

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF MISSISSIPPI

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4 GRAND JURY 11-06

7 IN RE: DICKIE SCRUGGS, ET AL.

9 TRANSCRIPT OF TESTIMONY
10 OF
11 TIMOTHY R. BALDUCCI

12 The following proceedings were had before the
13 United States Grand Jury for the Northern District
14 of Mississippi on November 27, 2007.

15 APPEARANCES:

16 ROBERT H. NORMAN, ESQ.
17 THOMAS W. DAWSON, ESQ.
Assistant United States Attorney

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

1 PROCEEDINGS

2

3 TIMOTHY R. BALDUCCI,

4 Called as a witness, having been first duly

5 sworn by the Foreperson of the Grand Jury, was

6 examined and testified as follows:

7 MR. FOREMAN: Please state your full name

8 and spell your last name.

9 THE WITNESS: Timothy Reece Balducci,

10 B-A-L-D-U-C-C-I.

11 EXAMINATION

12 BY MR. NORMAN:

13 Q. Sir, would you tell the Grand Jury what you

14 do for a living, please.

15 A. I'm an attorney.

16 Q. And how long have you been practicing law?

17 A. Since 1991, 16 years.

18 Q. Presently what's the name of your firm and

19 where is it located?

20 A. Patterson Balducci, New Albany, Mississippi.

21 Q. And before that I believe you were with the

22 Langston Law Firm in Prentiss County, is that

23 correct?

24 A. Yes, sir.

25 Q. And then at one time I believe you were here

3

1 in Oxford in practice?

2 A. Yes, sir.

3 Q. Sir, you and I have talked as recently as

4 this morning and you know what we're doing here this

5 morning. But I want to cover a couple of basic

6 things with you first. You know that you don't have

7 to be here.

8 A. Yes, sir.

9 Q. And you're a lawyer and a very intelligent

10 one, so you know that if you don't want to testify

11 before the Grand Jury we would respect that, and

12 there would be no hard feelings.

13 A. Yes, sir.

14 Q. What we want to talk about are matters that

15 are not going to be pleasant. And the Grand Jury
16 has a right to know how this got started and where
17 we stand at this point. They have a right to know
18 about any deals or agreements that we have with you.
19 And we'll talk about that.

20 But I want to begin by putting a date on
21 the record, the date of the filing of a lawsuit that
22 I believe you're not involved in. And that is,
23 Jones and others versus Scruggs and the Scruggs Law
24 Firm and others filed in the Circuit Court of
25 Lafayette County, Mississippi March 15th of this

1 year 2007. Are you familiar with that lawsuit, sir.

2 A. Yes, sir.

3 Q. And you are not a party to that lawsuit or do
4 you represent any party to that lawsuit; is that
5 correct?

6 A. That's correct.

7 Q. Sir, a few days or a few weeks -- two or
8 three weeks I guess before that lawsuit was filed do
9 you recall having a discussion with Sid Baxtrum of
10 the Scruggs Law Firm about the Jones Law Firm?

11 A. Yes, sir.

12 Q. What was the nature of that discussion,

13 please?

14 A. Mr. Baxtrum and I had a conversation wherein

15 he told me that the Scruggs Katrina group of which

16 his firm was a member -- Scruggs Katrina Group is a

17 consortium of about five law firms that got together

18 to prosecute cases against insurance companies for

19 denial of benefits to homeowners after Hurricane

20 Katrina. And that the Jones Law Firm was a member

21 of the Scruggs Katrina Group.

22 And I was generally aware that after the

23 Scruggs Katrina Group had secured a significant

24 settlement with State Farm insurance company that a

25 dispute had arisen amongst the members of the

1 Scruggs Katrina Group relative to how they were

2 going to distribute the attorney fees that came

3 about as a result of that settlement. Specifically

4 Jones Law Firm was making a demand for a larger

5 portion of the fees than the Scruggs Law Firm than

6 the other members of the Scruggs Katrina Group

7 thought the Jones Law Firm was entitled to.

8 And that dispute had gotten to the point

9 where it was obvious to the members of the Scruggs

10 Katrina Group that their dispute was not going to be

11 resolved amicably and that some litigation was going

12 to be brought as a result of that dispute.

13 Q. Did Sid Baxtrum intimate to you that there

14 might be a place for your firm on the Scruggs

15 Katrina Group?

16 A. Yes. He related to me that because of the

17 dispute that had arisen with the Jones Law Firm,

18 that the other members of the Scruggs Katrina Group

19 were going to expel, I guess, for lack of a better

20 word, the Jones Firm from their group. And that the

21 Scruggs Katrina Group had a number of other

22 settlements that they were anticipating were going

23 to come about in the near future with other

24 insurance companies. And that the nature of their

25 litigation group was such that they would need

6

1 another firm to step up and replace the Jones Firm.

2 And Sid Baxtrum led me to believe that me

3 personally, my firm, could fill that role after the

4 Jones firm was out of their group.

5 Q. If that had come to pass what would it have

6 meant to your firm?

7 A. Potentially millions of dollars in fees.

8 Q. Okay. By the way this dispute over the legal

9 fees in the case of Jones versus Scruggs, what

10 amount of money are we talking about? How much was

11 at stake in terms of legal fees?

12 A. My understanding was that the approximate

13 total of the fees from the State Farm settlement to

14 the Scruggs Katrina Group was approximately 26

15 million dollars.

16 Q. So that lawsuit was filed on March 15th. You

17 had already had some awareness of the lawsuit

18 because of your conversation with Sid Baxtrum?

19 A. Yes, sir.

20 Q. On March 28th you met with Judge Henry

21 Lackey. But I only use that date to frame a period

22 of time. Between the filing of the lawsuit, March

23 15th, and your first meeting with Judge Lackey on

24 March 28th, what occurred at the Scruggs Law Firm?

25 A. There was a meeting that was held at the

1 Scruggs Law Firm -- their office is on the square
2 here in Oxford -- where myself, my partner Steve
3 Patterson and Dick Scruggs, his son Zach Scruggs,
4 his law partner, and Sid Baxtrum, their law partner,
5 where we all met. And the issue of the litigation
6 that had been filed against them by the Jones Law
7 Firm came up.

8 During the course of that discussion about
9 that litigation, Zach Scruggs or Sid Baxtrum -- I'm
10 not sure which one -- initially brought up the fact
11 that the case was -- had been assigned here in the
12 Circuit Court of Lafayette County to Judge Henry
13 Lackey, Circuit Judge. And both Zach Scruggs and
14 Sid Baxtrum knew that I had a long history of a
15 close both professional and personal relationship
16 with Judge Lackey.

17 Judge Lackey is from Calhoun County. He
18 and I have been friends for going on better part of
19 15 to 20 years. We were very close. And during the
20 course of that meeting members of the Scruggs Firm
21 approached me and asked me if I thought it would be

22 possible for me to use my personal relationship with

23 Judge Lackey to influence him to assist them in

24 something that they wanted done in the case.

25 Q. You said members of the Scruggs Law Firm.

8

1 When that suggestion was posed, was Richard Dickie

2 Scruggs present?

3 A. Yes, sir.

4 Q. Was Zach Scruggs present?

5 A. Yes, sir.

6 Q. And was Sid Baxtrum present?

7 A. Yes, sir.

8 Q. So when you say a member of the Scruggs Law

9 Firm did you say it that way because you're simply

10 not sure which one did the talking?

11 A. Well, honestly Mr. Norman, it was a group

12 discussion from them. It was presented to me in

13 sort of a free form discussion during the meeting

14 with all three of them interacting with me on that

15 issue.

16 Q. Okay. And I believe you said there was a

17 fifth individual present?

18 A. Steve Patterson, my partner.

19 Q. Now, in fairness, money was not mentioned

20 initially; is that true?

21 A. That's correct.

22 Q. All right. How did you respond to their

23 inquiry about whether or not you thought you might

24 be able to influence Judge Lackey?

25 A. Well, what they wanted done was they believed

9.

1 that pursuant to their original agreement in the

2 Scruggs Katrina Group, the agreement where these

3 five law firms came together to jointly prosecute

4 these cases against the insurance companies, they

5 had a written agreement that defined the various

6 member firms' duties, obligations. And there was a

7 provision in there that said that if a dispute arose

8 among those members that the members agreed that

9 that dispute should be resolved by way of

10 arbitration.

11 And arbitration is a process where you

12 essentially don't go to Court. You go in front of a

13 mediator or an arbitrator. And it's an alternative

14 way to resolve a dispute without filing a lawsuit
15 and going to Court. And that's what they wanted
16 done. The Jones Firm had filed the lawsuit against
17 the group. And the Scruggs Firm wanted that case to
18 be sent to arbitration rather than to be heard in
19 the Circuit Court in front of Judge Lackey.

20 And what they were asking me to do was to
21 influence Judge Lackey and get him to send that case
22 to arbitration and take it out of his court. So
23 when they asked me that if I thought based on my
24 relationship with him if I could do that, I told
25 them that I was willing to try. And that I would

10

1 approach Judge Lackey and that I would ask him if he
2 would be willing to do that.

3 Q. Why would you take that on? Why would you be
4 willing to put yourself at risk by doing that?

5 A. Well, there were a couple of reasons.

6 Q. That's what I would like for you to tell the
7 Grand Jury, please.

8 A. Well, one was obviously the fact that I had
9 been led to believe by the members of the Scruggs

10 Firm that if the Jones Firm was replaced and that if
11 I helped them to accomplish that feat and to get
12 that done, if they were successful, that me and my
13 firm would essentially take their place.

14 And they told me there were a number of
15 settlements that were on the horizon with other
16 insurance companies. Namely, Nationwide and Austin.
17 And they expected that they would reach settlement
18 with those companies soon at least equal to the
19 settlement that they had reached with State Farm.

20 And I believed that if I helped them that I would
21 share in that, and I would share in the attorney's
22 fees that would be derived from that.

23 And I was at a time in my law practice
24 where I had just left the Langston Firm and got out
25 on my own in New Albany. And I did not have any

11

1 resources. And I was trying to start this business
2 and, you know, I needed the money and I didn't have
3 it. And it was the lure of that in large part that
4 convinced me to do it.

5 And then there was a second part also.

6 Prior to this when the State Farm settlement was
7 being negotiated by the Scruggs Katrina Group, there
8 was a significant issue that was impeding that
9 settlement. And it was the fact that the Attorney
10 General of the State of Mississippi, Jim Hood, was
11 investigating and threatening to criminally
12 prosecute State Farm as a result of their denials of
13 policy owners' benefits on the coast.

14 And so what was happening was a real
15 strange dynamic at the time. You had on the one
16 hand the Scruggs Group which was suing State Farm
17 and aggressively pursuing them in civil litigation.
18 And at the same time you had the Attorney General
19 who was investigating and threatening to indict the
20 company and prosecute them criminally. And from
21 what I was told by the Scruggs Group that they could
22 not settle their civil cases with State Farm unless
23 State Farm got essentially world peace.

24 State Farm was not going to settle these
25 civil cases unless they could be assured that the

1 Attorney General was not going to prosecute them -

2 criminally. And so the Scruggs settlement was being
3 held up because of the investigation that was
4 ongoing by the Attorney General's office.

5 Well, both me and my partner Steve
6 Patterson have had a long relationship with the
7 Attorney General. And the Attorney General in fact
8 is distantly related to Steve, my partner. And
9 General Hood and I have known each other for a long
10 time going back to when he was the DA here and when
11 I was a practicing lawyer here. We had a close
12 relationship.

13 So before this issue with the Jones suit
14 came up, the Scruggs Firm approached Steve and I and
15 essentially hired us as lobbyists. And what they
16 told us was if you will go and meet with the
17 Attorney General and if you will help him to resolve
18 his issues with State Farm and try to craft some
19 settlement with that issue -- there was both civil
20 and criminal aspects to General Hood's involvement
21 with State Farm. And Scruggs asked us to go and
22 work with the Attorney General, work with the
23 lawyers who are representing the Attorney General,
24 who we knew personally and worked with before, to

25 try to help them almost mediate that dispute and try

13

1 to get that dispute between the Attorney General and

2 State Farm resolved.

3 And in exchange for that if we were

4 successful in doing that, then that would pave the

5 way for Scruggs to settle his State Farm cases. And

6 they told us that if we were successful in lobbying

7 and working with the Attorney General's lawyers to

8 bring that to a resolution that they would pay us

9 \$500,000.

10 Q. And in short you were successful?

11 A. We were successful.

12 Q. So in your view Dickie Scruggs owed you

13 \$500,000.

14 A. Yes, sir.

15 Q. Did you take it?

16 A. Well, sort of. Once that occurred we went

17 back to Mr. Scruggs and we had a discussion with him

18 about the fact that we had completed the job that he

19 had hired us to do and that in our view he owed us

20 \$500,000. And the agreement was that he was going

21 to pay us \$500,000. And we desperately needed that
22 money. As I said we had just started our law firm
23 in January of '07 this year. And this was in early
24 March of this year, late February, early March. And
25 we had just really gotten started. And we needed

14

1 that money to hire staff, to get out building, to
2 buy computers, infrastructures, do the things that
3 you need to do to start a business. And we were
4 counting on that money.

5 And when we went to Mr. Scruggs and told
6 him that we felt like we had completed our job and
7 that he owes us the money, he told us then for the
8 first time, yeah, I'm going to pay you but I'm not
9 going to pay you up front. I'm going to pay you
10 \$100,000 a month for five months until I pay it off,
11 which was not what we had agreed to. And he did pay
12 us one month. And then he didn't pay for us the
13 next month.

14 Q. And you were approached sometime in late
15 March of this year about trying to influence Judge
16 Lackey. Were you concerned about ever collecting

17 the other \$400,000.

18 A. Yes, sir. I knew then that he owed us
19 \$400,000, the money that we were counting on to
20 operate our business. And I was nervous and
21 suspicious that if I didn't do this for him that he
22 had already renigged on the deal once that we made.
23 I was nervous and suspicious that he might renig
24 altogether and not pay us the money that he had
25 promised.

15

1 Q. So is that a succinct summary of the two
2 reasons that you were motivated to help the Scruggs
3 Law Firm when they asked for your assistance?

4 A. Yes, sir.

5 Q. Did you in fact meet with Judge Lackey on or
6 about March the 28th of this year?

7 A. I did.

8 Q. Where sir?

9 A. I met with him at his office, his personal
10 office in Calhoun City.

11 Q. And would you tell us please what occurred
12 during that meeting?

13 A. Prior to that meeting I placed a call to
14 Judge Lackey and just told him that I needed to come
15 see him, that I had a matter that I needed to
16 discuss with him. He told me fine, come to his
17 office in Calhoun County. So I did in the next
18 couple of days. Met with him on the day that you
19 referenced.

20 And at that meeting I told him that I was
21 there about a case that was pending in front of him.
22 And I told him that I was not a party to the case
23 and I was not a lawyer and not representing anybody
24 involved in the case but that I had an interest in
25 the outcome of that case.

16

1 And I explained to him the issue that a
2 lawsuit had been filed against The Scruggs Group and
3 that they had filed in response to that a request
4 asking that the case be sent to arbitration and that
5 I was there to advise him of that and to ask him if
6 he would take the case and submit it to arbitration
7 rather than keep it in his court. And I told him if
8 he did that, that that would be a personal favor to

9 me and that there would be an advantage to me that

10 would come about from that, if he would do that.

11 Q. And I know that you believed -- and it's not

12 related, but I want to ask you about another part of

13 that conversation. Did you discuss with Judge

14 Lackey becoming of counsel with your law firm?

15 A. Yes, sir.

16 Q. What is of counsel?

17 A. Of counsel is a -- it's just sort of a status

18 that's usually held by retired lawyers. Many times

19 retired judges become of counsel to a firm. They

20 serve as advisors, mentors. They help a law firm

21 like mine with marketing. You know, it's good for

22 your reputation as a lawyer. It's good for your

23 stature. It's good for business if you can

24 represent yourself as having distinguished members

25 of the bar as retired members of your firm. And in

17

1 fact, I had been successful already in securing

2 several of counsel members in my firm.

3 Q. Those people draw regular salaries in the

4 firm, don't they?

5 A. Yes, sir.

6 Q. For example, the average of counsel

7 individual in your firm, how much do they get a

8 month from you of counsel?

9 A. About a \$1,000 month stipend.

10 Q. And they might or might not do anything for

11 that \$1,000; is that correct?

12 A. That's correct essentially.

13 Q. So at least in a person's retirement years

14 that might be a lucrative situation for the

15 individual who is of counsel?

16 A. Sure it would.

17 Q. Can you see why Judge Lackey might have

18 thought that would be a quick pro quo here in

19 exchange for helping you out?

20 A. In retrospect, yes, I can see how he would

21 have, could have construed that in that manner, yes.

22 Q. And of course at that time you didn't know

23 that he picked up the phone and called the U.S.

24 Attorney's Office as soon as you walked out?

25 A. No, sir.

1 Q. Did you report back to the Scruggs Law Firm?

2 A. I did.

3 Q. Who did you talk with if you remember?

4 A. Sid Baxtrum after my initial meeting with the

5 judge. And I essentially told him that I had met

6 with the judge and advised him of what they wanted

7 and that the judge appeared to me to be -- well, the

8 judge had told me that he would look into it and

9 that he would consider it. And then I told Sid

10 Baxtrum just that, that I felt optimistic that the

11 judge was going to take a look at it and try to help

12 us.

13 Q. On or about May 4th did Sid Baxtrum email

14 something to you?

15 A. Yes, sir.

16 Q. What was it?

17 A. He emailed me a proposed order in the case

18 for the judge to sign which would have sent the case

19 to arbitration. It was essentially what they wanted

20 done.

21 Q. It would have accomplished what the Scruggs

22 Law Firm needed to accomplish?

23 A. Yes, sir.

20 A. Yes, sir.

21 Q. Why is that?

22 A. I'm not sure. But there was a period of time

23 after I met with Judge Lackey and gave him the

24 proposed Order where at the time in my belief I

25 thought everything was okay. I thought the judge

20

1 was reviewing the case, looking at it, looking at

2 the Order, considering it, thinking about whether or

3 not he was ultimately going to do it.

4 Then there was period of time there where

5 Judge Lackey actually recused himself from the case.

6 That means that he removed himself from the case.

7 Q. Did that cause any consternation at the

8 Scruggs Law Firm?

9 A. Quite a bit. It was a red flag I think to

10 everybody involved that something wasn't right. And

11 I didn't know about it at the time. I got a call

12 from Sid Baxtrum who had received an Order in the

13 mail from the Scruggs Firm's lawyers who were

14 representing them in the Jones case.

15 Q. A law firm in Jackson?

16 A. They are from Jackson, but I believe the
17 specific lawyers that were representing them were
18 from their Oxford office.

19 Q. Okay.

20 A. They had sent an Order to the Scruggs Law
21 Firm, their client, demonstrating that Judge Lackey
22 had removed himself from the case. And in response
23 to that Sid Baxtrum called me and told me hey we
24 just got a copy of an Order where Judge Lackey
25 recused himself. What's going on? I told him I

21

1 didn't know. That was the first I had heard of it.

2 The conversations I had had with the judge none of
3 that was contemplated.

4 And he told me essentially that they were
5 very upset. That I needed to get control of the
6 situation with Judge Lackey and find out what was
7 going on. And so I placed a call to Judge Lackey
8 and asked him judge, what's going on here. You
9 know, I haven't talked to you in a while. Now, this
10 recusal Order has come down.

11 And he said to me at the time that he had

12 had some contact at a social event with one of the
13 lawyers in a law firm who was representing the Jones
14 Firm in the case. So in other words lawyers on the
15 other side of the case. And that one of those
16 lawyers had had a discussion with him, the judge,
17 about the merits of the Jones case. And the judge
18 felt that that was improper, that that lawyer should
19 not have been basically earwigging him about the
20 case.

21 And in response to that the judge felt like
22 the best thing for him to do was just get out of the
23 case and recuse himself.

24 Q. Now, I mean, just real bluntly, did that seem
25 odd to you since you had been earwigging the judge?

22

1 A. Sure. But you know frankly I thought at the
2 time that -- I didn't really think anything, too
3 much about it because of my personal relationship
4 with Judge Lackey. The fact that I was talking to
5 him improperly I didn't think was that surprising.
6 But the fact that somebody who didn't have the kind
7 of relationship I did with him and was talking to

8 him didn't surprise me.

9 Q. Okay. That's the summer of 2007. Let's fast

10 forward to September the 21st, this fall. Did you

11 and Judge Lackey talk on the phone about Judge

12 Lackey needing some help?

13 A. Yes, sir.

14 Q. Tell us about that please.

15 A. After the period of time where the judge had

16 recused himself, shortly after that he got back in

17 the case and issued an Order basically setting aside

18 the recusal. He came back in the case. And a

19 period of time went by where again I thought okay

20 everything's okay again. The judge has straightened

21 out this issue in his mind and he's considering

22 this. He's probably going to do this. I just need

23 to give him some time to sort through all of this.

24 And then I got a call from him on the date

25 that you referenced and he told me, he said, Tim,

23

1 I've been looking at this case, Jones versus Scruggs

2 case, and this is a really big case. There's about

3 26 million dollars at issue here in fees from what I

4 can tell. And that's a lot of money. And I'm

5 wondering if I help Mr. Scruggs with this, do you

6 think he would help me?

7 Q. And of course you did not know that Judge

8 Lackey was acting in an undercover capacity at that

9 point?

10 A. No, sir, I did not know that.

11 Q. And how did you react to his inquiry?

12 A. Well, I was a little surprised. But I said,

13 well, Judge, I don't know. What kind of help are

14 you talking about? And he said, well, not anything

15 unreasonable. I knew he was talking about money.

16 But he said not anything unreasonable. Well, I

17 didn't know what that meant. When you talk about 26

18 million dollars I don't know what's reasonable or

19 unreasonable.

20 And so I said, well, look, let me find out.

21 I think that yeah probably we can work something

22 out, but let me just do some checking and get back

23 to you.

24 Q. Who did you talk to first?

25 A. I talked to my partner, Steve Patterson,

23 other half at least by the end of that upcoming
24 month, or essentially 30 days later. And this was
25 right at the end of the month. So when he told me

25

1 that, that he had to have 20 by the first of the
2 month, there was just a period of a few days there
3 to react to that.

4 And so I told him during that meeting that
5 I would deliver the message, essentially, and that I
6 would find out if Mr. Scruggs was willing to help
7 him.

8 Q. When you left his office at 10:08 that
9 morning and you placed a phone call, who did you
10 call please?

11 A. Immediately when I left the judge's office I
12 was in my truck heading home and I placed a couple
13 of phone calls on my cell phone to Sid Baxtrum at
14 the Scruggs Law Firm, and I reported to him what I
15 had just learned from the judge and that the judge
16 wanted \$40,000 to essentially enter the Order
17 compelling the case to arbitration. And that he had
18 to have 20 by the first of the month which was just

19 a few days from then.

20 Q. Did Sid Baxtrum respond what are you talking

21 about, that's illegal?

22 A. No.

23 Q. How did he respond?

24 A. He told me that he would have to get back to

25 me. He was going to discuss it with Dick and Zach,

26

1 and that he would get back to me and let me know if

2 they were going to pay it.

3 Q. Did he get back to you?

4 A. He did.

5 Q. Can you approximate how long it took him to

6 get back to you? I know you don't know exactly.

7 A. I'm not certain exactly, but it was shortly.

8 And I'm going to say within the next 48 hours.

9 Q. Do you remember where you were when he called

10 you?

11 A. Yes.

12 Q. Where were you?

13 A. I was standing -- I don't remember where I

14 was when the call came in, but the conversation on

15 the phone when I had, I was standing in my driveway
16 at my home in New Albany. And I remember because I
17 had just gotten home from work. I had pulled up in
18 my driveway from work and I had gotten out of my
19 truck.

20 And I'm not certain if my cell phone rang
21 or if I went in the house and the house phone rang
22 and I picked it up, but it was -- right when I got
23 home I received a call from Sid. And I realized
24 then that it was a call that I needed to separate
25 myself from my wife and children and go outside in

27

1 privacy. So I walked outside into my driveway, and
2 I had the conversation in my driveway.
3 Q. And your question had been whether or not the
4 Scruggs Law Firm wanted to cover you for the
5 \$40,000. Did you get an answer?

6 A. Yes.

7 Q. What was Sid Baxtrum's answer?

8 A. You're covered. Do it.

9 Q. And by the way I will tell you that five days
10 later on the 26th we got a court order to wire tap

11 to listen to your phone conversations from that
12 point forward. The day after that wire tap went up,
13 September 27th, do you recall a conversation with
14 Steve Patterson about a conversation he had had with
15 someone named P.L.?

16 A. Yes.

17 Q. Tell us about that, please. And we're
18 referring to I think the 27th of September, but I
19 don't want to put dates in your mouth. Would you
20 agree that that was approximately right, the 27th of
21 September?

22 A. If you will indulge me one moment.

23 Q. Sure.

24 A. My best recollection, Mr. Norman, is that
25 conversation that I had with Steve Patterson was on

28

1 or about September the 27th.

2 Q. Okay. Who is P.L. Blake?

3 A. P.L. Blake is an individual who lives in
4 Birmingham, Alabama. And he was a, for lack of a
5 better word, an operative that Mr. Scruggs used
6 during the tobacco litigation.

7 Q. Someone close to Dickie Scruggs?

8 A. Very close.

9 Q. And does this person -- if you know, does

10 this person receive funds as a result of that

11 relationship?

12 A. Receives from my understanding and based on

13 what I personally reviewed about a million dollars a

14 year from the tobacco settlement.

15 Q. What was it that Steve Patterson was saying

16 about P.L.?

17 A. Steve related to me that Steve had had a

18 conversation with P.L. prior to me and Steve talking

19 where Steve had told P.L. that he and I, Steve and

20 I, were working on something for Dick Scruggs and

21 that Dick knew what we were doing. And it was going

22 to cost \$40,000 to get it going. And that Steve had

23 asked P.L. to talk to Dick and relay that

24 information and to find out from Dick if he, Dick,

25 wanted Steve and I to go forward and accomplish that

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1 task. And that if he, Dick, would pay the \$40,000

2 to accomplish that task.

3 Q. But you'd already had confirmation from Sid
4 Baxtrum, so why were you and Steve interested in
5 talking to P.L.?

6 A. Well, two reasons. First of all because we
7 had not -- Steve and I had not had a direct
8 communication from Dick Scruggs on that issue. But
9 also because -- it's hard to explain and it's hard
10 to understand. But Mr. Scruggs and Mr. Blake have a
11 pattern, a practice of relaying information through
12 that means. Mr. Blake has served for many years as
13 a conduit and a layer of separation, if you will,
14 between Mr. Scruggs and other people on sensitive
15 issues. And Steve and I both knew that. And Steve
16 knew that an appropriate way to approach Scruggs
17 about that would be to go through P.L. because it
18 had happened before.

19 And keep in mind too, during this time we,
20 Steve and I were very concerned about how we
21 approached this issue with Mr. Scruggs based on what
22 had been told to us about our role in assuming the
23 Jones Firm role in the Scruggs Katrina Group and
24 also because he owed us \$400,000 too. We didn't
25 want to upset any of that. So we were trying to

1 sort of play by the rules that we knew Mr. Scruggs
2 normally played by.

3 Q. So Steve Patterson is telling you that he's
4 talked to P.L., P.L. knows you've got a problem the
5 size of which is 40. And what do you take from that
6 conversation? What's the result of that
7 conversation with Steve Patterson?

8 A. Steve ultimately told me that he had a
9 subsequent conversation with P.L. where P.L. told
10 Steve that P.L. had relayed that information to Dick
11 Scruggs and that Dick Scruggs had said for us to go
12 ahead finish the job and that he would cover the
13 \$40,000.

14 Q. That same day did you have occasion to meet
15 with Sid Baxtrum at the Scruggs Law Firm?

16 A. Yes.

17 Q. Did he give you something?

18 A. He gave me a proposed Order to take to the
19 judge.

20 Q. Okay. He had already emailed you one on May
21 4th and you had faxed that to the judge. I take it

22 this was a slightly different order?

23 A. It was. By this time six months had gone by

24 from the time that I had originally brought that

25 first Order to the judge. And then he had

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1 subsequently recused himself and got back in. And

2 we had all of that sort of controversy. And I think

3 the thinking at the time was we need to just make

4 this short and simple.

5 Q. Did you take that Order to Judge Lackey?

6 A. I did.

7 Q. That day?

8 A. Yes.

9 Q. And did you give Judge Lackey anything else

10 besides that Order?

11 A. I gave him \$20,000 in cash.

12 Q. And at the time you didn't know that was

13 being videotaped?

14 A. No, sir.

15 Q. What did you do after you left Judge Lackey

16 after you gave him the Order and \$20,000? Where did

17 you go?

18 A. I went back to the Scruggs Law Firm.

19 Q. Okay. And do you recall why you went back,

20 who you talked to, what it was about?

21 A. I went back and reported to Sid Baxtrum

22 essentially what had just occurred.

23 Q. At 11:44 you called Steve Patterson and

24 basically told him what?

25 A. Basically told him what had happened, that I

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1 had met with the judge, given the Order and had

2 given him \$20,000.

3 Q. All of that was on or about September 27th.

4 A few days later, I don't think you or I know

5 exactly how many days later, did you and Steve

6 Patterson have an occasion to be in the Scruggs Law

7 Firm and talk with Dickie Scruggs?

8 A. Yes.

9 Q. About something else?

10 A. Well, we were there for a meeting with Dick

11 Scruggs because Dick Scruggs was heavily involved in

12 a campaign at the time for Gary Anderson for

13 Insurance Commissioner. And Scruggs had spent about

14 a half million dollars on some advertising against
15 George Dale, the incumbent insurance commissioner at
16 the time. It was called independent expenditure for
17 t.v. commercials and print ads to try to beat Dale.

18 And he had. Anderson had defeated
19 Democratic primary. And Steve Patterson, my
20 partner, is an old politician. He was State Auditor
21 for two -- twice elected to State Auditor. And has
22 been involved in state politics basically all of his
23 life. So Scruggs had reached out to Steve to try to
24 assist in this issue that he was working on about
25 trying to help Gary Anderson get elected.

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1 So that's what we were there for. We had
2 gone over there to meet with him about that. And he
3 called us into his office. As soon as we walked in
4 before we ever sat down, Mr. Scruggs unsolicited
5 said I've already talked to P.L. and I know Steve
6 you've talked to P.L., and I just want you to know
7 everything's okay. Y'all go ahead and get it done,
8 and you're covered.

9 Q. October 10th there was a phone call from

10 Steve Patterson to you on your cell phone. And he
11 asked if the Order had been signed. Do you recall
12 that conversation?

13 A. Yes.

14 Q. Did that prompt you to do anything?

15 A. It prompted me to make a call to Judge Lackey
16 to check on the status. Sort of a gentle prodding
17 to let him know that --

18 Q. Did you tell him you needed to pick up
19 something?

20 A. I told him I needed to pick up a bushel of
21 sweet potatoes.

22 Q. Now, I think it's clear, but just for the
23 record you weren't actually interested in potatoes;
24 is that fair to say?

25 A. Yes, sir.

1 Q. October 16 or 17 do you recall going into
2 Steve Patterson's office and getting on the
3 telephone with Dick Scruggs?

4 A. Yes, I do.

5 Q. What was that about?

6 A. I arrived at my office and walked in the
7 front door and walked straight into Steve's personal
8 office. And he was on the phone when I walked in
9 with Dick Scruggs. And he was in the middle of a
10 conversation with him. And as I walked in Steve
11 said on the phone to Dick, well, wait a minute, Tim
12 just walked in. Just tell him all of this directly.
13 Here he is. And he literally handed me the phone as
14 I walked in the office.

15 And I picked the phone up and he said it's
16 Dick. And I greeted him on the phone and basically
17 said what's up. And during that conversation Dick
18 Scruggs told me that he had developed essentially a
19 cover story of how he was going to get me the
20 \$40,000 to pay Judge Lackey. I had already paid the
21 20 myself because of the timing. As I told you
22 there were just a few days there. The judge needed
23 the money, and I didn't have the time to coordinate
24 all of this with the Scruggs firm. They had already
25 told me that they would cover me, so I went ahead

1 and paid the first 20.

2 So Scruggs knew in the course of that
3 conversation that he had to give me 40. And what he
4 told me -- what he had been telling Steve and what
5 he told me directly on the phone was that he had a
6 Hurricane Katrina case coming up for trial in
7 December, this coming month, on the coast in State
8 Court. And that they were in trial preparation for
9 that. And he told me that he was going to send me a
10 check for \$40,000 and that he was going to reference
11 it as a retainer. And that he was going to
12 reference in correspondence to me that he was hiring
13 me to prepare a voir dire, which is an examination
14 of potential jurors.

15 When you have a case and you pick the
16 jurors one of the things you have to do as a lawyer
17 is you have to ask questions to the jury and try to
18 develop that to get the 12 jurors who will
19 ultimately serve.

20 And so what he was saying was rather than
21 just send you \$40,000, I am constructing this cover
22 story where I'm going to send you 40 but I'm going
23 to say that it's for you preparing my voir dire in
24 this upcoming trial.

25 Q. Okay. A day or so later, October the 18th,

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1 again of this year, do you recall -- I think you

2 were on the road, and I may be mistaken on that.

3 But do you recall getting a phone call from Steve

4 Patterson indicating that he had just been talking

5 with Dickie Scruggs?

6 A. Yes.

7 Q. What did that prompt you to do?

8 A. I knew that they were preparing the check for

9 me to get and the related voir dire materials that

10 he said he was going to send me. And that it would

11 be at his office for me to pick up. And Steve was

12 calling to relate to me that he had spoken with, I

13 think, Dick Scruggs, or at least someone in his

14 office. And that that package was ready for me to

15 pick up.

16 Q. Were you also instructed to leave something

17 for Mr. Scruggs?

18 A. Copies of the Orders that I had picked up

19 from the judge.

20 Q. Did you then go to meet with Judge Lackey?

21 A. Yes, sir.

22 Q. And tell us please about that meeting. Did

23 you give anything? Did he give anything?

24 A. At that meeting I met with Judge Lackey again

25 and I brought \$10,000 in cash. And of course at

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1 that meeting Judge Lackey gave me two copies of an

2 Order. The copies were identical. One Order, just

3 two copies of a proposed Order sending the Jones

4 versus Scruggs case to arbitration.

5 Q. Is that what the Scruggs Law Firm wanted?

6 A. Yes.

7 Q. Were those the Orders that they had proposed?

8 A. No. They were different. And the judge

9 explained to me that he had changed the Order that

10 Sid Baxtrum had sent me that I had previously given

11 him. Judge explained to me that he didn't use that

12 Order, that he had drafted a different Order still

13 accomplishing the same thing, but the language was a

14 little bit different because he wanted it to reflect

15 more the way he did things, more of the way he

16 styles his Orders. And it was a little more

17 substantive with findings of fact and some

18 conclusions of law rather than the bare bones Order

19 that Sid Baxtrum had given me that I had given him.

20 Q. Were those two copies stamped copies?

21 A. No.

22 Q. What did you do with one or both of those

23 Orders?

24 A. I left that meeting with the judge. I went

25 straight to Oxford to the Scruggs Law Firm to

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1 deliver the Orders. And I got there and the only

2 person who was there of the three was Zach Scruggs.

3 And I went into his office, and I gave him one of

4 the copies of the Order. And I told him at the time

5 that I had just left the judge and here was the

6 Order that the Judge was sending to be filed in the

7 Court file, and that this was just basically a

8 preview that I had gotten from him. And that the

9 real Order would be filed within the next couple of

10 days.

11 Q. How did Zach Scruggs react?

12 A. He was very happy. And he told me, he said

13 good job. You've been a good friend to us.

14 Q. Okay.

15 A. And the other Order I had -- it was two

16 copies. I left one with Zach. Neither Sid nor Dick

17 were there, so I took the other copy with me and I

18 destroyed it.

19 Q. Did you thereafter call Sid Baxtrum from your

20 cell phone?

21 A. I did.

22 Q. And tell us please about that conversation.

23 A. I called Sid after that because I wanted him

24 to know that it in my mind it was done. That the

25 judge had signed an Order and had given me a copy of

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1 the Order that was going to be entered. And I

2 wanted him to know that I had done what he wanted me

3 to do. And I told him that. That I had been by the

4 office and he wasn't there. I believe Sid was on

5 the coast when I talked to him. And that I had left

6 a copy of the Order with Zach.

7 And I explained to him that the original

8 would be filed in the next few days. And I told

9 him, you know, you'll get formal notification of
10 this Order through your attorneys. The Order will
11 go to your attorneys representing you in the case.
12 And don't be surprised -- I mean, actually be
13 surprised. Act surprised when you get it. Make
14 sure you don't let the cat out of the bag that you
15 knew it was coming.

16 Q. Did he respond what are you talking about?

17 A. He responded, he said, great. Essentially
18 that that was great and that everything was going to
19 work out for all of us like we wanted it to.

20 Q. And I don't know that I asked you this, but
21 did you in fact pick up the \$40,000 at the Scruggs
22 Law Firm?

23 A. Yes. It was in a package that Steve had told
24 me that would be there waiting for me.

25 Q. All right. So we move now to November the

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1 1st, probably the darkest day in your life I would
2 imagine. Let's begin before we get to the bad part
3 though, let's begin with another meeting with Judge
4 Lackey on November 1st. What happened?

5 A. I had gotten a call just a couple of days
6 before that from Judge Lackey. And Judge Lackey had
7 essentially said that we needed to finish up our
8 business. I had paid him 30. I owed him another
9 10. We needed to finish our business. And that
10 there had been a little bump in the road. He told
11 me nothing major, but there had been a little bump
12 in the road and he needed me to come down there and
13 explain to me what had happened and to work it out.

14 And so on November the 1st I went to
15 Calhoun and met with him. And during the course of
16 that meeting I paid him the remaining \$10,000 that
17 was owed. And he explained to me that there had
18 been a recent filing in the case and that he needed
19 to change that original order slightly, that he had
20 given me previously that I had given to Zach. He
21 needed to change that by one paragraph to reflect
22 some recent event that had happened in the filing of
23 the case.

24 Q. Did he give you an amended Order to take with
25 you?

1 A. He did.

2 Q. And what did you do with it?

3 A. I walked out of his office and as soon as I

4 walked outside I was confronted by the FBI.

5 Q. To your credit you immediately cooperated; is

6 that correct?

7 A. I immediately cooperated, yes, sir.

8 Q. And came to the U.S. Attorney's Office and

9 met with Mr. Dawson and myself; is that correct?

10 A. That day.

11 Q. And you agreed to wear a body wire, and you

12 did that; is that correct?

13 A. Yes, sir.

14 Q. Where did you go wearing that body wire?

15 A. I went to the Scruggs Law Firm.

16 Q. Who did you meet with first, please?

17 A. I met first with Zach Scruggs and Sid Baxtrum

18 sort of in combination.

19 Q. And with the wire recording, what was being

20 said, what did you discuss with Sid Baxtrum and Zach

21 Scruggs?

22 A. Well, I told them -- at this point I was

23 cooperating with the U.S. Attorney's Office and the

24 FBI. And I told them that I had met with the judge
25 that morning and that there had been a little hitch.

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1 That there had been a recent filing by Mr. Jones's
2 attorneys that changed the complexion of the case a
3 little bit. And that that had happened before the
4 judge got to file the original Order that I had
5 brought to them. And that now things were a little
6 bit different.

7 And the judge was still inclined to do it,
8 but that the judge wanted now an additional \$10,000
9 to do it because he felt a little exposed on the
10 facts now because of this recent filing by
11 Mr. Jones's attorneys.

12 Q. How did Zach Scruggs and Sid Baxtrum react?

13 A. It was not a problem.

14 Q. Did you discuss with them the contents of the
15 Order and whether or not the contents of the Order
16 pleased them?

17 A. Yes.

18 Q. Tell us about that part of the conversation.

19 A. I essentially showed them the proposed Order

20 that the judge had given me and told them that this
21 was the Order that he was inclined now to sign that
22 was reflective of the new filing and the change.
23 And that he wanted an additional \$10,000 to do that.
24 They reviewed it, discussed it at length and
25 essentially after that discussion came to the

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1 conclusion that it was fine as it was written.
2 And during the course of that conversation
3 I told them, you know, now is the time to make any
4 changes that you want made because we're paying for
5 it. So get it like you want it because we're paying
6 for it.

7 Q. Is it possible that you might have used the
8 term sweet potatoes again referencing the amount of
9 money involved?

10 A. I think I did.

11 Q. Then did you meet with -- that was Zach and
12 Sid Baxtrum. Then did you meet with Dickie Scruggs
13 in his office?

14 A. I did.

15 Q. Did you go over this with him?

16 A. Essentially the same thing. Advised him of
17 what the hitch was, that the judge was willing to
18 sign the new Order but that it was going to cost him
19 an additional \$10,000 to do it. And I needed to
20 know from him if he wanted that done.

21 Q. And what did he say?

22 A. He said he did. And he said he would pay the
23 money.

24 Q. Did he indicate how or did he ask you about
25 how to get the \$10,000 to you?

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1 A. Yes. He asked me if I had a suggestion on
2 how he should get me the additional \$10,000 because
3 he wanted a cover for it. He didn't want to just
4 give me the money. He wanted a cover like he had
5 had a cover for the 40 originally. And so because
6 we had done the 40 the way we had done it before, I
7 suggested to him that he could pay me another
8 \$10,000 in this same case that he had supposedly
9 retained me in. And that that could be for me
10 preparing the jury instructions in that case.

11 Q. The next day, November 2nd did an email come

12 from the Scruggs Law Firm forwarding you jury
13 instructions and mentioning the check for \$10,000?

14 A. There was an email that came to me from one
15 of Mr. Scruggs's assistants. And he had forwarded

16 not jury instructions but just some reference
17 material and some things that I turned over to the

18 FBI.

19 Q. All right. Were there any instructions in
20 that email about the 10,000?

21 A. That I could come and pick up the check at
22 their office.

23 Q. Monday, November 5th did you go to the
24 Scruggs Law Firm?

25 A. I did.

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1 Q. What did you pick up first?

2 A. I picked up the original documents that had
3 been emailed to me previously and a check for

4 \$10,000 with a cover letter.

5 Q. And safely turned over the \$10,000 to the
6 FBI; is that correct?

7 A. Yes, I did.

8 Q. All right. November the 13th did you phone
9 Sid Baxtrum to discuss this entire matter?

10 A. I did.

11 Q. And did he discuss with you the scheme and
12 artifice to defraud?

13 A. Yes, he did.

14 Q. Did he discuss with you the money?

15 A. Yes, he did. We essentially during that
16 conversation recounted the whole series of events

17 from step one to where we were that day.

18 Q. He did not deny knowledge of any of that, is
19 that not fair to say?

20 A. That's fair to say.

21 Q. Mr. Balducci, are you concerned for your
22 safety now that you cooperating with the
23 government?

24 A. Yes, sir.

25 Q. And are you concerned about the safety of

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1 your family?

2 A. Primarily, yes, sir.

3 Q. Have you asked for protection and help in

4 getting out of the area as a result of those
5 concerns?

6 A. I have.

7 Q. And have we reached an agreement? Although
8 we have not signed anything yet, have we reached an
9 agreement about what's going to become of you in
10 this case?

11 A. We have an agreement in principal, yes, sir.

12 Q. I guess for your protection let's talk about
13 that protection. Also, the Grand Jury has a right
14 to know about it. Did Mr. Dawson offer you a plea
15 to a criminal conspiracy to bribe Judge Lackey?

16 A. Yes, he did.

17 Q. And did we also promise you that if you
18 continued to substantially assist the way you've
19 been doing that we would ask the judge to consider
20 leniency in your case in an amount that's totally up
21 to him?

22 A. Yes, sir.

23 MR. DAWSON: Tim, just a couple of
24 questions.

25 BY MR. DAWSON:

1 Q. Of course that plea to a criminal conspiracy
2 would be a felony, would it not?

3 A. Yes, sir.

4 Q. And that would cause you to lose your law
5 license; is that correct

6 A. Yes, sir. I have already prepared a letter.

7 I'm licensed in five jurisdictions: Mississippi,

8 Alabama, Tennessee, Texas, and the District of

9 Columbia. And I've prepared a letter that I'm going

10 to send as soon as this testimony is over

11 voluntarily surrendering my law license in those

12 jurisdictions and agreeing to a voluntary

13 disbarment.

14 Q. And one clarification. In the November the

15 2nd email, the second email, the last one that

16 Mr. Norman asked you about, was the 10,000-dollar

17 figure actually mentioned in the email, or was it

18 the cover letter that the \$10,000 was mentioned?

19 A. I'm not certain if it was mentioned in the

20 email or not. I know in the materials that I picked

21 up the check was there, and it was referenced in the

22 cover letter with the materials. I'm not certain

23 that it was the email. If I said that I misspoke.

24 MR. DAWSON: That's all. Let me make sure

25 that Mr. Norman doesn't have anything else.

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1 BY MR. DAWSON:

2 Q. Mr. Balducci, we've covered a lot of

3 territory here in an eight-month period

4 investigation. And certainly you did not know what

5 was going on until within the last -- I guess

6 November the 1st was the first time. And then you

7 began cooperating at that time.

8 A. That's correct.

9 Q. And since we have covered a lot of ground

10 rather quickly, there may be other details of the

11 various meetings and telephone conversations that we

12 have not completely covered because we were trying

13 to give a summary of hitting the high points of this

14 investigation as you knew. Is that correct?

15 A. That's correct, yes, sir.

16 Q. So if in fact you have to testify at any

17 subsequent proceeding under trial, you understand

18 and the Grand Jury must understand that it may be in

19 much more detail about the various meetings and

20 telephone calls. Is that correct?

21 A. Yes, sir.

22 MR. DAWSON: I think that's all we have at

23 this time. I know the Grand Jury has been working

24 through the lunch hour. But if you have any

25 questions to ask or you want us to ask any more

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1 questions, we'll be glad to do that.

2 GRAND JUROR: The work that you supposedly

3 done, did you actually turn anything in? Did you

4 produce anything to cover this, or did they give it

5 to you to give back to them? Or who did the work?

6 THE WITNESS: The work was never done. It

7 was a complete cover for the transfer of the money.

8 I never did any of the work, and I was never asked

9 again about it.

10 GRAND JUROR: Nobody else done the work?

11 THE WITNESS: That I don't know.

12 BY MR. DAWSON:

13 Q. This was just a ruse, was it not, to

14 reimburse you the money that you had paid to Judge

15 Lackey on the alleged bribe scheme?

16 A. That's correct.

17 GRAND JUROR: What about the \$400,000? Was

18 any of that paid besides the 100,000.

19 THE WITNESS: I ultimately did get paid the

20 remainder of the money over time.

21 GRAND JUROR: During this same month period

22 you got the 400,000?

23 THE WITNESS: Yes, sir.

24 MR. NORMAN: Thank you, sir.

25 (WHEREUPON, THE WITNESS WAS EXCUSED.)

50

1 CERTIFICATE

2

3 STATE OF MISSISSIPPI:
COUNTY OF DESOTO:

4

5 I, Polly V. Woods, Court Reporter and
Notary Public, DeSoto County, Mississippi, CERTIFY:

6

The foregoing proceedings were taken
7 before me at the time and place stated in the
foregoing styled cause with the appearances as
8 noted.

9 Being a Court Reporter, I then
reported the proceeding in Stenotype, and the
10 foregoing pages contain a true and correct
transcript of my said Stenotype notes then and there

11 taken.

12 I am not in the employ of and am not
13 related to any of the parties or their counsel, and
14 I have no interest in the matter involved.

15 I further certify that in order for
16 this document to be considered a true and correct
17 copy, it must bear my signature seal, and that any
18 reproduction in whole or in part of this document is
19 not authorized and not to be considered authentic.

20 Witness my signature, this the
21 2nd day of January 2008.

22

23

Polly V. Woods

24

25 Notary Public at Large
For the State of Mississippi

26

27 My Commission Expires:
28 July 29, 2009

29

30