you those curatorships money?

A. Campaign contributions?

Q. No, not campaign contributions. Money.

A. No.

Q. You and Mr. Creely were --

MR. CAPITELLI: Amato.

MR. DAMELIN: Oh, excuse me.

BY MR. DAMELIN:

Q. You and Mr. Amato were true partners from about the mid '70s through about 2005; is that correct?

A. Yes, sir.

Q. Was that clear to everybody?

A. It was clear to me. Clear to the United

States Government. I guess clear to everybody else, taxes.

Q. And any of the money you ever gave to Judge Porteous over the period of time, did he ever pay you back any of this money?

A. No.

MR. DAMELIN: I have no further questions.

EXAMINATION

BY MR. SCHWARTZ:

Q. I just have a few questions, Mr. Creely. And I'll raise my voice so you can be sure to hear.

MR. CAPITELLI: Thanks for both of us. We appreciate it.

BY MR. SCHWARTZ:

Q. Have you told the truth today?

A. Yes.

Q. Have you told the truth because you have immunity?

A. No.

Q. You would tell the truth regardless?

A. Yes. I have nothing to lose. I'm not a practicing lawyer anymore. I have nothing to lose by lying, nothing, nothing. I can't support my family right now. I have nothing to lose. I want

you to understand that.

Q. Thank you. The Congressman referred to your paying money under the table --

A. I'm sorry?

Q. The Congressman referred to your paying money, quote, under the table to Judge Porteous. Did you pay money under the table to Judge Porteous?

A. Like under the table like this? No, but it's a characterization that makes the scenario look -- make me look bad and make the whole thing look bad, that's a characterization of what happened.

Q. Do you agree with that characterization?

A. No, but it is what it is, okay?

Q. But did you ever hide the fact you were giving money to Judge Porteous?

A. No.

Q. Were you embarrassed by the fact you were giving money to Judge Porteous?

A. I am now.

Q. Were you at the time?

A. As I mentioned, I didn't -- my actions in helping a friend, I didn't think I was doing anything wrong. I was grossly mistaken, and I'm paying for that error in judgment, gross error in judgment.

Q. But at the time, you thought it was all right?

A. As long as he wasn't doing anything for me, yes.

Q. And in your view, he was not doing anything for you; is that correct?

A. That's correct.

Q. You testified that you stopped talking with Judge Porteous after 2003. Was that because there was an investigation going on?

A. Yeah.

Q. Was that the only reason?

A. Yeah. Well, that and that I was -- it was coming to light that I had -- my friendship had been abused severely by him because then the newspaper and the different people started talking that I wasn't necessarily the only friend he was beating up on, if you want to use a slang word. I began to feel like, hey, maybe I got taken advantage of, you know. And so I rid myself of the guy, say I don't have anything to do with him anymore for multiple reasons.

Q. Why did you think you were being taken advantage of?

A. Because I don't believe what he told me

he needed the money for was actually what he was spending the money on. In other words, he lied to me. I think he was --

Q. Do you have any proof of that?

A. Do I have any proof of that?

Q. Yes.

A. No, but -- no, I have no proof of that.

Q. But is that the reason why you felt you were being put upon by Judge Porteous, because he was -- because you thought he might be using the money for other purposes than what he said?

A. That became -- that started to come to light after a while, that he was using the money for the purposes other than what he was asking for.

Q. And that had to do with gambling and other expenses?

A. I'm sorry?

Q. That had to do with gambling or other things?

A. Probably a combination. I don't know.

Q. But if he had used the money for the purposes you thought he was using it for, would you have been upset with him?

A. Would I have been upset with him?

Q. Yes.

A. No. I'm still upset that he kept asking me. It gets old after a while. Even if it's for an honorable cause, I got tired of it.

Q. You got tired of it. Why?

A. I don't know. You got a hundred bucks you want to lend me? I got tired of giving him money.

Q. When you had your discussion with Mr. Amato regarding the $2,000 that was given to Judge Porteous after the fishing trip, did you talk about the Liljeberg case at all with Mr. Amato?

A. The river barge case?

MR. CAPITELLI: The Liljeberg case, did you talk about that?

THE WITNESS: No, I wouldn't know what to talk to him about the case about. It was a very convoluted case from what I understood. I didn't talk to him about that case.

BY MR. SCHWARTZ:

Q. But when you had your discussion with Mr. Amato about giving -- that Mr. Amato was giving him $2,000 and you were going to contribute a thousand, did that case ever become -- was that part of your conversation in any way?

A. No.

Q. And did you feel that in any way would affect Judge Porteous's decision in that case?

A. No.

Q. You took a number of other -- you testified that you took a number of other state judges out for meals, for lunches and dinners; is that correct?

A. That's what I testified to.

Q. Okay. Did you give any of those judges campaign contributions?

A. I'm sorry?

Q. Did you give any of those judges campaign contributions?

A. Absolutely. Yes.

MR. CAPITELLI: I would like to clarify. Not at the dinners directly, you gave them campaign contributions?

THE WITNESS: I didn't give them directly. I mean, I have to qualify everything I say. I'm tired, I'm sorry, I flew in from New Orleans yesterday. I'm here, but this has been going on for 30 years with all this stuff. Yeah, but I gave their campaign, whoever it is, money for them, for their campaign.

BY MR. SCHWARTZ:

Q. And did you also appear before those judges?

A. Yes, sir.

Q. Did you feel that giving them campaign contribution was in any way affecting their decisions?

A. No.

Q. For or against you?

A. No.

MR. SCHWARTZ: That's all I have, Senator. Thank you.

EXAMINATION

BY CONGRESSMAN JOHNSON:

Q. Why did you fly into New Orleans yesterday instead of coming directly to Washington, D.C.?

MR. CAPITELLI: I'm sorry, please repeat that.

BY CONGRESSMAN JOHNSON:

Q. Why did you fly into New Orleans yesterday instead of coming directly to Washington, D.C.?

A. That's what I did. If I said that wrong, I misspoke. I flew from New Orleans to Washington, D.C.

Q. Why did you -- but you're living in Colorado now?

A. No, no. I moved back to New Orleans.

Q. So you didn't fly to New Orleans from Colorado on your way to --

A. No, sir.

Q. Okay.

A. I flew from New Orleans to D.C.

Q. Now, sir, when the FBI came to talk to you in 2003, all was well between you and Judge Porteous up to that point; is that correct?

A. The answer yes, but no, because there was so much going on in this thing since -- the FBI didn't just pop up and something went wrong. This stuff began to be rumored for a number of years, if my memory serves me correctly, that there was a problem with Porteous, Judge Porteous.

Q. But you weren't angry with him at that time of the FBI?

A. I was getting there.

Q. You were getting there. But were you or were you not angry with Judge Porteous?

A. Disappointed, I was hurt, but I wasn't -- the day the FBI interviewed me, that day was the worst day that anybody could have possibly

interviewed me, sir, that's all I can tell you.

Q. Well, but you told them the truth, right?

A. I attempted to.

Q. And you testified truthfully in your grand jury testimony; is that correct?

A. I tried to testify truthfully, yes.

Q. Do you have a copy of your grand jury testimony?

A. I do not, sir.

Q. Your attorney, I believe, has a copy.

MR. CAPITELLI: I have copies of his testimony.

BY CONGRESSMAN JOHNSON:

Q. I would ask you to take a look at page 33.

MR. CAPITELLI: Which line, Congressman?

CONGRESSMAN JOHNSON: Look at line 17.

MR. CAPITELLI: Right here.

BY CONGRESSMAN JOHNSON:

Q. Would you read that to me?

A. You want me to read line 17?

Q. Yes.

A. And I believe when I was interviewed by the FBI, I called him a rail thief, and it was inappropriate. It was an inappropriate use of

words, and I -- sometimes during this interview, I would like to explain my mind-set before that interview to you, if you think you want to ask me about it, but I believe in all fairness to him, I was mad as heck at him in 2003, when I got the phone call to go meet with these people.

Q. Continue.

A. And against everybody's advice, I went and met with these -- with them. It was a very bad part of my life, but I went and met with them.

Q. Continue.

A. You're talking about meeting with the FBI? That's correct. You're talking about meeting with the FBI? Yes, sir. And by rail thief, the term would mean somebody who takes chips from their little shelf. Answer, yes.

Q. Okay, stop there. Here you testified at the grand jury that when the FBI called you to come down and talk to them and when you went down and talked to them, you were, as it says on line 22, but I believe in all fairness to him, I was mad as heck at him in 2003?

A. Yeah, shouldn't have used the word rail thief.

Q. And you did use the word rail thief

because he had knocked down some of your chips or he had stolen some of your chips?

A. He didn't steal my chips, he knocked them down.

Q. This was in Vegas or some other location?

A. Counsel, I don't know where that was. It was probably locally. I don't know where that was.

Q. Well, now, is it your testimony that the last time that you went gambling with Judge Porteous was in Las Vegas was in 1991?

A. '91?

Q. Yeah.

A. No, 1999 I went on the bachelor party, but I didn't gamble.

Q. 1999 was the bachelor party?

A. Yes, sir. Yes, sir. I think '91 was your Bill Hall trip that you asked me about.

Q. September of '90 was Bill Hall.

A. If that's the year, I don't know the year, but if that's what you're telling me, I do remember a trip with Bill Hall.

Q. And I believe on page 32 of this same proceeding, the grand jury testimony, look at line 9.

A. Okay. You want me to read it?

Q. Yeah.

A. Yes, sir, continuing legal.

MR. CAPITELLI: Starting at line 9 he will start. Go ahead.

THE WITNESS: Yes, sir, continuing legal education, maybe it's not. I don't see it. Oh, I'm sorry. September '93 was the dove hunt. I have a 1991 -- and the reason I've found that is -- and like, like I said, I was mistaken. So September of 1991, I had a CLE Las Vegas, September the 18th through the 21st -- January 18th through the 21st of 1991, and I believe he was on that trip because I got aggravated with him one time. And all I know, he was in Las Vegas. And that's one of the, I think that was the trip he may have been -- it may have been the one before because I left, but I think it was the January '91 trip, and I don't even remember these trips that I had not -- had had or not had this calendar.

BY CONGRESSMAN JOHNSON:

Q. Okay. So nowhere in any of the testimony you have given have you mentioned a gambling trip other than the CLE in '93 and the marriage of -- or the bachelor party of his son, but you've also mentioned a fund-raiser for Bill Hall in September

of 1990, correct?

A. If that's the year, yes, sir. I remember going on a --

Q. So when would the -- so the bachelor party trip was in 1999?

A. Yes, sir.

Q. I see, okay. That was after he was on the federal bench?

A. Yes, sir.

Q. Okay. And Judge Porteous hadn't done anything for you personally up to that time, correct?

A. Yes, sir.

Q. But you still considered him a friend in '99?

A. Yes, sir.

Q. And you treated him accordingly?

A. Yes, sir.

Q. Gave him cash money?

A. Yes, sir.

Q. On the trip to Las Vegas?

A. I didn't give him a trip to Las Vegas. I participated in a trip in Las Vegas, and the record will reflect what I gave him while I was in Las Vegas.

Q. Well, you would not deny that you gave him cash that could not be traced in Las Vegas in 1999; is that correct?

MR. CAPITELLI: Cash at the Vegas trip, he gave him cash?

CONGRESSMAN JOHNSON: Yeah.

THE WITNESS: I didn't give him cash in the Vegas trip.

BY CONGRESSMAN JOHNSON:

Q. But you did pay for the lap dance, though, correct?

A. Yes. Yes, sir.

Q. Gave him a hundred dollars, gave someone $200, one for a lap dance for Judge Porteous and the other for a lap dance for his bailiff, I believe it was, correct?

A. Yes, sir, right.

Q. And then you caught a cab and went back to I believe Beau Rivage?

A. I went to Bellagio's because I hadn't seen it before.

Q. Bellagio's and, stuck, what, $20 into a slot machine and, bam, came out with $1500?

A. I did. It was $1400, it was crazy.

Q. You didn't give Judge Porteous any of

that money?

A. No, sir. No.

Q. Didn't pay for any meals?

A. My credit card reflects what I paid for out there. I didn't use -- give Judge Porteous any of that money.

Q. Didn't slip him a hundred bucks for gambling?

A. No.

Q. Did you ever do that?

A. Not that I recall.

Q. And you never told anybody that you were giving cash money to Judge Porteous until the 2003 interview with the FBI, correct?

A. I may have -- I may have mentioned it to somebody, mutual friend, but probably you're correct.

CONGRESSMAN JOHNSON: All right. I have no further questions.

SENATOR JOHANNS: Okay, great. That wraps up the deposition, and thank you for your patience.

(Whereupon, at 12:07 p.m., the taking of the instant deposition ceased.)