

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 07-103

 * SECTION: "L"

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JAMES PERDIGAO *

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**GOVERNMENT'S SECOND SUPPLEMENTAL
OPPOSITION TO DEFENDANT JAMES PERDIGAO'S
"MOTION FOR RECUSAL OF U.S. ATTORNEY'S OFFICE"**

The United States of America, by and through the undersigned Assistant United States Attorneys, hereby responds to "Defendant's Preliminary Witness List." Until the Court rules on the defendant's list, it is impossible for the government to determine its own witnesses, and indeed whether any are even necessary.

Preliminarily, the government respectfully submits that Perdigo has simply failed to respond to the Court's clear instruction that it was allowing him a *third* filing opportunity to accompany his initial request for recusal of an entire office of the Department of Justice from Perdigo's own criminal prosecution

with (1) some "preliminary" showing and "record" beyond mere unsworn allegations, which (2) would have some direct "nexus," not to perceived bias against Perdigao during his negotiations for a plea outcome, but to an actual due process violation which would necessarily occur were this Court to fail to reassign prosecution of Perdigao's own criminal case to outside prosecutors.

This Court was clear that in order to obtain an "evidentiary hearing" at all, Perdigao would not be heard simply to proffer more unsworn accusations about facts he purports to be able to elicit. Rather, he must submit to the Court evidence of a "nexus" between unsworn accusations already made and thus establish why those accusations demonstrate such fundamental unfairness that trial of his pending charges cannot go forward without entire office-wide recusal of the government.

Exactly to the contrary, ignoring the Court's request for twin threshold showings (and evident in the caption of his filing "Preliminary Witness List"), Perdigao has filed what he himself terms a list of "expectations" he hopes will be pretrial testimony on his behalf, principally from the very prosecutors he seeks to disqualify. Even as to his own alleged knowledge, Perdigao continues now in this third filing to submit nothing in sworn affidavit form.

More specifically, the preliminary "record" Perdigao seeks to offer as a response to the Court's May 21 conference includes his

"expectation" about what the United States Attorney for the Eastern District of Louisiana would say if required to appear, as well as what four other federal prosecutors would say if Perdigao, as a defendant, could compel such testimony in a pretrial hearing seeking to recuse these same government officers. Perdigao's "preliminary witness list" goes on to include his assumption that his insistence on office-wide recusal alone triggers his entitlement to testimony he "expects" to hear from a number of federal investigative agents, both from the Federal Bureau of Investigation and also from the Internal Revenue Service. His list of expected testimony further includes AUSA Fred Harper's ex-wife and her private investigator, as well as a current government secretary, and even his own defense counsel, along with a dozen other persons.

Accompanying this list, Perdigao attaches *not a single affidavit or other fact* to substantiate what now openly is a request for an evidentiary hearing to compel inquiry into whether the government agrees to his "expectation" that a bias has emerged that would render trial of him in this Court by any prosecutor in this Office a fundamentally unfair, denying him due process.

Even if Perdigao had not ignored this Court's instruction that some preliminary "record" showing was obligatory to trigger an evidentiary hearing, his filing also fails to respond at all to the Court's second caution that Perdigao had to show a factual and

legal “nexus” between his claimed apprehensions of bias and why trial of his criminal charges would result in fundamental unfairness without wholesale shuffling of Department of Justice prosecutors.

Perdigao has overlooked this second threshold requirement entirely.¹ He has done so in spite of the May 21 conference at which time, citing law partially acknowledged by him, cf. Doc. 103, at 1-5 (Perdigao reply filing neglects to discuss United States v. Bolden, 353 F.3d 870 (10th Cir. 2003)), the Court without disagreement by any counsel, highlighted the significant and numerous threshold burdens that any charged defendant would have to overcome in order to establish entitlement to an evidentiary hearing as to whether or not the Court had the authority and circumstances to disqualify an entire office of the Department of Justice from a case.

Indeed, Perdigao captions his only heading in his responsive submission as one contrary to the Court’s second threshold request, namely “The Nexus of the Facts to the Bias.” Perdigao not only has submitted no facts whatsoever, *supra*; but also the Court was clear that Perdigao’s threshold obligation to obtain an evidentiary hearing is not one of merely voicing his apprehensions about

¹The government respectfully asks that the Court deny Perdigao a fourth opportunity to further delay by supplementing or amending his shifting arguments for an evidentiary hearing into “expected” government misconduct unconnected to this Court’s capacity to ensure him a fair trial on his criminal charges.

hostility towards him by prosecutors, but one of actually showing the Court if these apprehensions are accepted arguendo, that they demonstrate any connection, legal or factual, to a fundamentally unfair trial process this Court could not protect against.

In attempting to discern that "nexus" required by this Court (even in Perdigao's two pages of discussion preceding the lengthy "witness list" he would hope he could turn his criminal case into), the government offers these summaries and its responses:

1. Perdigao's Eastern District of Louisiana federal prosecutors in 2008 "report to" a supervisory prosecutor who conducted Perdigao's direct examination as a government witness during the trial of Edwin Edwards in February, 2000.²

Perdigao provides no "nexus" to trial unfairness before this Court that will occur because of unrelated federal criminal charges in a trial in which he was a government witness almost ten years ago. In fact, Perdigao disputes the government's affidavit proof that the prosecutor who "worked closely" with him eight years ago in that separate case has had no involvement in the instant prosecution of Perdigao.

Furthermore, in abundance of caution, the government attaches hereto Perdigao's sworn February, 2000 testimony at that trial to show that whereas Perdigao now states that he "expects" he will say that his former law firm and his former client were committing

²Perdigao's "Preliminary Witness List," at page 1, "Nexus" Section, first paragraph.

gross violations of law, almost a decade ago, under oath and testifying extensively about that client and that employing entity, Perdigao volunteered no such thing.

2. The Court should "take judicial notice" of the importance of the 2000 trial prosecution of Edwards and political "success" from it for prosecutors in the U.S. Attorney's Office for the Eastern District of Louisiana, the office responsible for Perdigao's unrelated prosecution now in 2008.³

Perdigao sets forth no nexus between the judicially-noticeable fact of a conviction of other persons in 2000 and the fairness this Court can maintain in his own upcoming federal trial, which is not being handled by anyone on the prosecution team in the Edwards case almost ten years ago. Perdigao implies without citation to any authority that the Court might consider mere conjecture about political events to be "noticeable" and thus a "nexus" to trigger a pretrial evidentiary recusal hearing. The government has found no authority for this.

3. "[H]istory compels the conclusion that the U.S. Attorney's office would do anything to protect the Edwards conviction and, therefore, could not possibly be fair to the defendant."⁴

Having cited as his answer to the Court's requirement of a threshold "nexus" to unfairness in his upcoming trial, first to his

³Perdigao's "Preliminary Witness List," at pages 1-2, "Nexus" Section, second and third paragraphs.

⁴Perdigao's "Preliminary Witness List," at page 2, "Nexus" Section, fourth paragraph.

own sworn and self-contradicting testimony in a trial almost ten years ago, when he made none of the accusations he tells this Court still to expect to hear from him against his former employer and client, supra Pt. 1; and second, to political "facts" he hopes this Court will take judicial notice of, supra Pt. 2. Perdigao, as his third "nexus" answer, indicates that "history compels" the very conclusion this Court instructed him to supply a threshold showing of, and which this Court gave him the instant further opportunity to submit.

Even if an attempt to reference backwards to another case, (and what Perdigao thinks "history compels"), somehow sufficed as a showing as to fundamental unfairness implicit in an upcoming unrelated federal criminal case before this Court, the government respectfully would note that Perdigao cites no support for his version of history. As to his core allegation that persons other than his current prosecutors "orally (and not publicly) grant[ed] civil immunity to Guidry" in a hidden inducement outside his plea agreement, Perdigao neglects to acknowledge that the United States Court of Appeals for the Fifth Circuit, based on a record of hearings in federal district court which included the testimony of the prosecutors he now accuses of misconduct, has rejected the very ten-year-old claim of non-disclosure Perdigao seeks to assert on his own behalf. See United States v. Edwards, 442 F.3d 258, 266 (5th Cir. 2006) ("Our review of the record leaves us with the firm

conviction that there was no clandestine, collateral plea agreement protecting Guidry" from civil liability).

4. Perdigao's complaint to the Department of Justice about a prosecutor in the Eastern District of Louisiana meant that the entire Office "would want to retaliate against [Perdigao] to silence him."⁵

This argument too is not a showing of nexus to upcoming trial unfairness. It is not uncommon that defendants make pretrial allegations of government misconduct. Courts resolve these every day--even, on occasion adverse to the government and prosecutors directly responsible for that defendant's prosecution. Yet Perdigao gives neither law nor the nexus of argument this Court asked him for to show why, unique in his case, such a pretrial complaint triggers an evidentiary hearing into whether an entire government prosecuting office can remain unbiased as to any prosecution of the defendant, or whether this Court must intervene based on the complaint alone and conduct an evidentiary hearing. Such a rationale defies logic and application in any criminal case, as well as the consensus of caselaw which would require Perdigao to make the threshold prima facie and nexus showings before any witness list would be approved for evidentiary hearing.

Additionally, even if a defendant's reported complaint against one prosecutor (made to a court or to the Department of Justice) could trigger an office-wide retaliatory concern and hearing, it is

⁵Perdigao's "Preliminary Witness List," at pages 2-3, "Nexus" Section, fifth paragraph.

notable that Perdigao does not contend: (1) that his complaint was made before investigation and indictment of him occurred in the first place; (2) that his complaint was against either prosecutor who will appear before, and be supervised by, this Court while presenting the government's evidence of Perdigao's charged criminal activities (rather than a prosecutor whom this Court has affidavit proof has, and will continue to have, no involvement in Perdigao's case); or (3) that his complaint he admits was given to the Department of Justice was found to have any basis of misdoings or that it led to any adverse finding as to the U.S. Attorney's Office for the Eastern District of Louisiana.

5. The superceding indictment and its timing proves vindictiveness.⁶

Again, Perdigao provides no nexus to unfairness inherent in his upcoming trial before this Court. Instead, he objects to a forfeiture provision contained in his superceding indictment.

Perdigao has been on notice from the outset, and pre-dating his claim of perceived office-wide retaliatory hostility, that the charges against him allege tens of millions of dollars of stolen money moved overseas by him. Federal criminal rules oblige the government to give any defendant notice of the intention to forfeit and seek recovery of such ill-gotten gains. Fed. R. Crim. P.

⁶Perdigao's "Preliminary Witness List," at page 3, "Nexus" Section, fifth paragraph.

7c) (2). Presenting a forfeiture notice is no showing of unfairness in a pending trial.

6. The government's "vitriolic response" to Perdigao's recusal allegations "compels the conclusion that it would be unrealistic to expect that defendant could receive fair treatment" at trial.⁷

The government has contended that Perdigao's filings are conclusory vitriol, not meeting caselaw threshold requirements for inquiry even into an actual conflict of interest as to a prosecutor directly responsible for a criminal indictment.

Perdigao contends that the vitriol is the government's. Unlike the defendant, the government has sought to tie its responses to caselaw and facts.

7. Termination of plea negotiations "leads to the inescapable conclusion that the office would be biased" against Perdigao.⁸

The Supreme Court and the Fifth Circuit have made clear that "there is no constitutional right to plea bargain; the prosecutor

⁷Perdigao's "Preliminary Witness List," at page 3, "Nexus" Section, sixth paragraph.

⁸Perdigao's "Preliminary Witness List," at pages 3-4, "Nexus" Section, seventh paragraph. Perdigao indicates that this is his "final[]" argument purporting to connect his conclusory fears of retaliatory bias forward to an abortive trial, however, in a final paragraph Perdigao points out that he also sees "something amiss" that "takes this case out of the realm of fairness" in the fact that the government "hated to" find victims of his charged criminal conduct. If Perdigao is found guilty, this Court will assess victimhood. If Perdigao is objecting instead to victim terminology in his indictment, he remains free to approach this Court for appropriate relief. Cf. Fed. R. Crim. P. 7(d), -(f).

need not do so if he prefers to go to trial.” Weatherford v. Bursey, 429 U.S. 545, 561 (1977); United States v. Rankin, 572 F.2d 503, 505 (5th Cir. 1978). This core, and Perdigao’s one constant complaint - that the government ceased negotiations that might have resolved his own criminality through plea agreement leniency based on his promise that he would cooperate to accuse others of separate criminality - establishes no nexus whatsoever to trial unfairness before this Court.

The government did terminate “debriefing” of Perdigao and has explicitly requested that this Court resolve his pending charges at trial. There is no nexus of unfairness infecting a trial when either side asks that a matter go to trial. Perdigao himself terminated the pre-indictment period of cooperation by refusing to consummate the plea agreement he had previously agreed to after his arrest. In fact, each of his attorneys, including his current ones, has conveyed to the government his belief that the plea agreement offered was fair and that they had recommended to Perdigao to accept it.

Nonetheless, in a final correction of Perdigao’s unsworn misstatements seeking to call and recuse prosecutors while delaying trial of himself, the government would note that Perdigao is demonstrably in error even as to this core contention. Perdigao contends that only his formal complaint given to the United States Attorney General against the U.S. Attorney’s Office for the Eastern

District of Louisiana (attached as Exhibit 1), caused this Office to request that the Department independently ascertain whether his plea leniency statements had any foundation in fact.⁹ His timeline is not only unsupported, but flatly incorrect because the U.S. Attorney's Office disclosed Perdigao's information to Department of Justice officials *before* Perdigao went to those authorities himself.

These circumstances, therefore, are contradictory of Perdigao's shifting arguments to this Court in his increasingly desperate hopes to get an evidentiary hearing as to unprecedented relief. In his original office recusal motion (Doc. 96), Perdigao contended unmistakably that his allegation of bias in support of an evidentiary office-wide recusal hearing was that this Office suppressed entirely the promises he had made that (as a cooperating witness deserving of plea leniency) he could incriminate numerous other persons and government officials in gross criminality that he and his counsel had not revealed for years and he had not averred

⁹Perdigao's "Preliminary Witness List," at page 3, "Nexus" Section, seventh paragraph. Notably, Perdigao and his counsel would have had the knowledge he implies he "reported" by formal complaint in 2006-2007, when in February, 2000, he testified extensively and under oath about his client Guidry and his employing law firm. He implies that this Court should believe what it is told to "expect" him to say now that he is in substantial federal criminal trouble himself, and not what he swore under oath to be the complete truth more contemporaneous with events now a decade old.

to under oath in February, 2000.¹⁰ In response, however, the government's opposition filing to this Court, Doc. 98, answered with uncontroverted exhibit evidence that to the contrary this Office had sua sponte sought prompt and independent assessment of Perdigao's self-serving accusations of others. Seeking to alter his claim to this contradiction of his original request for an evidentiary hearing, Perdigao in his reply filing indicated that "[a]s will be more fully shown at an evidentiary hearing, only after the defendant filed a formal complaint with the Attorney General...did the Department of Justice in Washington and the U.S. Attorney agree upon" an investigation of Perdigao's plea leniency accusations and statements. Doc. 103, at 6. However, Perdigao's "formal complaint" itself (Exh. 1), as well as his original recusal argument to this Court, see, e.g. Doc. 96, at 6 ("late 2006 and early 2007" complaint information given to the Department), foreclose this revision of his story seeking to salvage his office-wide retaliatory bias claim now that he must acknowledge that this Office made precisely the disclosure and independent investigatory request he had contended it suppressed.

¹⁰See Doc. 96, at 2 ("Defendant...became alarmed that the U.S. Attorney's Office appeared to not follow through on the information he provided" pertaining to its prosecution of Edwards, and others), 4 ("defendant concluded that...the U.S. Attorney's Office did not want to have unraveled allegations" material to its earlier prosecution of Edwards and others), 9 ("The U.S. Attorney's Office could not risk validating any information that defendant provided....").

For the foregoing reasons, and incorporating the arguments previously urged in opposition to Perdigao's pretrial effort to recuse the entire U.S. Attorney's Office from the criminal case over whose fairness this Court will preside, the government opposes any intervening pretrial evidentiary hearing in which Perdigao seeks to call government and other witnesses to inquire into whether there is such pervasive hostility towards him that this Court cannot assure him due process at trial. Perdigao has supplied the Court with neither any showing to support his conclusory apprehensions of office-wide hostility and bias, nor (especially) any showing of a nexus to fundamental fairness at his trial.

In an abundance of caution and to be responsive, the government now reluctantly addresses the defendant's witness list with some specificity to further expose the list's weakness.

For instance, Perdigao proposes to call Edwin Edwards' attorney Michael Small as a witness. The defendant has failed to show any relationship between Small's proposed testimony and Perdigao's claims of retaliation. Nothing in Small's testimony would support Perdigao's claim that he cannot receive a fair trial if the Eastern District of Louisiana's U.S. Attorney's Office continues to handle his prosecution. As the caselaw prohibits and the defendant concedes, Perdigao cannot seek to vindicate the rights of a third party through the instant motion.

Federal Bureau of Investigation (FBI) Special Agent Paul Quisenberry was one of the case agents assigned in the beginning of the Perdigao investigation before being transferred to another FBI office. Beyond making an altogether false assumption that Quisenberry would testify that he thought Perdigao was truthful, it is ridiculous for Perdigao to rely on the agent's alleged testimony to establish denial of a fair trial should the U.S. Attorney's Office continue to handle the case. Again, no connection has been made between the agent's opinion of Perdigao and the inability of the U.S. Attorney's Office to continue to handle the case.

Assistant United States Attorney (AUSA) Salvador Perricone's testimony is irrelevant to the motion and is duplicative of several other witnesses including AUSAs Fred Harper and Jim Mann. Perdigao builds his list of government witnesses in a thinly-veiled attempt to create the illusion that there are office-wide conflicts.

Certain suggestions in Perdigao's witness list are *patently false*:

- 1) As has been established by affidavit, AUSA Fred Harper *did not* participate as a supervisor or assigned attorney in the Perdigao case and the September 1, 2006 plea discussion did not occur nor would it evidence the required nexus.
- 2) U.S. Attorney Jim Letten, supported by the entire court record, would not say that Perdigao was one of Robert

Guidry's criminal lawyers during the Edwards' case but would say that Ralph Capitelli and Buddy Lemann were his lawyers.

- 3) There was no civil immunity agreement in connection with Robert Guidry. Perdigao is incorrect to claim that there was such an agreement and that it was oral and not written. It did not exist at all and has no connection to Perdigao's alleged unfair treatment.
- 4) Gratuitously, Perdigao inserts prior criticism of U.S. Attorney Jim Letten by Texas District Court Judge Lyn Hughes in a wholly unrelated prosecution in Houston. After self-reporting this very criticism and after a thorough examination, Jim Letten was completely exonerated of any misconduct by the Office of Professional Responsibility (OPR) (attached as Exhibit 2) which added that its own investigation revealed that U.S. Attorney Letten had acted appropriately at all times. The inclusion of the entire opinion as an exhibit is certain proof that a desperate Perdigao merely wants to smear the U.S. Attorney's Office regardless of the lack of any solid legal footing.
- 5) There was no purchase of property while the Edwin W. Edwards' appeal was pending. Following the Fifth Circuit's affirmance, the United States Supreme Court

refused to consider Edwards' case in March 2003 and the ruling denying Edwin W. Edward's habeas petition was November 3, 2004. The property was purchased in the Summer of 2005.

First Assistant United States Attorney Jan Mann's statement to defense counsel in December 2006 that James Perdigao is a "pathological liar," while not denied is irrelevant to the motion to disqualify. The U.S. Attorney's Office often prosecutes criminals like Perdigao who attempt to lie their way out of their troubles, but this does not serve as a basis for recusal or as a denial of a fair trial. Again it is Perdigao's attempt to create the illusion of widespread bias. Yet bias alone, without a connection to unfairness, is insufficient to warrant any action by the Court.

If Robert Guidry testified, it is unlikely he would contradict an affidavit he provided to the U.S. Attorney's Office in the Eastern District of Virginia denying Perdigao's allegations (attached as Exhibit 3).

The purported testimony of Guidry's son-in-law, Nicky Nichols, about a leak of information would be irrelevant to a hearing on whether the entire U.S. Attorney's Office has a conflict of interest which would support a forced recusal. Moreover, following each of the myriad of allegations by Perdigao, the U.S. Attorney's Office self-reported to OPR that he was accusing us of yet another

transgression and the Office was cleared of any wrongdoing (attached as Exhibit 4).

The Internal Revenue Service (IRS) and FBI agents would not testify that there was any disclosure of tax information except in keeping with the law and in preparation for indictment and trial. Perdigao fails to advise the Court that Title 26, United States Code, Section 6103 provides for these very types of disclosures. More importantly, there is no nexus between any alleged disclosure and Perdigao's inability to obtain a fair trial.

Perdigao's generalized claim that Fred Harper's ex-wife, Cheryl Harper, could provide relevant information about Robert Guidry establishes no nexus to the motion pending. Neither is the required relevance established regarding the testimony of a member of the support staff in the U.S. Attorney's Office or Cheryl Harper's private investigator, Mark Avery.

Former FBI Agent Freddy Cleveland's testimony summary is so general as to not establish a sufficient nexus.

Perdigao's pending motion lacks law and facts as to his threshold burden and therefore should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2008, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the following: William F. Wessel, attorney for defendant. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant: Charles Griffin, attorney for defendant.

/S/ James R. Mann
JAMES R. MANN
Assistant U.S. Attorney

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
BATON ROUGE DIVISION

UNITED STATES OF AMERICA * Docket No. 98-165-B-M2
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VERSUS * February 8, 2000
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*
EDWIN EDWARDS, ET AL * Baton Rouge, Louisiana

REPORTER'S OFFICIAL TRANSCRIPT OF
PROCEEDINGS AT TRIAL

BEFORE THE HONORABLE FRANK J. POLOZOLA,
UNITED STATES DISTRICT JUDGE, AND A JURY

COPY

COURT REPORTER: Connie S. Ezell, RPR, RMR, CRR
P.O. Box 3034
Lafayette, Louisiana 70501

Proceedings recorded by mechanical stenography,
transcript produced by computer.

A P P E A R A N C E S

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FOR THE GOVERNMENT:

Mr. James B. Letten
Mr. Peter G. Strasser
Mr. Michael W. Magner
Mr. Fred Harper
Mr. Todd Greenberg

FOR THE DEFENDANTS:

Mr. Daniel I. Small
Mr. James M. Cole
Ms. Rebecca L. Hudsmith
Mr. Servando C. Garcia, III
Mr. Ryan Roemershauser
Mr. Patrick Fanning
Mr. Ernest Johnson
Ms. Mary Olive Pierson
Mr. Hillar C. Moore, III
Mr. Craig Smith

I N D E X

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WITNESSES FOR THE GOVERNMENT:

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| DIRECT EXAMINATION BY MR. HARPER | | P 15 |
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| CROSS EXAMINATION BY MR. SMALL | | P 214 |

1 sentencing guideline range of zero to six months?

2 A. Yes, sir.

3 Q. Regardless of what happens with anything else,
4 you're looking at that guideline range, is that correct?

5 A. That's correct.

6 Q. Mr. Duvieilh, do you have any reason to lie about
7 what you've testified to today?

8 A. Not at all.

9 Q. Has Andrew Martin been your friend for over twenty
10 years?

11 A. Yes, he has.

12 Q. Do you have any kind of relationship with Edwin
13 Edwards or Stephen Edwards?

14 A. No.

15 Q. Is there any animosity that exists between you and
16 Edwin Edwards and Stephen Edwards?

17 A. No.

18 MR. HARPER: That's all, Your Honor.

19 THE COURT: You can step down, sir.

20 (Witness excused)

21 MR. HARPER: The government calls Jamie Perdigao,
22 Your Honor.

23 THE COURT: Just stand right there, sir, until he
24 can swear you in.

25 JAMES G. PERDIGAO, having been first duly sworn,

1 testified on his oath as follows, to wit:

2 DIRECT EXAMINATION

3 BY MR. HARPER:

4 Q. Would you state your name, sir?

5 A. James G. Perdigao.

6 Q. How are you employed, sir?

7 A. I'm an attorney with Adams & Reese.

8 Q. How long have you been an attorney with Adams &
9 Reese?

10 A. Fourteen years.

11 Q. Do you know Robert Guidry?

12 A. Yes.

13 Q. How do you know him?

14 A. He is a long-time client of Adams & Reese.

15 Q. Do you know when Adams & Reese began doing legal
16 work for Robert Guidry's gambling interests?

17 A. Would have been in 1992.

18 Q. All right. And what did that involve?

19 A. Initially we worked on his video poker business as
20 well as his charitable bingo business, charitable gaming
21 business, and then subsequently on the Treasure Chest
22 riverboat project.

23 Q. All right. Did Adams & Reese represent Mr. Guidry
24 at the time he applied for his riverboat license and for his
25 Certificate of Preliminary Approval?

1 A. Yes, we did.

2 Q. And did you represent Mr. Guidry before the
3 riverboat gaming commission in June of 1993 when he got a
4 hearing on his application?

5 A. Yes, we did.

6 Q. At that time, sir, after you got the Certificate
7 of Preliminary Approval, what did you need to do next?

8 A. At that time, there were two tracks for opening a
9 riverboat project. On the one hand, you would get a
10 Certificate of Preliminary Approval from the riverboat
11 gaming commission which was an approval of a berth site and
12 vessel design and certain aspects of financing, and also you
13 needed to get a license, a riverboat gaming license, from
14 the Louisiana State Police riverboat gaming division.

15 Q. The law subsequently changed sometime after the
16 Treasure Chest had been licensed?

17 A. Several years after, 1996, the processes were
18 merged before the gaming control board.

19 Q. Who had given Mr. Guidry his video poker license?

20 A. That would be the Louisiana State Police video
21 gaming division. That's video poker.

22 Q. And who was it who was going to decide whether he
23 got a license for the riverboat?

24 A. That would have been the riverboat gaming
25 division, which is a separate division of the Louisiana

1 State Police.

2 Q. Do you recall that the Treasure Chest got its
3 Certificate of Preliminary Approval on June 18th, 1993?

4 A. Yes, I'm familiar with that.

5 Q. Do you know when the Treasure Chest was scheduled
6 to get a licensing hearing?

7 A. Initially it was schedule for, I believe, December
8 17 of 1993.

9 Q. Did something occur that prevented that hearing
10 from occurring on that date?

11 A. Well, the day before the hearing was going to take
12 place, December 16, the state police hand delivered -- or
13 delivered personally to Mr. Guidry a letter essentially
14 stating that the state police were revoking his video poker
15 license -- the license held by A-Ace Video Gaming, and that
16 took the hearing for the riverboat license essentially off
17 the docket.

18 Q. You did not have a hearing on the riverboat
19 license in front of the state police on December 17th of
20 '93?

21 A. No, we did not.

22 Q. Tell the jury what happened from your knowledge at
23 Adams & Reese after Mr. Guidry got his revocation notice
24 from the state police on the video poker license.

25 A. Well, there were several things that happened

1 almost immediately. Mr. Guidry had retained the firm of
2 Unglesby & Koch as well as us to fight this purported
3 revocation, and we challenged the validity of the process by
4 which hearings were held on the video poker revocations, and
5 how hearings were conducted by the video poker section of
6 the state police, and ultimately with the goal of defending
7 on substantive grounds the attempt to revoke his video poker
8 license. In other words, there were procedural issues that
9 had to be dealt with in terms of how the hearing would be
10 conducted and then substantive issues on challenging the
11 underlying basis for the revocation, and we worked on that
12 quite extensively from December of 1993 through March, April
13 of 1994.

14 Q. What was the procedure that was in place? What
15 would have happened under normal circumstances or under the
16 statute for Mr. Guidry's revocation on the A-Ace Video Poker
17 license?

18 A. I'm not sure I understand your question, but --

19 Q. You said you challenged some procedures?

20 A. Right.

21 Q. Tell us what procedures were in place that you
22 challenged.

23 A. Okay, the process by which the state police was
24 conducting hearings in video poker was, in our view, flawed.
25 The state police were weeding out hearing officers that

1 ruled against the state police, and so we challenged in
2 court the fairness of the hearing process by which the state
3 police essentially were hand picking hearing officers that
4 would rule in their favor, and so we challenged on various
5 constitutional grounds, that this was not a fair way to
6 conduct the hearing, and that process was challenged in
7 court. The judge ultimately ruled in our favor, and we were
8 then at the point of having essentially terminated a hearing
9 process that was potentially unfair to operators in the
10 video gaming business, but then we now had to pick up the
11 pieces and figure out how do we now challenge the
12 substantive charges in the revocation letter.

13 Q. Okay. Did the state police shut down the video
14 poker machines?

15 A. Well, they attempted to shut them down, and we
16 obtained an injunction from the district court in Baton
17 Rouge preventing the machines from getting shut down.

18 Q. Okay. Now, you mentioned the firm of Unglesby &
19 Koch?

20 A. Yes.

21 Q. What role did Unglesby & Koch play in this
22 process?

23 A. They handled the initial procedural battle of
24 getting that injunction which was about a -- from the third
25 week in December through the first week in January where

1 there were some hearings to challenge on a preliminary basis
2 the process by which the state police were holding hearings.
3 We were involved heavily in that process, but then after
4 that initial injunction was obtained, we essentially ran
5 with the ball on the substantive charges and the defense of
6 Mr. Guidry and A-Ace in the revocation hearing.

7 Q. Now, at the time that y'all began to make the
8 application to get the Certificate of Preliminary Approval
9 back in the early part of '93, what involvement did Stephen
10 Edwards have in that process?

11 A. He worked on the initial application for the
12 Certificate of Preliminary Approval.

13 Q. Okay. And how long did the application process
14 last?

15 A. Well, it went from probably January of 1993
16 through -- well, May of 1994.

17 Q. Okay. That would have been the date when the
18 Treasure Chest got its license?

19 A. That's correct. And it may have been a little in
20 late 1992, but the real substantive work was in the early
21 part of January, 1993 through May of 1994.

22 Q. And what was it, Mr. Perdigao, that Stephen
23 Edwards did in connection with the application?

24 A. He assisted in gathering data and commented on
25 various things and supplied Mr. Guidry with, you know,

1 various pieces of the application or things like that, you
2 know, inserts or data or something like that to put in the
3 application.

4 Q. To your knowledge, was Mr. Edwards compensated for
5 that service?

6 A. Yes, I believe he was.

7 Q. Okay. By Mr. Guidry?

8 A. Yes.

9 Q. Through the Treasure Chest?

10 A. I would assume it was out of the Treasure Chest,
11 or it may have been paid in the early part by Mr. Guidry
12 himself.

13 Q. Okay. Now, going back to the revocation of
14 A-Ace's license, what role, if any, to your knowledge, did
15 Stephen Edwards play in connection with the defense on the
16 substantive issues, the reasons why the state police were
17 trying to revoke A-Ace's license?

18 A. I don't think he had any involvement at all from
19 the legal defense side of the equation.

20 Q. Who actually went to work and conducted the
21 hearing that you eventually got on A-Ace Video Poker?

22 A. Adams & Reese, myself and other members of my
23 firm.

24 Q. Now, explain to the jury how you got to the
25 hearing process and Judge Tanner being the hearing officer.

1 A. Okay, after we had gotten an injunction from the
2 district court in Baton Rouge, we began to have proceedings
3 in that court to fashion a method of conducting a hearing,
4 and we entered into what they call stipulations concerning
5 the conduct of the hearing, and those stipulations involved
6 the selection of the hearing officer, how the hearing
7 officer would be compensated, when the hearing would take
8 place and a number of things like that, when he would rule
9 on -- make a decision on the case, and Judge Tanner was
10 selected by a process of elimination. We had a list and
11 went back and forth between counsel and gradually whittled
12 it down to Judge Tanner.

13 Q. Now, can you tell me what types of issues Adams &
14 Reese was dealing with when it came to the application
15 process?

16 A. It would be literally hundreds of issues,
17 everything from financing the vessel, leasing the water
18 bottoms from the state, financing of the project,
19 constructing parking lots, finding operators to run the
20 gaming vessel, developing the marine crew and planning
21 virtually every aspect of the project, and I could probably
22 name a hundred, two hundred different things that we worked
23 on regarding substantive areas in that regard.

24 Q. And how many people at Adams & Reese were involved
25 in that?

1 A. Numerous. At different times, we had ten or
2 twenty lawyers depending on, you know, what time frame, but
3 we had an army of people working on it.

4 Q. And was Stephen Edwards intimately involved in all
5 of these matters?

6 A. No.

7 Q. Now, you said there was work done to get an
8 operating agreement. And who was that operating agreement
9 eventually signed with?

10 A. That is between the -- are you referring to the
11 operating agreement for the LLC or the operator agreement
12 for running the gaming operations --

13 Q. For running the gaming operations.

14 A. That would have been signed with Boyd Gaming
15 Corporation, which is a company out of Nevada.

16 Q. And did you participate in crafting that
17 agreement?

18 A. Yes, I did.

19 Q. Okay. And what was the fee that Boyd Gaming was
20 going to receive for operating the Treasure Chest gaming
21 activities?

22 A. They received approximately three million dollars
23 a year.

24 Q. Okay. At some point, Mr. Perdigao, did the
25 Treasure Chest run into a problem with the sailing

1 requirements that existed for riverboats under the Louisiana
2 law?

3 A. Yes. That would have been -- well, at different
4 times they had an issue with the power lines and then
5 ultimately with weather and water conditions and the
6 challenge to that.

7 Q. Okay. Now, let's talk about the power lines for
8 just a minute. What power lines are we talking about?

9 A. The Treasure Chest is located in Kenner at the
10 north end of Williams Boulevard which is kind of the main
11 thoroughfare that runs through the City of Kenner. It runs
12 alongside the airport and runs from the Mississippi River to
13 like Pontchartrain, and Williams Boulevard is, as I say, a
14 main thoroughfare that dead ends at the lake, and the
15 Treasure Chest riverboat is in a berth site in a harbor or
16 launch area in that area, and maybe five hundred -- or three
17 hundred yards offshore from the edge of the harbor are power
18 lines by Louisiana Power & Light Company that run along the
19 shore maybe a few hundred yards offshore and run quite a
20 distance all the way out. If you are driving between New
21 Orleans and Baton Rouge, you can see those same power lines
22 kind of running out in the middle of the lake.

23 Well, near where Treasure Chest is berthed,
24 they're about three hundred yards offshore, and the height
25 of the riverboat was such that it could not cruise past the

1 power lines without the power lines being raised. In fact,
2 when the boat was brought into the dock initially, they had
3 to manually raise the power lines so that the boat could get
4 under it. And then what was contemplated at that point was
5 that the power lines would be permanently raised high enough
6 so that the boat could go under it in terms of following its
7 cruise route and go out into the lake and come back under
8 the power lines with sufficient space not to cause a problem
9 with hitting the power lines, so that was the issue with the
10 power lines.

11 Q. And did that create the necessity for you all, as
12 lawyers on behalf of the Treasure Chest, to file
13 modifications with the gaming commission and the state
14 police?

15 A. That's correct. When you get a Certificate of
16 Preliminary Approval and a Certificate of Final Approval
17 from the gaming commission, one of the things that they
18 approve is a cruise route. Basically in Treasure Chest's
19 case it would come out of the dock and go into the lake for
20 half a mile or so and turn around and come back.

21 Well, in order to modify that cruise route, in
22 other words not to go out a quarter mile out in the lake and
23 come back, you need to file a petition, a petition for
24 modification of your cruise route, with the gaming
25 commission, and that's in fact what we did. We sought

1 approval to modify the cruise route while the power lines
2 were being raised.

3 Q. Are you aware of anything Stephen Edwards did, as
4 a lawyer, in connection with the LP&L power lines issue?

5 A. No, I'm not. I think as a courtesy we may have
6 sent him some of the pleadings, but I'm not aware of any
7 legal work that he did in that regard.

8 Q. Now, initially the Treasure Chest Casino was going
9 to be located on the river, is that correct?

10 A. That's correct.

11 Q. And subsequently because -- well, tell me why it
12 had to move from the river, why it couldn't dock at the
13 river.

14 A. Well, let me just correct what I just said.

15 Initially in the very, very early stages of the
16 project, it was going to be on the lake, and then in April
17 of 1993 it was moved to the river at the request of the City
18 of Kenner which was looking to develop that area, the south
19 end of Williams Boulevard, so the project initially, at the
20 time we were going through the application process, was for
21 that river site, and the proposal that was presented to the
22 gaming commission in June of 1993 was for that river site,
23 the site at the south end of Williams Boulevard where it ran
24 into the Mississippi River, and in that regard we had the
25 Coast Guard, the Corps of Engineers and the state police all

1 looking at the viability of that site for cruising, to be
2 able cruise out into the Mississippi River, what effect
3 would it have on -- what currents were there to, you know,
4 make it a danger to the passengers and crew and that type of
5 thing. And in September of 1993, it was determined -- the
6 Coast Guard and state police essentially determined that
7 that site would not be as suitable as other sites in terms
8 of the location for riverboat gaming, and at that point
9 Treasure Chest then moved its project from the river site at
10 the south end of Williams Boulevard to the lake site at the
11 north end of Williams Boulevard, the site where it currently
12 is today.

13 Q. And did you have to modify your application again?

14 A. Yes. That was another petition for modification
15 which would modify -- request the commission to approve the
16 transfer of the berth site where the vessel would sit from
17 the river to Lake Pontchartrain at the port end of Williams
18 Boulevard.

19 Q. And was the legal work connected with that done by
20 Adams & Reese?

21 A. Yes.

22 Q. Mr. Perdigao, about how much of your time was
23 dedicated to work in connection with the Treasure Chest
24 Casino project?

25 A. It was a very, very substantial part. Without

1 going back and looking at my time records, it was hours and
2 hours. This was a very intense time. Myself and several
3 other lawyers in our firm were working flat out on it on all
4 kinds of different issues.

5 Q. And who is Robert Vosbein?

6 A. He's a partner of mine at Adams & Reese.

7 Q. Mr. Vosbein was also very much involved in the
8 project?

9 A. Yes, he was.

10 Q. Doing the legal work for the project?

11 A. Absolutely.

12 Q. Back to A-Ace.

13 These things you've been describing, Mr. Perdigao,
14 regarding the Treasure Chest and moving from the river to
15 the lake and modifications and the power lines, those things
16 were all going on at the same time as this A-Ace issue was
17 going on, is that correct?

18 A. That's correct -- well, the application process
19 spanned probably eighteen months. The A-Ace issue came
20 during that time frame, and it was a four-month process, but
21 it was within that eighteen months of the application
22 process.

23 Q. Now, back to A-Ace, I think you testified that
24 Adams & Reese, on behalf of Mr. Guidry and the Treasure
25 Chest Casino, reached an agreement with the state police to

1 have Judge Tanner preside over this hearing?

2 A. That's correct.

3 Q. The hearing was going to involve what, the
4 substantive charges that had been brought?

5 A. It would involve the substantive charges brought
6 against Mr. Guidry which related to the reasons why the
7 state police believed his video poker license should be
8 revoked.

9 Q. Okay. And before we go on, I want to ask you one
10 thing. At some point did the -- the Treasure Chest Casino
11 was originally Treasure Chest Casino, Incorporated?

12 A. That's correct.

13 Q. And it changed to Treasure Chest Casino, LLC?

14 A. Yes. The initial what we call form of entity was
15 a corporation. Doesn't seem like that long ago, but it was.
16 LLC's, limited liability companies, were relatively new
17 vehicles back then, and as corporate lawyers became more
18 familiar with them, it became a vehicle of choice for many
19 reasons, franchise tax reasons and things of that nature
20 that made -- you still had the liability protections that
21 you would have with a corporation but also other advantages
22 that that formed, so we converted the entity from a
23 corporation to an LLC.

24 Q. And did Adams & Reese do the legal work to do
25 that?

1 A. Yes, we did.

2 Q. And did you also have to get a modification
3 approval for that?

4 A. That's correct.

5 Q. Now, back to A-Ace again please.

6 So Judge Tanner has been selected as the hearing
7 officer. When was the hearing scheduled to take place?

8 A. March 30 and 31 of 1994.

9 Q. Were you, on behalf of Mr. Guidry, trying to push
10 this hearing as soon as possible?

11 A. Absolutely. Going back to January, early January,
12 when we had gotten an injunction precluding the conduct of
13 the hearing as they were presently being conducted, we
14 realized then that that was a hollow victory in some sort
15 because the clock was ticking, and we had originally had a
16 hearing scheduled in December, and the process of giving out
17 riverboat licenses was moving along at a very rapid pace,
18 and so we were, in the period of January, February and
19 March, taking what would otherwise be a one- or two-year
20 trial from start to finish in the course of a regular legal
21 proceeding, and we were accelerating that at every
22 opportunity, because if we did not get through that process,
23 we might have won the A-Ace trial, but there would be no
24 more riverboat licenses left to give out, so the absolute
25 priority that we had was to get before a hearing, present

1 our evidence and hopefully Mr. Guidry's video poker license
2 would not be revoked, and at that point we could concentrate
3 on trying to get a hearing on the riverboat side.

4 Q. Okay.

5 A. So we were doing everything we could to accelerate
6 that process, because every day was a lifetime in early 1994
7 in terms of trying to get a riverboat license.

8 Q. At some point did the lawyers at Adams & Reese,
9 including yourself, try and negotiate any kind of settlement
10 with the state police?

11 A. Well, I think at the time we -- this would be in
12 March of 1994. You know, as any lawyer in a case does, they
13 try to settle it, and that was not possible.

14 Q. Mr. Guidry objected to agreeing that he had done
15 anything wrong?

16 A. Yes. He did not want to pay a fine, and that was
17 his position, and so those negotiations went nowhere.

18 Q. Okay. Did you get your hearing before Judge
19 Tanner at the end of March, 1994?

20 A. Yes.

21 Q. And did he hand down a decision?

22 A. Yes, he --

23 Q. Go ahead.

24 A. The guidelines which we agreed to, the
25 stipulations concerning the conduct of the hearing, required

1 him to rule within five days after the conclusion of the
2 hearing, and in fact he ruled on the fifth day after the
3 hearing, April 5.

4 Q. Okay. This hearing was -- witnesses were
5 presented and testimony was taken?

6 A. Absolutely. It was a full-blown trial on the
7 merits as we say. We had witnesses. The state police
8 called witnesses. We cross examined their witnesses. They
9 cross examined our witnesses. Full-blown trial with
10 arguments, objections, you name it.

11 Q. I'll show you TCR-34, sir. Look on the computer
12 screen. Do you recognize this, sir -- go to the last page
13 where the judge's signature is.

14 THE COURT: This is already in evidence?

15 MR. HARPER: Yes, it is.

16 THE COURT: The court will let the jury see it.

17 BY MR. HARPER:

18 Q. Do you recognize this, sir, to be the concluding
19 decision of Judge Tanner in connection with A-Ace Video
20 Poker?

21 A. That is the decision.

22 Q. Go to Paragraph 9 of the -- no, the next document,
23 the other document.

24 A. I think these are the findings of fact.

25 Q. Paragraph 9, sir, says that Robert J. Guidry is

1 found to be suitable for licensing under the video poker
2 laws and regulations, is that correct?

3 A. That's correct.

4 Q. What if any impact, sir, did that have on whether
5 or not he was suitable for a riverboat license?

6 A. Well, it was the same standard that was used for
7 suitability in video poker and riverboat, but the two --
8 simply because he was suitable in video poker did not
9 automatically entitle him to a hearing on the riverboat
10 side. In fact, that was the issue that we faced immediately
11 after and were facing the entire time is how do we get
12 through the suitability process on the riverboat side as
13 opposed to the video poker side. The video poker side, the
14 suitability issues were resolved before the hearing before
15 Judge Tanner, but if the state police had other issues they
16 were looking at on the riverboat side, we had no ability to
17 speed that process along. They had to finish, and when they
18 finished, then we would be entitled to a hearing.

19 Q. Okay. Was there any provision under the law,
20 under the riverboat act or the law, which you could have
21 utilized to force the state police to give you a hearing on
22 the riverboat license application?

23 A. No. If they were continuing their suitability
24 investigation, there was nothing that an applicant could do
25 to force a hearing while the state police were continuing

1 their investigation.

2 Q. Had you reached some agreement, the lawyers for
3 the state police and Adams & Reese, in connection with the
4 A-Ace matter regarding any appellate rights that someone may
5 have on Judge Tanner's decision?

6 A. Yes. And that takes some explanation.

7 In certain administrative proceedings, a hearing
8 officer will make a decision, but it takes the form of a
9 recommendation to the agency. We set up, as part of this
10 hearing process, that Judge Tanner would -- his decision
11 would be the final agency action, and if you wanted to ask
12 him to reconsider that decision, you would have to do that
13 within ten days of his decision.

14 So the state police would have had until April 15
15 to challenge or ask for reconsideration. In my judgment,
16 given the length of his decision, that would have been a
17 futile gesture, but they had ten days to ask him for
18 reconsideration, otherwise his decision was the final agency
19 action.

20 Q. In any event, was there ever any request by the
21 state police for him to reconsider or any appeal ever taken?

22 A. No.

23 Q. At the hearing on the A-Ace matter before Judge
24 Tanner, did Stephen Edwards participate in any of the
25 questioning, opening statements, arguments, cross

1 examination, anything?

2 A. No. He didn't even attend the hearing.

3 Q. Did Adams & Reese -- well, let me ask you this
4 question. I suppose the lawyers at Adams & Reese who had
5 been working on this matter were pretty happy about Judge
6 Tanner's decision?

7 A. Yes, we were.

8 Q. And did the lawyers decide they were going to go
9 celebrate?

10 A. Yes.

11 Q. Did Mr. Guidry participate in that celebration?

12 A. No. He was not in the same frame of mind as we
13 were.

14 Q. Did he express why he didn't want to go celebrate?

15 A. He was concerned that it may be a hollow victory,
16 that if we didn't get a riverboat hearing -- a hearing on
17 his riverboat license that all was for naught. He would
18 have his video poker company, but his dream at that point
19 was to get a riverboat license, and he was very concerned
20 that the process would overtake him and he would be left out
21 in the cold without a hearing before the state police on his
22 riverboat license.

23 Q. As a result of your legal work that you did for
24 Mr. Guidry in connection with this entire A-Ace matter and
25 the riverboat in particular, do you have any idea how much

1 money Mr. Guidry had invested of his own funds into this
2 boat?

3 A. I don't have an exact figure, but it was millions
4 of dollars.

5 Q. Mr. Guidry had in fact lent money to the Treasure
6 Chest of which he was the sole owner?

7 A. That's correct. What he essentially financed in
8 the early stages the start-up of the project and the -- you
9 know, all of the early phases of getting the project going
10 was essentially financed by Mr. Guidry personally.

11 Q. Once you got Judge Tanner's decision in hand and
12 after you had a few drinks, what was the next step Adams &
13 Reese took in connection with getting a hearing for the
14 riverboat license?

15 A. Well, we immediately requested a hearing on the
16 riverboat license. We took the position that since that
17 issue had been cleared up, we should be entitled to a
18 hearing. In fact, you know, it was, I think, the same day I
19 started drafting the letter which we sent the next day
20 requesting a prompt hearing.

21 MR. HARPER: Bring up TCR-77.

22 It's already in evidence, Your Honor.

23 BY MR. HARPER:

24 Q. Do you see the date on this letter?

25 A. Yes.

1 Q. April 6th, 1994?

2 A. Yes.

3 Q. Is that the day after Judge Tanner's decision?

4 A. That's correct.

5 Q. Is this the letter you're talking about drafting?

6 A. Yes.

7 Q. For Mr. Vosbein's signature?

8 A. Yes.

9 Q. What was the purpose of this letter, Mr. Perdigao?

10 A. Well, we wanted to show our urgency for getting a
11 hearing. At this time, eleven riverboat licenses, I
12 believe, had been given out, and two had been essentially
13 slated for the Baton Rouge area, and there were three
14 applicants vying for those two licenses in Baton Rouge, and,
15 you know, there were two licenses left, and this process --
16 we were now at the tail end of the licensing process of
17 giving out the fifteen riverboat licenses, so if we didn't
18 get our hearing pretty soon, we were facing not getting a
19 riverboat license, and so this was an attempt to immediately
20 put before Mark Poulard the request to have a riverboat
21 hearing.

22 Q. What would have been -- well, let me go back.

23 At the time that you write this letter, April 6th,
24 you say there's eleven licenses that have been handed out,
25 four are left but are designated for Baton Rouge, and

1 there's three applicants for the two left -- the two others?

2 A. Well, actually there were three applicants vying
3 for the two berths in Baton Rouge, and we were concerned
4 that if the third applicant in Baton Rouge didn't get one of
5 the two that were slated for Baton Rouge, that applicant
6 that did not receive the license for Baton Rouge would be
7 looking at one of the other two that were left, and so this
8 was a process at this time which was in a -- you know, a
9 state of extreme urgency for applicants, because once the
10 fifteen riverboat licenses were given out, the party was
11 over essentially. And so there were numerous people making
12 all kinds of legal challenges from Donald Trump to, you
13 know, all kinds of people that were challenging the process,
14 and the longer you went without a hearing, the odds of your
15 getting a riverboat license would diminish dramatically
16 every day.

17 Q. Once the fifteen licenses were given out, if you
18 had a Certificate of Preliminary Approval, would you be able
19 to do anything with it?

20 A. No.

21 Q. If you had a boat that was built, would there be
22 anything you could do with it?

23 A. No. Try to sell it to one of the people that got
24 a license, but otherwise it's a useless piece of junk.

25 Q. How intense were the contacts between Adams &

1 Reese, the state police or the Department of Revenue and
2 Taxation during this time period?

3 A. Well, we, in our office, had daily staff meetings
4 where I would sit down with the other attorneys in my
5 office, and we would be -- we went over and over and over
6 the smallest of issues that we could try to, you know, get
7 additional documentation for. We were in constant contact
8 with Mr. Guidry on a daily, hourly basis telling him what
9 the progress was. And, you know, we were doing everything
10 we could getting every -- you know, a follow-up piece of
11 paper that was requested, we would turn it in immediately,
12 and continuing to press the state police to give us a
13 hearing, that, you know, we, in our judgment, had sent in
14 every piece of paper on numerous occasions, the same piece
15 of paper, continuously requesting a hearing. And, you know,
16 this was a very intense time for, you know -- and anxious
17 time for us and Mr. Guidry.

18 Q. Put up EWE-22 please.

19 It's also in evidence, Your Honor.

20 This is a memoranda, sir, from Mr. Vosbein to Mr.
21 Guidry dated April the 8th, 1994, three days after Judge
22 Tanner's decision, and take a moment and just read it to
23 yourself.

24 A. Okay.

25 Q. Who is Howard Elliott?

1 A. Howard Elliott was the general counsel for the
2 Department of Public Safety back then, the chief lawyer for
3 the state police gaming division at that time.

4 Q. Okay. Did Howard Elliott control the conduct of
5 the state police video poker section or the riverboat gaming
6 section?

7 A. Not at all. I mean, in our judgment -- we had
8 numerous dealings with Howard Elliott. You know, whatever
9 Howard Elliott said, you could pretty much bet that the
10 state police would do the opposite, and I understand what he
11 says in this memo, but it ended up not being the way things
12 worked out, and that was no surprise, because he had
13 repeatedly told us that we would resolve the A-Ace thing,
14 that the state police, once they got into the evidence,
15 would realize they had no case, that, you know, the matter
16 would be resolved amicably. None of that turned out, so we
17 had a history of taking what Howard said with a grain of
18 salt.

19 Q. In the second line it says, doesn't know exactly
20 when as that depends on Poulard and Peters. Poulard and
21 Peters were Louisiana State Police troopers?

22 A. Yes.

23 Q. And it was dependent on them when you were going
24 to get a hearing?

25 A. That's right. The state police -- the head of the

1 riverboat gaming division, the investigating officer on the
2 suitability side, which was Mr. Peters, Lieutenant Poulard
3 and, you know, other higher up members of the state police
4 would determine when the Treasure Chest would get a license
5 hearing.

6 MR. HARPER: Bring up TCR-78 please.

7 BY MR. HARPER:

8 Q. This is a memo from April 26, '94 to Mr. Guidry
9 again from Mr. Vosbein regarding the state police license.
10 Take a moment and read that.

11 A. I'm very familiar with this memo.

12 Q. Why is that?

13 A. Well, this was the -- I believe I wrote it, but I
14 think this kind of encapsulates the problems that we were
15 having with getting a hearing and the fact that, you know,
16 we had been calling the state police on a daily basis, and
17 they wouldn't return our calls. They would tell us, well,
18 not this week or next week, but maybe you might get a return
19 call the following week. In our view, that was the classic
20 taffy pull, and we were getting nowhere.

21 Q. Is this memo the culmination of the efforts that
22 had been made since April the 5th?

23 A. Absolutely. And, you know, really I think, you
24 know, expresses that we were extremely concerned.

25 Q. Now, you say in here you spent the last week

1 gathering updated financial information for the Department
2 of Revenue and Taxation. Is there a difference between what
3 you had to do with the Department of Revenue and Taxation
4 and the state police?

5 A. Yeah. Essentially there were two aspects of the
6 process to get a riverboat license. First of all, the
7 department of revenue makes sure that you've paid all your
8 taxes and that, you know, you have the basic structures in
9 place to -- you know, to obtain financing or what have you.
10 The state police suitability review is the general review of
11 your ability to, you know, competently honestly run a
12 riverboat operation, and it goes through all your background
13 and virtually every aspect of your life and finances and
14 what have you.

15 Q. Was the failure of the Treasure Chest and the
16 lawyers working on behalf of the Treasure Chest, Mr. Guidry,
17 anyone who worked for Mr. Guidry, to provide the Department
18 of Revenue and Taxation creating a delay in getting a
19 hearing?

20 A. No, not at all. These were -- as I recall, the
21 department of revenue just -- you know, as things pass and
22 as the project develops, they want updated information, and,
23 you know, we provided that. In fact, you know, we suspected
24 that the state police were, you know, trying -- when in fact
25 we had provided documentation to them, he says, well, you

1 know, I wasn't aware that you had given that stuff to the
2 department of revenue, and that would, you know, be a reason
3 for further delaying when in fact that was a non-issue. You
4 know, as a month goes by, you give them the updated
5 financial information for the prior month, but that wasn't
6 holding up the licensing process.

7 Q. And the financial information changed month to
8 month?

9 A. Sure.

10 Q. Changed from week to week?

11 A. Right. And we would update them on a routine
12 basis.

13 THE COURT: When you come to a point that's a good
14 stopping point --

15 MR. HARPER: One more document, Your Honor.

16 THE COURT: That's fine.

17 MR. HARPER: Bring up TCR-79 please.

18 BY MR. HARPER:

19 Q. This is a letter, sir, dated May 2nd, 1994. This
20 is a letter from Mr. Vosbein to Lieutenant Poulard, and I
21 believe it asks that -- or tells the state police you're
22 willing to waive any procedural delays that you're entitled
23 to?

24 A. Right. The statute requires that you have ten
25 days notice to prepare for the hearing. If we could have

1 had it on the afternoon of May 2nd, we would have been ready
2 to go. This was simply a notice to the state police that
3 you didn't have to wait ten days, we could do it in ten
4 minutes.

5 Q. I'll show you, sir, EWE-26 which is also in
6 evidence.

7 Show us the top of that please.

8 This is a letter to Lieutenant Poulard on May 2nd,
9 1994.

10 Slide down so we can see the signature.

11 Okay, as of May 3rd, 1994, did you have any notice
12 when you were going to get a hearing?

13 A. No.

14 Q. And do you know who Earl Mallett is, the director
15 of the New Orleans regional office?

16 A. I know him personally.

17 Q. Go ahead. Who is he?

18 A. He's the regional director of the New Orleans
19 office. He's heavily involved in, you know, the gaming side
20 of things.

21 Q. For the Department of Revenue and Taxation?

22 A. For the department of revenue, yes.

23 Q. Is it apparent from this letter they didn't know
24 when the hearing was going to be?

25 A. No, he did not know either.

1 MR. HARPER: This is a good point to take a break,
2 Your Honor.

3 THE COURT: Okay, we'll break for twenty minutes.
4 Please do not discuss the case while you're out
5 for the break.

6 The jury's excused.

7 (Jury retired from courtroom at 2:38 p.m.)

8 THE COURT: Sir, you can step down and go to the
9 back.

10 I just need one lawyer from each side. This is a
11 non-controversial matter, but I just want to bring something
12 to your attention. Just go around the other side. It has
13 nothing to do with lawyers, lawyers' conduct or anything
14 else.

15 We'll stand at recess.

16 (Court in recess for twenty minutes)

17 THE COURT: Okay, be seated.

18 Come back up.

19 We'll bring the jury in please.

20 We'll bring the jury in please.

21 (Jury escorted into courtroom at 3:04 p.m.)

22 THE COURT: Be seated please.

23 Sir, you're still under oath.

24 Could you hold it a second, Mr. Harper?

25 MR. HARPER: Yes, Your Honor.

1 THE COURT: Okay, everybody's ready.

2 BY MR. HARPER:

3 Q. Mr. Perdigao, you got notice that the licensing
4 hearing would be held on -- you got notice on May the 3rd
5 that the licensing hearing would be held May 17th, is that
6 correct?

7 A. That's correct.

8 Q. Were you surprised when you got that notice?

9 A. Well, I think we were thankful. We were
10 surprised, yes.

11 Q. And on May 17th did Adams & Reese make the
12 presentation on behalf of the Treasure Chest to the
13 Louisiana State Police?

14 A. Yes, we did.

15 Q. And Mr. Guidry was there?

16 A. Yes.

17 Q. And representatives of Boyd Gaming were there?

18 A. Yes, they were there.

19 Q. And did they all testify at this hearing?

20 A. Yes.

21 Q. And did the lawyers at Adams & Reese make the
22 presentation and handle that matter?

23 A. Yes, we made the presentation and handled the
24 hearing.

25 Q. Did Stephen Edwards participate in any way?

1 A. He wasn't at the hearing, to my knowledge.

2 Q. At some point in time, did the relationship
3 between Mr. Guidry and Boyd Gaming deteriorate?

4 A. Yes. A few years into the contract, Mr. Guidry
5 decided to look for other operators.

6 Q. And do you know whether one of those operators or
7 potential operators was Cap Gaming or Capitol Gaming?

8 A. Yes, that was one of the operators that was
9 mentioned.

10 Q. Okay. And did Mr. Guidry have a price in mind
11 that he wanted to pay for someone to be the gaming operator
12 in the Treasure Chest?

13 A. One point eight million or below.

14 Q. Do you know what, if anything, Stephen Edwards may
15 have done in connection with any attempt to get or secure
16 another operator for the Treasure Chest?

17 A. I believe he was going to try to secure another
18 operator and receive a commission.

19 Q. All right. And how would that commission work, to
20 your knowledge?

21 MR. COLE: Your Honor, I'm going to object. Ask
22 for a foundation to that. Sounds like hearsay. I'd like to
23 know how he knows this.

24 THE COURT: You can restate and just lay a little
25 foundation.

1 BY MR. HARPER:

2 Q. Did you discuss with Mr. Guidry the manner in
3 which he wanted to structure a new gaming operator contract?

4 A. Yes. Let me give some background --

5 MR. COLE: Your Honor, again, before we get into
6 background laying a foundation -- he said yes. If the
7 source of his information is Mr. Guidry, that's hearsay.
8 We've already heard from Mr. Guidry, so it would be improper
9 for this witness to start with hearsay testimony --

10 THE COURT: Excuse me. I was going to say
11 something to the witness first.

12 When he is asked a yes or no answer, he can
13 explain his answer as long as the explanation is responsive
14 to the question asked.

15 What we'll do is, I'll let you go ahead and
16 restate whatever question you want to ask.

17 If it calls for a yes or no, answer it yes or no,
18 then you can explain.

19 MR. COLE: Your Honor, I would also ask the court
20 to caution the witness not to include hearsay in his answer.

21 THE COURT: I just said if it's responsive to the
22 question, and he should be aware now of what the court is
23 doing.

24 Proceed, sir.

25 BY MR. HARPER:

1 Q. Sir, to your knowledge, personal knowledge, based
2 upon the work that you did, what were the parameters of this
3 new gaming operator contract that Mr. Guidry was interested
4 in?

5 MR. COLE: Objection, Your Honor. This is a
6 little vague for the foundation, based on the work he did.
7 I don't know what that includes. I don't know if that's
8 calling for hearsay.

9 THE COURT: I'm sure you can ask one more question
10 and we can get to this.

11 BY MR. HARPER:

12 Q. Did you work on the issue of securing a new gaming
13 operator to replace Boyd?

14 A. Yes. I was intimately involved in that process.

15 Q. All right. And based upon what you did, could you
16 tell us what the parameters were going to be of this new
17 operating contract?

18 A. Yes --

19 MR. COLE: Again, Your Honor, I'm going to object.
20 Based upon the work he did, what were the parameters? Where
21 did he learn these parameters? The work he did may include
22 hearsay.

23 THE COURT: I think the witness can answer the
24 question. He understands the question, and I think an
25 appropriate foundation has been laid. He can say what he

1 learned in the course of being the attorney in that
2 particular matter.

3 Go ahead, sir.

4 A. In November of 1996, we had submitted a petition
5 to the gaming board at that time to buy out the interest of
6 Boyd. Boyd was acting in two capacities, one as a gaming
7 operator and, two, as a fifteen percent equity owner. I
8 prepared the petition for modification on the proposed
9 buy-out. As part of that -- and I filed it. As part of
10 that process, both sides of the relationship had to be
11 explored; one, the buy-out of Boyd on the equity side and,
12 two, the termination of the operator relationship that
13 flowed from the management agreement that Boyd had.

14 In that context, the attorneys at Adams & Reese
15 explored numerous options for operating the vessel through
16 other companies and, in that regard, had several discussions
17 with our client, Treasure Chest and Mr. Guidry, on how that
18 could be accomplished, and we discussed several
19 possibilities, including Capitol Gaming, as a possibility
20 for operating the casino. There was also a local group that
21 was interested in operating the casino and other potential
22 prospects that we were pursuing.

23 Q. How would -- or, to your personal knowledge, how
24 was the commission going to be paid?

25 MR. COLE: Objection. We haven't established a

1 commission. That's hearsay, and there's been no evidence
2 about that --

3 MR. HARPER: I'll rephrase, Your Honor.

4 BY MR. HARPER:

5 Q. Mr. Perdigao, was a commission going to be paid in
6 connection with the new operator's contract?

7 MR. COLE: Objection, Your Honor. I need a
8 foundation for this.

9 THE COURT: Did you prepare documents that
10 pertained to this matter? Were you involved in
11 conversations that pertained to this matter?

12 THE WITNESS: I was involved in conversations
13 pertaining to this matter.

14 MR. COLE: Your Honor, his conversations --

15 THE COURT: Excuse me.

16 I'll let him now go into who he was speaking to,
17 then you can renew your objection if you have to. Just
18 taking him to a point, Mr. Cole.

19 MR. COLE: Thank you.

20 THE COURT: Yes, sir.

21 BY MR. HARPER:

22 Q. You had discussions with Mr. Guidry about the new
23 operator's agreement?

24 A. Yes, we did.

25 Q. And did you have discussions with the other

1 lawyers in your office about the new operating agreement?

2 A. Yes, we did.

3 Q. Did you discuss the new operating agreement with
4 potential gaming operators yourself?

5 A. I don't know that I had direct conversations with
6 gaming operators, but I had several in-house conferences
7 with other lawyers in the firm.

8 Q. Okay. In connection with the -- did you
9 contemplate the parameters of a new contract?

10 A. We did. We were starting from the basis with the
11 agreement that we had, the management agreement that we had
12 which provided compensation to Boyd for its management
13 services, and that would be approximately three million
14 dollars. Mr. Guidry's point was that Boyd was getting
15 overpaid for the services that they actually provided under
16 this agreement, and we did calculations. Mr. Guidry
17 provided input on what would be a fair compensation, and
18 that was approximately one point eight million dollars, one
19 point two million less than what he was paying under the
20 current agreement, and there were discussions concerning the
21 ability to --

22 MR. COLE: Your Honor, I'm going to object. This
23 is starting to become a narrative --

24 THE COURT: Okay, restate your next question.
25 Objection sustained.

1 BY MR. HARPER:

2 Q. In connection with this new contract, was a
3 commission going to be paid?

4 MR. COLE: Objection, foundation.

5 MR. HARPER: Your Honor --

6 THE COURT: I think he can answer the question. I
7 think enough foundation's been laid.

8 MR. COLE: Your Honor, I --

9 THE COURT: I think enough foundation's been laid.

10 BY MR. HARPER:

11 Q. Was a commission going to be paid in connection
12 with this new contract?

13 A. Yes.

14 Q. What?

15 A. It was my understanding that if Capitol Gaming
16 came in, for example, at one point two million, then there
17 would be a commission of the difference between one point
18 eight and one point two or six hundred thousand.

19 Q. Do you know Stephen Edwards?

20 A. Yes.

21 Q. Have you had conversations with Stephen Edwards?

22 A. Yes.

23 Q. In connection with A-Ace?

24 A. Yes.

25 Q. In connection with the Treasure Chest application

1 process?

2 A. Yes.

3 Q. Did you have a conversation with Stephen Edwards
4 in connection with Capitol Gaming?

5 A. No.

6 Q. All right. Do you know whether or not Stephen
7 Edwards was attempting to obtain or secure a gaming operator
8 for the Treasure Chest?

9 MR. COLE: I'm going to object, Your Honor. He
10 said he's had no conversations with Stephen Edwards,
11 therefore anything he knows is going to be hearsay.

12 THE COURT: You can't tell us what another person
13 said unless it's one of the defendants at this point under
14 the basis of what my current ruling is.

15 MR. HARPER: Your Honor, there's also an exception
16 to the hearsay rule for prior consistent statements, and
17 that's where I'm headed.

18 THE COURT: Okay. Well, you understand what I
19 just said, and I made a ruling, and this is where you're
20 going. You can ask him how he found out, but I don't want
21 him -- you know, you can ask him who he spoke to, but he
22 doesn't have to tell us what people said.

23 MR. HARPER: I understand.

24 BY MR. HARPER:

25 Q. Did you speak to anyone about whether or not

1 Stephen Edwards was attempting to secure a new operator for
2 the Treasure Chest Casino?

3 A. I spoke with Mr. Guidry.

4 Q. All right. Were you and the people at Adams &
5 Reese doing all the legal work in connection with the new
6 contract for a gaming operator?

7 A. Yes, we were, as well as the approvals that were
8 required from the gaming board at that time and the
9 investigations that would go along with it and the time
10 lines for the transition from the existing operator to the
11 new operator. All of that was involved in what we were
12 doing.

13 Q. Was Stephen Edwards involved in the legal work
14 surrounding the modifications of the applications or the
15 application process or the things you just mentioned?

16 A. No.

17 Q. All right. Mr. Guidry, at some point in time,
18 decided to sell the A-Ace Video Poker Company, did he not?

19 A. Yes.

20 Q. All right. Did you have conversations with
21 Stephen Edwards about the sale of A-Ace Video Poker Company?

22 A. Yes.

23 Q. Were you or the lawyers at Adams & Reese, yourself
24 and lawyers at Adams & Reese, doing the legal work in
25 connection with the sale of A-Ace Video Poker?

1 A. Yes, I did the legal work personally, and I had
2 principal responsibility for that transaction.

3 Q. Was Stephen Edwards in any way involved in doing
4 any legal work in connection with A-Ace Video?

5 A. He was a broker trying to consummate a transaction
6 between Al Johnson who was an operator from out of state,
7 had a company called Leisure Time -- I forgot the rest of
8 the time, but it was Leisure Time Video Gaming or Amusements
9 or something like that, and Stephen was going to receive a
10 commission if that sale was consummated.

11 Q. Did Stephen Edwards bring anyone else to the table
12 regarding buying A-Ace?

13 A. No. We ultimately sold it to another buyer which
14 Stephen had no involvement with.

15 Q. Did Stephen Edwards earn any commission?

16 A. No. The buyer that he brought to the table did
17 not buy the company.

18 Q. Did you at any time consult with Stephen Edwards
19 about the legal work that you were doing on the sale of
20 A-Ace?

21 A. No. We talked about his purchaser and the status
22 of that but not concerning the legal work for the sale.

23 Q. Okay. You know a Mike O'Keefe?

24 A. Yes.

25 Q. Is Mike O'Keefe a lawyer?

1 A. Yes.

2 Q. Did he represent someone in connection with this
3 proposed purchase of A-Ace by this Mr. Johnson?

4 A. Yes. He was involved in advising Mr. Johnson on
5 the proposed purchase.

6 Q. Okay. Were there any other lawyers that you
7 recall the names of right now who were involved with Mr.
8 Johnson?

9 A. There may have been another lawyer at Michael
10 O'Keefe's firm, but I don't recall his name.

11 Q. At some point, did Mr. Guidry sell -- or decide to
12 sell his interest in the Treasure Chest?

13 A. Yes.

14 Q. Who did the legal work in -- was the Treasure
15 Chest ultimately sold?

16 A. Yes, it was, and --

17 Q. Who did the legal work in connection with the sale
18 of the Treasure Chest Casino?

19 A. Adams & Reese. I was heavily involved as well as
20 several of my partners. It was quite a bit of legal work.

21 Q. And how did the purchase -- or are you aware of
22 how the purchase price was arrived at?

23 A. There were numerous calculations based on the
24 revenues of the project and numerous other factors, the
25 amount of debt and what have you.

1 Q. Did Stephen Edwards or Edwin Edwards have anything
2 to do with the sale of the Treasure Chest?

3 A. No.

4 Q. Does Adams & Reese do lobbying work at the state
5 legislature?

6 A. We have done lobbying work over the years.

7 Q. And in connection with those lobbying efforts,
8 have you represented Mr. Guidry's interests as a lobbyist in
9 Baton Rouge in the state legislature?

10 A. Yes.

11 Q. Did you or did Adams & Reese participate as
12 lobbyists for Mr. Guidry in connection with a racetrack
13 slots bill that was pending in the legislature?

14 A. Yes. That was an issue in 1997, in the
15 legislative session in 1997, dealing with whether certain
16 racetracks around the state would get slot machines instead
17 of video poker machines, and that was critical to the
18 Treasure Chest because of the neighboring racetrack,
19 Jefferson Downs, which is about a mile away from the
20 Treasure Chest, and if Jefferson Downs were to get slot
21 machines, that would be a competitive issue for Treasure
22 Chest as a riverboat that had to cruise versus a mile down
23 the street playing slot machines at, you know -- on the
24 ground. That was a serious issue for Treasure Chest.

25 Q. To your knowledge, did Stephen Edwards have

1 anything to do with the racetrack slots bill on behalf of
2 the Treasure Chest or Robert Guidry?

3 A. Not to my knowledge.

4 Q. Did you ever have any consultation with him or
5 discussion with him about that?

6 A. No.

7 MR. HARPER: One moment please, Your Honor.

8 Tender the witness, Your Honor.

9 CROSS EXAMINATION

10 BY MR. COLE:

11 Q. Good afternoon, Mr. Perdigao. My name is Jim
12 Cole. I'm Stephen Edwards' attorney.

13 A. Good afternoon.

14 Q. Obviously as an attorney, Mr. Perdigao, you're
15 aware of the attorney/client privilege, is that right?

16 A. Yes.

17 Q. And you're also aware of the ethical rules that
18 cover lawyers in the practice of law, is that right?

19 A. Yes.

20 Q. And the attorney/client privilege covers certain
21 confidentiality aspects of how you treat matters involving
22 communications from a client, is that right?

23 A. Yes.

24 Q. And the ethical rules go even beyond that and say
25 that you're not allowed to talk about client matters without

1 their permission, is that right?

2 A. That's correct.

3 Q. Even if it's not covered by the attorney/client
4 privilege, the ethical rules say you can't even disclose
5 anything dealing with letters, communications, anything like
6 that without the client's permission, is that right?

7 A. That's correct.

8 Q. So I assume you got that kind of permission from
9 Mr. Guidry before coming here today?

10 A. Yes.

11 Q. I'm sorry?

12 A. Yes. I'm sorry.

13 Q. Mr. Perdigao, you said that your law firm
14 currently represents Mr. Guidry?

15 A. Yes. We represent various companies that he owns.

16 Q. How many?

17 A. I don't know. He's got a tugboat business and
18 other ventures, and we do represent him personally on estate
19 planning and various other matters.

20 Q. And could you tell us what the billings are per
21 year from Mr. Guidry and his related companies from your law
22 firm?

23 A. I don't know that, but they are substantial.

24 Q. Above a million dollars?

25 A. In the days of Treasure Chest, it would exceed

1 that. I don't know what it is right now.

2 Q. He's a big client?

3 A. Yes.

4 Q. Nothing to make him stay with your law firm if he
5 should decide to go, is that right?

6 A. I'm not sure I understand your question.

7 Q. You don't have a contract with him where he has to
8 use your law firm for his services, do you?

9 A. No, no.

10 Q. If he's displeased with you or your law firm, he
11 can leave, isn't that right?

12 A. Yes.

13 Q. And he knows you're here testifying today?

14 A. Yes.

15 Q. He gave you permission to come here and testify
16 today?

17 A. Yes.

18 Q. Did he encourage you to come here and testify
19 today?

20 A. I'm not sure he encouraged me. He gave me
21 permission to come.

22 Q. You talked about some of the work that was
23 involved, including the application for the Treasure Chest
24 to get the riverboat gaming license, is that right?

25 A. Yes.

1 Q. And you said that Stephen Edwards did do work with
2 you on that matter, is that right?

3 A. He worked on the application to some degree.

4 Q. As a matter of fact, he was listed as the contact
5 person when the application was filed, was he not?

6 A. Initially.

7 Q. And you said that that work continued into 1994?

8 A. I think what I said was that the application
9 process lasted from early 1993 -- or late 1992 through May
10 of '94.

11 Q. And was Stephen Edwards involved in that process?

12 A. To some degree.

13 Q. How much did your law firm get for that work?

14 A. It was a substantial amount. I don't know the
15 numbers off the top of my head, but we had probably ten
16 lawyers working on it at different times.

17 Q. Couple million dollars?

18 A. I don't believe it would be that much at that
19 stage.

20 Q. Over a million dollars?

21 A. No, not at that stage.

22 Q. For the application?

23 A. During that time period for the application work,
24 it would not be that much.

25 Q. Give us an estimate of how much then.

1 A. I'm not sure I can do that. It was several
2 lawyers working a substantial amount of time at an hourly
3 rate, and we would bill him on a monthly basis and send him
4 an invoice, and he would send us a check.

5 Q. And what do the hourly rates run?

6 A. Probably from seventy-five dollars to two hundred
7 fifty dollars depending on the complexity of the matter.

8 Q. And how many lawyers did you have involved?

9 A. It ranged depending on what we were working on at
10 the time. If there were tax issues, the tax department
11 would work on it. If it was real estate, the real estate
12 people would work on it. If it was regulatory, the
13 regulatory people would work on it, and all of these issues
14 combined in the application process, corporate lawyers
15 working on the contracts and the corporate issues.

16 Q. So there was a fair number of lawyers, is that
17 right?

18 A. Yes.

19 Q. And that lasted throughout that year or more?

20 A. Yes.

21 Q. Okay. You also talked about the operating
22 agreement between Boyd Gaming and Treasure Chest, is that
23 right?

24 A. Are you referring to the management agreement?

25 Q. Yes. I think it was referred to as the operating

1 agreement.

2 A. Yes, there is an operating agreement which
3 controls the members of the LLC, of which Boyd was a member
4 as well as Mr. Guidry, but that was the operating agreement.
5 The management agreement was the agreement between Boyd and
6 the Treasure Chest for operating the gaming operation on the
7 boat.

8 Q. And was Stephen Edwards involved in the operating
9 agreement for the LLC?

10 A. He had a small role.

11 Q. A small role?

12 A. I think he commented on a couple of occasions.

13 Q. All right. He had a role? He did legal work, is
14 that right?

15 A. I think he was provided drafts, and I think he may
16 have provided some comments, but I'm not a hundred percent
17 sure.

18 Q. All right. Do you want me to refresh your
19 recollection?

20 Let me show you SRE-4 and direct your attention to

21 C. Does that refresh your recollection, Mr. Perdigao?

22 A. Yes. This is a letter from Stephen with about a
23 page and a half of suggestions.

24 Q. All right. Now, when you do work like that, you
25 get paid for it, don't you?

1 A. Yes.

2 Q. Now, you had also said that Mr. Edwards had no
3 involvement, I believe, in the petition for modification
4 involving the power lines, is that right?

5 A. I said that we did the legal work on it. I think
6 we provided him copies of some of the documents.

7 Q. You provided him copies of some of the documents?

8 A. Yes, of the petition for modification and things
9 of that nature.

10 Q. Now, I think we covered earlier that you can't
11 just send those things out without your client's permission,
12 is that right?

13 A. That's right.

14 Q. Go ahead.

15 A. Yeah, he had been an attorney that had worked on
16 the application, and, you know, there are several issues --
17 well, a hundred or more major substantive issues in the
18 application process, including the operating agreement. The
19 way the members govern themselves had a relationship to the
20 application, because in the gaming business, the regulated
21 environment that the Treasure Chest was in, issues such as
22 the operating agreement and petitions for modification deal
23 with the application and certificate that comes out of that
24 application, and this letter on the operating agreement was
25 in May of '94, which I still consider to be in the time

1 frame of the application process.

2 Q. And the petition for modification, again, was Mr.
3 Edwards involved in that or not? I think you said on direct
4 he was not. I just wanted to clarify that.

5 A. We did the drafting of the petition, the filing of
6 the petition, the presentation of the petition to the gaming
7 commission --

8 MR. COLE: Your Honor, if I may, the witness is
9 not being responsive to my question. I've asked him whether
10 Mr. Edwards was involved. I did not ask him to catalogue
11 the work his law firm did.

12 THE COURT: Okay, please listen to the question.

13 BY MR. COLE:

14 Q. Was Mr. Stephen Edwards involved in work on the
15 petition for modification involving the power lines?

16 A. I know they received courtesy copies of the work
17 that we had done, but I'm not aware of any legal work that
18 he did in relation to that.

19 Q. Were you aware that Mr. Guidry was sending him
20 requests to review and comment on things in regard to that?

21 A. I knew that Mr. Guidry was sending him various
22 documents relating to that issue.

23 Q. And do you know that he was asking Mr. Edwards to
24 review them and comment on them?

25 A. I think you'd have to ask Mr. Guidry that. I

1 don't know what he asked Stephen to do or not to do.

2 MR. COLE: Your Honor, let me show the witness
3 SRE-5 which is in evidence.

4 BY MR. COLE:

5 Q. Let me just go right, if I can, to Item B in that,
6 Mr. Perdigao.

7 A. Yes.

8 Q. It's a letter dated August 4, 1994. I'll put it
9 on the Elmo so we can all take a look at it. And that is
10 from Robert Guidry to Stephen Edwards.

11 Dear Stephen: Attached is the letter to Kenneth
12 Pickering and a memo to myself from Robert Vosbein involving
13 the LP&L transmission lines, the state police and the
14 riverboat gaming commission, etc. It is self explanatory,
15 and once you have read this, please advise.

16 Were you aware of this letter, Mr. Perdigao?

17 A. Not directly.

18 Q. So it is possible that Mr. Guidry was seeking
19 advice from Mr. Edwards on legal matters that you weren't
20 aware of, is that right?

21 A. I think you'd have to ask Mr. Guidry what he was
22 asking --

23 Q. I'm just asking if that's possible, Mr. Perdigao.
24 Do you claim to know all of the legal advice that Mr. Guidry
25 got from every other lawyer in the world?

1 A. No, I don't.

2 MR. HARPER: Calls for speculation, Your Honor.

3 THE COURT: Well, I had previously precluded him
4 from answering some questions --

5 MR. COLE: That was hearsay, Your Honor. I'm
6 asking the scope of his knowledge.

7 THE COURT: Well, it's not necessarily hearsay
8 under 801, but he can answer what he knows, and if his
9 answer is you have to ask Mr. Guidry, then I guess that's
10 his answer.

11 MR. COLE: All right.

12 BY MR. COLE:

13 Q. Mr. Perdigao, Mr. Harper asked you about the
14 racetrack slot machine bill.

15 A. Yes.

16 Q. And you said Stephen Edwards didn't have anything
17 to do with that either, is that right?

18 A. Well, I know that we were -- did --

19 MR. COLE: Your Honor, I ask again to instruct the
20 witness to be responsive to my question --

21 MR. HARPER: Your Honor --

22 MR. COLE: -- and it is what Stephen Edwards did,
23 not what Adams & Reese did.

24 MR. HARPER: The question he asked did not have
25 anything to -- Your Honor, he asked him whether Stephen

1 Edwards did any legal work or lobbying work to his
2 knowledge.

3 THE COURT: Okay, restate your question.

4 If it calls for a yes or no answer, sir, answer it
5 yes or no, then you can explain it.

6 THE WITNESS: Yes, sir.

7 BY MR. COLE:

8 Q. Mr. Perdigao, do you know of any legal work that
9 Stephen Edwards did in regard to the slots at the racetrack
10 issue?

11 A. I'm not aware of any legal work that he did, but I
12 am aware that we handled that issue for Treasure Chest.

13 Q. Mr. Perdigao, I'll put on the screen SRE-11 which
14 is already in evidence. The front is a fax sheet from
15 Stephen Edwards to Bobby Guidry dated February the 25th,
16 1997. Have you ever seen this before?

17 A. I don't believe so.

18 Q. Let me turn to the next page. It is a memorandum
19 dated February the 25th, 1997 from Stephen Edwards to Bobby
20 Guidry. I'll move it up so you can see the text.

21 As you are probably aware, Governor Foster is
22 committed to signing legislation which would allow slot
23 machines in horse tracks. At this time, it appears there is
24 a fifty fifty chance of that legislation passing. If you
25 have an interest in dockside for Jefferson, you need to get

1 one of your local representatives or senators to file for
2 dockside in Jefferson Parish only as a local bill. It must
3 be filed this week. If the racetrack bill has a chance of
4 passing, it is going to need the support of the Jefferson
5 delegation, and as a trade-off for that support one of the
6 local representatives or senators can ask for an amendment
7 to the racetrack bill allowing for dockside in Jefferson
8 Parish, this way if the slot machine bill passes, you may be
9 able to get something out of it. If the local bill is not
10 filed timely, you may lose the opportunity to place the
11 amendment on the slot machine bill. Let me know what you
12 want, and if I need to do anything to assist you, please
13 advise.

14 Did you ever see this before?

15 A. No, but this was, I think, the strategy that the
16 riverboat operators were employing. Certainly it was our
17 strategy.

18 Q. Had you ever seen this memo before?

19 A. No.

20 Q. Mr. Guidry never told you he got this advice from
21 Stephen Edwards?

22 A. No.

23 Q. Mr. Guidry never told you that he was seeking any
24 advice from Stephen Edwards, did he, in this regard?

25 A. No, but this is the advice that we were giving

1 him.

2 Q. Well, I guess then that Stephen Edwards was right
3 then, wasn't he?

4 THE COURT: Question?

5 BY MR. COLE:

6 Q. Wasn't he right in the advice he gave?

7 A. I believe that this was the type of thing that
8 would have been in the newspaper as to what the riverboat
9 operators' position was vis-a-vis the possibility of slots
10 at the track, what, for example, the land based casino --
11 what their position would be. I mean, this was a position
12 that I think was common to several riverboat operators.

13 Q. Now, you also talked about the work on the A-Ace
14 license revocation matter?

15 A. Yes.

16 Q. You said Stephen Edwards had nothing do with that,
17 is that right?

18 A. I said that he was a broker bringing Al Johnson to
19 the table.

20 Q. License revocation matter. Listen to my question,
21 sir.

22 A. I'm sorry.

23 Q. You said Stephen Edwards had nothing to do with
24 that legal work, is that right?

25 A. That was not the question that Mr. Harper asked

1 me. He was initially involved in the first few days of the
2 process and brought Mr. Guidry to Unglesby & Koch who
3 handled the first two weeks of the matter, and then we took
4 it from there.

5 Q. Handled the first two weeks of the matter?

6 A. Yeah. The process happened in late December, and
7 there were some preliminary injunction hearings -- temporary
8 restraining order hearings which Unglesby & Koch handled
9 with our support, and then we took the primary role, and
10 Unglesby & Koch became secondary.

11 Q. But Unglesby & Koch was involved basically
12 throughout the matter, weren't they?

13 A. They were primary initially and then secondary
14 after that.

15 Q. They remained involved throughout the matter, is
16 that right?

17 A. Yes.

18 Q. And they remained involved through the
19 administrative hearing, did they not?

20 A. Well, we handled the administrative hearing, but
21 they provided advice and consultation through that process.

22 Q. And gave advice on strategy and things like that,
23 did they not?

24 A. Yes.

25 Q. And so did Stephen Edwards? He was involved in

1 that too, wasn't he?

2 A. He was not counsel of record or was not, to my
3 knowledge, doing legal work on it.

4 Q. Not to your knowledge?

5 A. That's correct.

6 Q. You're under oath here today. Not to your
7 knowledge?

8 A. That was my understanding of the relationship was
9 that Unglesby & Koch was hired after Stephen was initially
10 involved, that Louis Unglesby and Carl Koch had primary
11 responsibility for the injunction proceedings before the
12 district court in Baton Rouge, and then after that we took
13 primary responsibility for that. That's my understanding,
14 and I was not directly aware of Stephen Edwards -- other
15 than in the first few days when he brought Mr. Guidry to
16 Unglesby & Koch, I was not aware of direct legal work he was
17 doing.

18 Q. So you're not aware that he was involved in the
19 matter during the 1993 and 1994 time frame?

20 A. Well, he was involved, that's what I was saying --

21 Q. In '93 and '94?

22 A. Well, in the first -- in the early stages -- I
23 would say it would be in the last two weeks of 1993 when the
24 matter first came up. He brought Mr. Guidry to Unglesby &
25 Koch, and Unglesby & Koch took the primary responsibility

1 for the temporary restraining order with us providing
2 backup, and then the first week in January, we became
3 primary with Unglesby & Koch becoming backup, and we carried
4 that through April.

5 Q. Actually you folks didn't enter your appearance
6 until the end of February, isn't that right?

7 A. Well, no, I think that's when the notice of
8 appearance was filed, but we were working on strategy and
9 the memos, and I was working directly with Carl Koch the
10 last weekend in December, 1993 in providing backup support
11 to them.

12 Q. And Stephen Edwards was providing support as well
13 and doing research and strategy, was he not?

14 A. I'm not aware of what he was doing in that regard.

15 Q. If Mr. Guidry said he was aware of that, you
16 wouldn't question that, would you?

17 A. I don't know what context. I know that Stephen
18 was involved in the early stages, and I would assume that
19 would have involved some strategy. Even the selection of
20 Unglesby & Koch would be a strategy issue.

21 Q. You're aware that Stephen Edwards got paid for
22 work, were you not?

23 A. I was not aware of that.

24 Q. Not aware of that?

25 A. No.

1 Q. And, again, if Mr. Guidry testified that he was
2 aware that Stephen Edwards got paid, it's just something
3 you're not aware of that Mr. Guidry would be aware of, is
4 that right?

5 MR. HARPER: Your Honor, I object to cross
6 examining this witness about what somebody else may or may
7 not have said which this man never got an opportunity to
8 hear or see.

9 MR. COLE: Your Honor, Mr. Harper wanted to go
10 into all sorts of issues about what he heard and what Mr.
11 Guidry told him, and I just want to make sure I know exactly
12 how much Mr. Guidry was telling him.

13 THE COURT: Well, I didn't let him go into all
14 those things because you objected.

15 MR. COLE: With all due respect, Your Honor --

16 THE COURT: One question under 801 I allowed --

17 MR. COLE: I will move on to another area, Your
18 Honor.

19 BY MR. COLE:

20 Q. Mr. Perdigao, when the video poker ruling by Judge
21 Tanner on suitability came down --

22 THE WITNESS: Your Honor, could I correct
23 something?

24 A. I was aware -- Mr. Guidry advised me he paid
25 Unglesby & Koch fifty thousand dollars. I was aware of

1 that. That was the extent of what I knew about the payment
2 arrangement.

3 BY MR. COLE:

4 Q. So if Mr. Guidry was aware that some of that
5 payment was going to Stephen Edwards, that's something he
6 didn't tell you, right?

7 A. I was not aware of that.

8 Q. The Treasure Chest had a preliminary hearing that
9 was set for December the 17th of 1993, is that right, on the
10 riverboat license?

11 A. That was a preliminary setting.

12 Q. And that was for the state police to have its
13 licensing hearing, is that right?

14 A. That's correct.

15 Q. And it was only because of the A-Ace Video
16 revocation matter that that hearing got put off, isn't that
17 right?

18 A. Well, that was the dominant reason. I don't know
19 if they had others, but that was clearly the major issue.

20 Q. Were you informed of any other reason besides that
21 for putting off the hearing?

22 A. That was more than enough. That was plenty.

23 Q. Were you informed of any other reason?

24 A. No, I was not informed of any other. No, I'm
25 sorry.

1 Q. And isn't it the law that once the background
2 information has been completed it is required that the state
3 police give a hearing, is that right?

4 A. Once the background investigation is completed.

5 Q. All right. So if a hearing was set, it meant that
6 the background information had been completed prior to the
7 17th of December, 1993, is that right?

8 A. Well, the issue was that we got a preliminary
9 notification that it was going to be on December 17, but
10 when you have a suitability issue arise before that, there
11 is no possibility that the investigation could be complete.

12 Q. Mr. Perdigao, please listen to my question and
13 answer my question. Let's put A-Ace aside for a moment.

14 When you got the notification that you had a
15 hearing scheduled for December 17th, under the law it meant
16 that the background investigations had been completed, isn't
17 that right?

18 A. At the time when we were given a notice, but if
19 something happens -- if you get a notice ten days before
20 hearing and something happens on the ninth day, they have
21 the absolute right to say the investigation is not complete.

22 Q. Exactly. And the something that happened was the
23 A-Ace Video matter, is that right?

24 A. Yes.

25 Q. And that's the only thing you're aware of that

1 happened in that intervening time, is that right?

2 A. That is correct.

3 Q. Are you aware of anything else that was going on
4 between that time and the time that the A-Ace matter was
5 resolved in April of 1995 that affected Mr. Guidry's
6 suitability?

7 A. Well, I mean, you have ongoing financial issues.

8 Q. Was Mr. Guidry losing any money then?

9 A. He was investing a lot of money in the project.
10 You had further refinement of operator selection and things
11 of that nature, vessel issues, site issues, water bottom
12 lease issues, things of that nature.

13 Q. So all of those would then have to be updated, is
14 that right?

15 A. That's correct.

16 Q. All right. But on the suitability issue, that was
17 the same suitability issue for the video poker as it was for
18 the Treasure Chest riverboat, was it not?

19 A. Well, it's the same standard, but the riverboat
20 gaming division is not bound by the determination of video
21 poker. They could address other issues and continue to
22 investigate for months and look at additional things. It
23 was not automatic that once the video poker issue was
24 resolved that you would automatically be suitable in
25 riverboats.

1 Q. Mr. Perdigao, didn't you testify in a hearing in
2 regard to this case about that very matter on the first of
3 February of 1999?

4 A. Yes, I did.

5 Q. And in that testimony didn't you state: And so the
6 A-Ace hearing and the A-Ace proceedings involved his,
7 meaning Mr. Guidry's, own suitability that carried over into
8 all aspects of gaming? Didn't you testify to that?

9 A. And I agree with that.

10 MR. COLE: Your Honor, I have no further questions
11 for this witness.

12 CROSS EXAMINATION

13 BY MR. SMALL:

14 Q. Mr. Perdigao, my name's Dan Small, and I represent
15 Edwin Edwards. Couple of preliminary things.

16 First of all, you mentioned that early on in the
17 Treasure Chest application process, they decided to move the
18 site of the riverboat, is that correct?

19 A. That's correct.

20 Q. And, in fact, is that something that happened -- I
21 don't know what the best word is to use, but that happened
22 on other occasions with other riverboats as well?

23 A. Yes.

24 Q. I don't want to call it common, but it was not
25 unusual, is that fair to say?

1 A. I'm not sure. It happened on other occasions.

2 Q. And someone might get a Certificate of Preliminary
3 Approval or even a license in one location and end up for
4 whatever reason moving to a different location?

5 A. Yes.

6 Q. And sometimes, in fact, there had been two people
7 vying for a license at one location, and one might get moved
8 sort of as a compromise, is that right?

9 A. Yes.

10 Q. And so as a method of either compromise or
11 resolving differences, moving the site was something that
12 happened on a number of occasions, is that correct?

13 A. I don't know about a number, but it happened a few
14 times.

15 Q. More than once?

16 A. Yeah.

17 Q. Happened a few times? I'll use your words.

18 A. Yeah.

19 Q. Okay. And so that type of compromise or solution,
20 whatever it was, would involve filing an amended
21 application, is that correct, and --

22 A. Basically. I mean, imagine you're going to
23 construct a multimillion dollar project at a site, and then
24 you decide to move the site. There's a lot of issues that
25 go along with that.

1 Q. Oh, sure, but a number -- or at least a few
2 different boats navigated the waters of changing the site,
3 is that correct?

4 A. Yes.

5 Q. Okay. Now, one other matter on preliminarily --
6 am I right that the Tanner hearing was an -- essentially,
7 although it was with a judge, it was an administrative
8 hearing?

9 A. Yes.

10 Q. And it was subject to the Louisiana Administrative
11 Procedures Act?

12 A. Yes.

13 Q. And that act governs what rights a party may have
14 to judicial review of the decision?

15 A. Yes.

16 Q. And under that act there's a thirty-day period for
17 judicial review, is there not?

18 A. To the aggrieved party non-agency, that's correct.
19 The state police would not have the right to appeal that.
20 They were not a person under the APA, so they would not have
21 a right to appeal.

22 Q. Okay. So their avenue would be the ten-day
23 reconsideration you were talking about?

24 A. Same judge that refused to uphold their
25 revocation.

1 Q. Now, the Certificate of Preliminary Approval from
2 the commission, I think you testified, happened in June of
3 1993, is that correct?

4 A. Yes, that's correct.

5 Q. And you mentioned that there were two tracks going
6 on. One was with the commission, and the other is with the
7 state police. Did you begin with the state police prior to
8 the June hearing? Do you know?

9 A. Yes, we would have, yes.

10 Q. Do you remember when you began the process with
11 the state police?

12 A. My recollection is that the application for
13 Certificate of Preliminary Approval preceded the riverboat
14 gaming division, the state police application process, by a
15 matter of weeks but not more.

16 Q. So the hearing on the Certificate of Preliminary
17 Approval was in June of '93, but the application to the
18 commission was in March of '93, is that correct?

19 A. No, I believe that the application to the
20 commission was filed in late February, but I don't know
21 exactly.

22 Q. Okay. All right. I'm sure you're correct on
23 that.

24 And so relative to late February of '93, when did
25 you start the process with the Louisiana State Police?

1 A. Well, I believe that the -- and there was some
2 crossover in the forms, but without going back and looking
3 at it, that process was started shortly after, but that
4 involves different issues than the commission's review of a
5 berth site and vessel construction so that the tracks are
6 not parallel in terms of time.

7 Q. I understand there are different issues and a
8 different track, but the Louisiana State Police track, your
9 testimony is, then began roughly when, March of '93?

10 A. I would have to go back and look, but it followed
11 closely on the heels of the application to the commission.

12 Q. So would I be roughly accurate to say in the
13 vicinity of March of 1993?

14 A. That would be roughly accurate, but I would have
15 to go back and look at the documents to see.

16 Q. Might be a little earlier, might be a little
17 later?

18 A. Yes.

19 Q. In any event, it wouldn't be a month earlier or
20 later? In other words, it would have been, you know, June
21 or --

22 A. My recollection of it was that the application for
23 Certificate of Preliminary Approval was submitted first.
24 There was a lot of overlap because there had not been two
25 sets of forms developed at that time, and a lot of that was

1 carried over, and it was within a short window of time, but
2 I don't know the exact date, but my guess would be in that
3 time frame.

4 Q. All right. Well, and the goal of that process is
5 to get suitability and the suitability hearing, is that
6 correct?

7 A. The goal is to get a riverboat license.

8 Q. All right. But the major step, as far as the
9 Louisiana State Police, is to get suitability and a
10 suitability hearing, is that correct?

11 A. Well, no, there was a two-track process. You
12 needed a Certificate of Preliminary Approval --

13 Q. I understand.

14 A. -- which was, in effect, your berth site
15 approval, and you needed a license which took the form of a
16 hearing which contemplated your suitability, so the license
17 hearing itself was a suitability hearing.

18 Q. Sure, okay. And the process that you started,
19 let's say March or April, just to give some breathing room,
20 in March or April of 1993 is the process that resulted in
21 what was supposed to have been the December 17th, 1993
22 hearing, is that correct?

23 A. That's correct.

24 Q. So that process was about an eight- or nine-month
25 process, is that fair? Did I do my math right, or is it

1 seven or eight?

2 A. No, basically if you're looking at it from that
3 regard, it ended up being a fifteen-month process, but, you
4 know --

5 Q. Okay, okay. So it was a long process, is that
6 correct?

7 A. Yes.

8 Q. And the state police all through this time were
9 backed up, is that correct, they were underworked -- or
10 overworked or understaffed? At least that's what they were
11 saying, is that correct?

12 A. Yes, but they were getting the job done.

13 Q. But there were a lot of complaints from a lot of
14 different people on a lot of different licenses that they
15 were moving too slowly, isn't that fair?

16 A. Well, I believe that the applicants that did not
17 receive a license or a license hearing would have said that
18 the process was interminably slow, but you had several -- I
19 think the first boat opened in September of '93, so I'm not
20 sure that Showboat Star could complain about the timing,
21 because they were, you know, open very quickly.

22 Q. No, but -- and at that time of the first boat,
23 there weren't that many applicants, isn't that fair to say?

24 A. At the time the first boat opened?

25 Q. Well, at the time the first boat was approved,

1 there weren't that many applicants, isn't that fair to say?

2 A. Well, yeah, I think the process was telescoped
3 toward the end but started off slower --

4 THE COURT: Could I ask y'all to do us a favor?
5 Can y'all not talk over each others questions and answers?

6 MR. SMALL: Sure, sure.

7 BY MR. SMALL:

8 Q. And by 1993 it had built up a lot of steam. There
9 were a lot of applicants and a lot of work being done by the
10 Louisiana State Police, is that correct?

11 A. Well, the state police were devoting the majority
12 of their resources, to my understanding, you'd have to ask
13 the state police, but to those who had received Certificates
14 of Preliminary Approval.

15 Q. That's correct. And if the state police testified
16 here that even that task had them overworked, you wouldn't
17 have any basis to disagree with that, is that correct?

18 A. Well, I know that they were getting the job done.
19 I believe everybody was overworked.

20 Q. Okay. And now Judge Tanner's selection, you said,
21 was the result of the negotiations among the lawyers, is
22 that correct?

23 A. That's correct.

24 Q. As far as you know, Edwin Edwards was not involved
25 in that selection, was he?

1 A. I don't have any knowledge of that. I was
2 involved with the state police lawyers trying to select the
3 judges.

4 Q. And that's how the judge got selected, between you
5 and the state police lawyers?

6 A. That's correct.

7 Q. And now on direct -- well, and at the time this
8 happened, in this time period of April or so of 1994, there
9 had been preliminary certificates given out, is that
10 correct?

11 A. By what time period?

12 Q. April of '94?

13 A. Yes.

14 Q. All fifteen had been given out. One of them had
15 gone to Treasure Chest, correct?

16 A. That's correct.

17 Q. And there were no other hearings or anything
18 scheduled by the commission for preliminary certificates
19 because they had all been handed out?

20 A. But there wasn't a limit on Certificates of
21 Preliminary Approval. The commission could meet the next
22 day and give out fifteen more or thirty more, a hundred
23 more.

24 Q. Well, but in fact what the commission did was to
25 limit the number of Certificates of Preliminary Approval to

1 the fifteen that was in the statute?

2 A. That's not correct.

3 Q. Did they have more than fifteen given out at any
4 one time?

5 A. I believe so.

6 Q. When was that, sir?

7 A. I think that would have been in -- I would have to
8 go back and check, but I believe that at one point there
9 were sixteen out when there were only fifteen licenses, but
10 I would have to check that.

11 Q. The --

12 A. Basically the commission and the attorney general,
13 on behalf of the riverboat gaming commission, took the
14 position that they could issue more than fifteen
15 certificates, they could issue thirty, and that it was up to
16 the state police to license fifteen applicants and that the
17 berth site -- all they were doing was approving berth sites,
18 vessel design and things like that, so they had the
19 authority to issue more than fifteen. That was their legal
20 position in court.

21 Q. As of early 1994 were there any hearings scheduled
22 by the commission for additional certificates?

23 A. Not that I'm aware of, not in that time period.

24 Q. And, in fact, isn't it a fact that the Louisiana
25 State Police did not license anyone who did not already have

1 a certificate?

2 A. Well, what you're not addressing is the fact that
3 this entire process was in litigation and that the state
4 police and other applicants had challenged the commission's
5 ability to essentially direct the process by issuing
6 certificates. Now, they took the position that we can issue
7 certificates in papers filed in court prior to this time,
8 had taken the position that they could meet at any time and
9 issue additional certificates, so if you are the third
10 applicant for the two spots in Baton Rouge and you get a
11 license, then you have the ability to get a certificate
12 based on the position that the commission was taking and the
13 attorney general was taking at that time that if you got a
14 license and could present to the gaming commission a
15 suitable berth site, suitable vessel design, proper
16 financing and what have you, you would get a certificate.
17 So what was happening in the court system at that time was a
18 recognition -- and this is what Treasure Chest was scared of
19 is that --

20 MR. SMALL: Your Honor, could I ask the court
21 reporter to read back my last question? It's totally
22 different from what he's answered.

23 THE COURT: Isn't it a fact that the Louisiana
24 State Police did not license anyone who did not already have
25 a certificate.

1 And then he --

2 BY MR. SMALL:

3 Q. Isn't that a fact? Yes or no.

4 A. That is true, but that issue was in litigation.

5 Q. Okay. But it is a fact -- regardless of what the
6 issues were in litigation, it is a fact that the Louisiana
7 State Police did not license anybody who did not already
8 have a certificate from the commission? Isn't that a fact?

9 A. That is a fact, but I -- you know, that is not a
10 clear picture of what was happening, because there was a
11 risk given the pending litigation and given the stated
12 position of the attorney general and the riverboat gaming
13 commission that if you got a license, you didn't have to
14 have a Certificate of Preliminary Approval at that time, you
15 could get a Certificate of Preliminary Approval later.
16 There was only fifteen licenses. There was not a limit to
17 Certificates of Preliminary Approval, and that is what was
18 causing -- that was our view of the situation based on our
19 review of the pleadings in court and what we were telling
20 Mr. Guidry.

21 Q. What you were telling Mr. Guidry?

22 A. Yes.

23 Q. Well, in fact, what you were telling Mr. Guidry
24 was that there was good news. Isn't that what you were
25 telling Mr. Guidry?

1 A. At what point?

2 Q. We'll come to it in a minute.

3 Now, you testified on direct that after the Tanner
4 opinion you all went out to celebrate, and Mr. Guidry said
5 he didn't want to come with you. Do you recall that
6 testimony?

7 A. Yeah. He was concerned about getting his
8 riverboat hearing, as he always was.

9 Q. He was always concerned about it, correct?

10 A. That's right.

11 Q. Throughout the whole period?

12 A. Well, it got worse with every passing day.

13 Q. And it got so bad that instead of going out with
14 you, he was packing to go to Las Vegas. Did you know that?

15 A. I was not aware of that.

16 Q. Okay. Did you know that two days after the
17 hearing, he was off to Las Vegas for three days?

18 A. No, I wasn't aware of that.

19 Q. And it got so bad -- Mr. Vosbein was a senior
20 partner working on this during the period between the Tanner
21 opinion on April 5th and the notice that you got a hearing
22 from the state police on May the 3rd. Isn't it a fact that
23 Mr. Vosbein went on vacation for part of that time?

24 A. I remember us working diligently. I don't
25 remember what his vacation schedule was, and I know that we

1 had numerous lawyers working on the project, and if he did
2 go out of town, he was calling in regularly.

3 Q. From the beach?

4 A. Probably every two hours.

5 Q. Did Mr. Guidry call in regularly from Las Vegas?
6 You didn't know he was there, so I guess the answer is he
7 didn't?

8 A. If he gone two days after the hearing, he -- you
9 know, we still hadn't received a decision yet.

10 Q. You'd received the Tanner decision?

11 A. Oh, he went two days after the hearing.

12 Q. The decision?

13 A. I thought you said the hearing. I'm not aware of
14 that.

15 Q. Now --

16 MR. SMALL: May I see EWE-22?

17 BY MR. SMALL:

18 Q. And you were shown this memo on direct
19 examination, do you recall?

20 A. Yes.

21 Q. And this is a memo from Mr. Vosbein. He's a
22 senior partner?

23 A. Yes.

24 Q. To Mr. Guidry?

25 A. Yes.

1 Q. And he's the client, correct?

2 A. Yes.

3 Q. Were you involved in writing or reviewing this
4 memo before it went out, sir?

5 A. Yes. I think I had a conference call with Robert
6 Vosbein and Howard Elliott, and I may have even drafted the
7 memo, I don't recall, but I know every part of it.

8 Q. And you testified on direct that, in fact, you
9 could not rely on Howard Elliott and on his review of
10 things. Wasn't that your testimony?

11 A. That wasn't exactly my testimony. He had
12 repeatedly told us things during the A-Ace decision which
13 ultimately the state police did not follow, and his
14 expectations or thoughts about how things would work out did
15 not come about.

16 Q. And you testified on direct that as a result of
17 that, you felt that you could not rely on his --

18 A. Well, we were obviously hopeful, but it's not --
19 as it turns out, he was not correct.

20 Q. And you testified on direct that you could not
21 rely on Mr. Elliott's opinion on this. Wasn't that your
22 testimony on direct?

23 A. We had serious doubts about whether he spoke for
24 the state police and whether he actually had the ear of the
25 state police and whether the state police would do what he

1 advised them.

2 Q. One more time, Mr. Perdigao. Didn't you testify
3 on direct that you could not rely on the opinion of Mr.
4 Elliott on this?

5 A. I've answered that the best I can.

6 Q. Didn't you testify on direct -- weren't those your
7 words, that you could not rely on the opinion of Mr.
8 Elliott? Yes or no.

9 A. I don't remember what I said, but I tried to
10 explain what I was talking about.

11 Q. And you testified just now that you're familiar
12 with every part of this memo?

13 A. Yes.

14 Q. Where in this memo does it say to your client that
15 you could not rely on Mr. Elliott's opinion?

16 A. Mr. Guidry was heavily involved in the workup of
17 the A-Ace trial. When we had numerous conversations with
18 Howard Elliott between January and March of 1994, the moment
19 we would hang up the phone with Howard, we would get Mr.
20 Guidry on the phone, and he was very aware of Howard
21 Elliott's position and authority at the state police.

22 Q. May I have the court reporter read back the
23 question?

24 THE COURT: And you testified just now that you're
25 familiar with every part of this memo? Where in this memo

1 does it say to your client that you could not rely on Mr.
2 Elliott's opinion?

3 BY MR. SMALL:

4 Q. In fact, it doesn't say that?

5 A. Doesn't say that in the memo.

6 Q. Doesn't say anything of the kind, does it?

7 A. No, it doesn't.

8 Q. In fact, it says good news, is that correct?

9 A. That's correct.

10 Q. Well, was this good news or wasn't it?

11 A. If what he was saying turned out to be the case,
12 it was great news, and, as it turned out, it was not great
13 news, good news, it was the reverse, as we had expected.

14 Q. And now you looked at two other letters. You
15 looked on direct at TCR-77, the April 6th, 1994 letter. Do
16 you recall that?

17 A. Yes.

18 Q. And going down to the fourth paragraph, it says --
19 this is Mr. Vosbein writing, is that correct?

20 A. That's correct.

21 Q. And did you review this letter before it went out?

22 A. I believe I drafted it.

23 Q. You drafted it? And going to the fourth paragraph
24 it says: I met today with John McShane --

25 I take it I means Mr. Vosbein, is that correct?

1 A. Yes.

2 Q. Were you present at this meeting also?

3 A. I had several meetings, but I'm not sure about
4 this one.

5 Q. -- with the Department of Revenue and Taxation
6 and will be providing him the few remaining documents he
7 needs within the next several days. Is that correct?

8 A. Yeah.

9 Q. When did you provide those documents to John
10 McShane, do you know?

11 A. I don't remember, but I would imagine it would
12 have been in the next several days.

13 Q. Well then, we go to TCR-78 which you were shown on
14 direct which is the April 28th -- April 26th, rather, memo
15 to Mr. Guidry from Mr. Vosbein, and here it says, we have
16 spent the last week gathering updated financial information
17 for the Department of Revenue and Taxation, and these
18 records have now been provided to them. Sergeant Peters
19 told me today that the Department of Revenue and Taxation
20 told him today that they are satisfied that they have what
21 they need.

22 Is that correct?

23 A. Yes.

24 Q. And they have what they need refers to what they
25 need in order to then refer the matter back to the state

1 police so you can get your hearing, isn't that correct?

2 A. Well, they were doing a, for lack of a better
3 word, financial suitability review, and you constantly had
4 to update the financial information that you gave them.
5 Once he received this update, he is at a position of locking
6 down his report. I'm not sure that this information is the
7 same information he had requested on April 6th.

8 Q. Locking down his report to the Louisiana State
9 Police, isn't that correct?

10 A. Well, that's correct, yeah.

11 Q. And, in fact, this is April 26th. In fact, a few
12 days later on May 2nd, showing you EWE-26, the Department of
13 Revenue and Taxation did forward this letter to the
14 Louisiana State Police, isn't that correct?

15 A. Yes.

16 Q. And it was received by the Louisiana State Police
17 on May 3rd, isn't that correct?

18 A. It appears to be based on the stamp.

19 Q. And May 3rd is the day that the Louisiana State
20 Police issued the notice to Treasure Chest of a hearing,
21 isn't that correct?

22 A. What I think you're missing is the --

23 Q. Why don't you answer my question first, then you
24 can tell me what I'm missing.

25 A. Okay.

1 Q. Isn't May 3rd the day, same day, that the
2 Louisiana State Police sent out the notice to Treasure Chest
3 of the hearing?

4 A. Absolutely.

5 Q. All right, now you can tell me what I'm missing.

6 A. Okay, the information that we were providing them
7 was minor update information, not something that would have
8 precluded a hearing earlier. You know, this was a rolling
9 process with each day and week that went by. They needed
10 updated financial information, and this same letter could
11 have been sent earlier without the weekly updates or
12 whatever they were looking for.

13 Q. And that's just the point, isn't it? This was a
14 rolling process that you were engaged in with the Louisiana
15 State Police and with the Department of Revenue and
16 Taxation?

17 A. But the issues that they were looking at were not
18 issues that would have delayed a hearing. This was, you
19 know, give us the financials, give us the -- whatever it
20 was, the -- you know, the week ended April 14 financials or
21 whatever it is. It was not the department of revenue that
22 was delaying the hearing process.

23 Q. Well, in fact, nobody delayed the hearing process,
24 did they? The April 26th letter says you just sent the
25 documents to the department of revenue, and five business

1 days later they've reviewed and forwarded to the state
2 police. Have you ever seen the department of revenue act
3 faster?

4 A. Well, it was our position that on April 6th they
5 had the information. You know, that was the discretion that
6 the department of revenue and the state police have. They
7 can continue to ask for things they've already asked for.
8 In fact, I think some of the things we had previously given
9 them, but they asked for them again, so we provided them.

10 Q. Now, the last full paragraph just before please
11 give me a call -- this is Mr. Vosbein's April 26, 1994,
12 memo, TCR-78. The last full paragraph says: It's clear that
13 we have a log jam at Poulard's desk. I think we should try
14 to go over his head, and with Oxley now gone the next guy is
15 Colonel Norris. Before contacting him, I think we should
16 talk. This is on April 26th, is that correct?

17 A. That's correct.

18 Q. And that's five business days before -- roughly
19 five business days before you got the notice of the hearing,
20 is that correct?

21 A. That's correct.

22 Q. And are you aware that -- or did Mr. Guidry ever
23 tell you that Colonel Norris, in his mind, is an enemy of
24 Edwin Edwards?

25 MR. HARPER: Objection.

1 THE COURT: Sustained.

2 MR. SMALL: I'm asking him what Mr. Guidry told
3 him. We've had lots of questions on what Mr. Guidry told
4 him.

5 MR. HARPER: Same thing as before, Your Honor. I
6 was not permitted to ask --

7 THE COURT: If you're willing to open the door and
8 you put a time on when Mr. Guidry may have told him as
9 compared to what he testified to in open court, I'll let him
10 answer the question.

11 BY MR. SMALL:

12 Q. Prior to this April 26th, 1994 memo -- and I think
13 you testified that you were involved in drafting this memo
14 as well, isn't that correct?

15 A. Yes.

16 Q. Prior to this memo, which talks about the next guy
17 is Colonel Norris, did Mr. Guidry tell you that his
18 understanding was Colonel Norris was an enemy of Edwin
19 Edwards and was mad at Guidry because Guidry was a friend of
20 Edwin Edwards?

21 A. That sentiment was expressed to me by Mr. Guidry
22 on more occasions than I can count. I don't know if it was
23 said in that particular time frame. What was meant by this
24 letter was that we had to go up the chain of command if
25 Poulard would not respond and say, well, don't call back

1 this week or next and then maybe he'll talk to you two weeks
2 from now. The legal recourse that we have is to go up the
3 chain and try to get an audience with the captain and then
4 if not to the captain to the colonel, and that is what the
5 memo reflected.

6 Q. And just so we're clear, when you said that
7 sentiment was expressed, did he express the sentiment to you
8 that the reason he was having so much trouble with Colonel
9 Norris is because Colonel Norris is mad at Edwin Edwards and
10 considers Guidry to be a friend of Edwin Edwards? Did he
11 express that to you?

12 MR. HARPER: Objection, Your Honor.

13 THE COURT: Overruled.

14 A. On numerous occasions, he expressed his
15 displeasure with the state police and Colonel Norris in
16 particular. I don't remember at this stage that coming up,
17 but it's possible. But it's my understanding of what went
18 into this memo was the notion that if the supervisor of
19 riverboat gaming will not return your calls, the next person
20 you go to is the captain over gaming, and then if not the
21 captain to the colonel, and that's all that that was, that
22 we had to break this log jam or we were going to be out of
23 time. One day was an eternity at this juncture, and we had
24 to go above Poulard's head if he was not going to return our
25 calls, and Peters was privately confiding to us, shrugging

1 his shoulders and saying do whatever you can. It's out of
2 my hands.

3 Q. And when you say above Poulard's head and above
4 Peters' head, that would be Colonel Norris?

5 A. It would be the captain and then on up the chain.
6 You have a captain over --

7 Q. Who was the captain?

8 A. Well, it was Captain Mark Oxley until April of --
9 yeah, I think he was out by April. I'm not sure who the
10 captain was right after that point.

11 Q. All right. And then above all of them within the
12 gaming division was Colonel Norris?

13 A. You would go to Colonel Norris, and then
14 ultimately to the superintendent if you followed that chain.

15 Q. And this memo talks about Colonel Norris?

16 A. Yes.

17 Q. And did Mr. Guidry tell you that the last person
18 in the world who would have any influence with Colonel
19 Norris would be his enemy, Edwin Edwards?

20 A. He did not express that. This was a memo to him
21 about that we were running out of time and running out of
22 options and that we would proceed -- that what we needed to
23 talk about was to go up the chain of command as soon as we
24 could. That's what that was about.

25 Q. Did Mr. Guidry ever tell you, don't worry, I'm

1 going to fix it with Colonel Norris?

2 A. No, he did not tell me that.

3 Q. And if Colonel Norris and he were enemies and
4 Colonel Norris and Edwin Edwards were enemies, that wouldn't
5 make any sense, would it, sir?

6 MR. HARPER: Are we asking him to speculate?

7 THE COURT: Yes. Objection sustained.

8 MR. SMALL: No further questions for this witness.

9 THE COURT: Redirect, sir?

10 MR. HARPER: Nothing, Your Honor.

11 THE COURT: You may step down, sir.

12 (Witness excused)

13 THE COURT: Do you want to bring something up to
14 the court?

15 MR. LETTEN: Yes, sir, we did.

16 THE COURT: Let me ask the jury just to step
17 inside the jury room for a couple of minutes. We're not
18 going to recess for the day. I just need to take up a short
19 matter. I don't know what it is, and I just would prefer to
20 do it with you in the jury room.

21 Don't discuss the case please.

22 We don't have time to go downstairs, Marshal.

23 (Jury retired from courtroom at 4:19 p.m.)

24 (Proceedings at the bench:)

25 MR. LETTEN: Your Honor, at this point -- Jim

1 Letten in the microphone here. We're going to ask the court
2 for immediate sanctions against Mr. Edwards. Apparently Mr.
3 Edwards, despite his conduct this morning of which I
4 complained, himself engaged in in-court conduct which was
5 directly disparaging to the witness who just left the stand.
6 I'm going to ask Mr. Greenberg to explain the circumstances
7 to which he was a witness. This is very troublesome, and
8 we're going to request that he be sanctioned at this time.
9 We wanted to do this now because Mr. Perdigao's a witness,
10 and in case the court wants to ask him about it --

11 THE COURT: Why don't we just do it here?

12 MR. LETTEN: We can certainly do it here.

13 THE COURT: All this bench talk --

14 MR. LETTEN: Your Honor, the only reason I did
15 this at the bench is I didn't know how much the court wanted
16 this to be available to the press or not.

17 THE COURT: Well, I don't want things to go out
18 that shouldn't go out, but if you're asking me to sanction
19 somebody --

20 MR. LETTEN: Yes, sir, we are.

21 THE COURT: I can't do it without conducting a
22 hearing if I didn't see it.

23 MR. LETTEN: Then I'll reiterate this from the
24 podium, then Mr. Greenberg can make his -- before anybody
25 says anything --

1 THE COURT: Tell me in general what we're going
2 over, and then we'll see what we're going to do and when
3 we're going to do it.

4 MR. GREENBERG: Judge, what happened is, right at
5 the beginning of the afternoon recess, Mr. Perdigao was
6 walking out by the swinging door to leave the courtroom. I
7 happened to be right behind him. Mr. Edwin Edwards was at
8 the swinging door first and held it open for Mr. Perdigao,
9 stared at him for several seconds waiting --

10 MR. LETTEN: Excuse me. I resent counsel
11 laughing.

12 MR. SMALL: This could be --

13 MR. GREENBERG: We're going to get to counsel
14 laughing in a second, Judge.

15 MR. SMALL: Yeah, we sure will.

16 MR. GREENBERG: If I could finish.

17 Mr. Edwards stared at Mr. Perdigao for several
18 seconds with a smirk on his face then shook his head and
19 said, you all are unbelievable. Judge, Mr. Perdigao -- I
20 don't think he had a huge reaction to it, I don't think it
21 had a great effect on him, but those kind of comments and
22 that kind of intimidation could be very troublesome for
23 several of our witnesses who are already intimidated enough
24 to come into this courtroom and testify about matters
25 concerning Edwin Edwards.

1 I raised the issue not first with the court, but I
2 addressed it with Mr. Small in the hallway, and I told him
3 what happened, and he laughed at me. I asked him if he
4 would instruct his client not to do this in the future, not
5 to address our witnesses and certainly not make comments
6 that can be intimidating, and I was laughed at. And I said,
7 well, I'll take it up with the judge then, and I was laughed
8 at again. We don't think this is a laughing matter, Judge,
9 and our witnesses wouldn't think that either. We cannot
10 allow this to happen if we're going to be able to put on
11 testimony in this case.

12 MR. SMALL: Let me say something, then I'll let
13 Mr. Edwards say something.

14 The story has changed from Mr. Greenberg's mouth
15 since half an hour ago in the hall, okay? The words he's
16 using now and relating to the court as to what Mr. Edwards
17 said are completely different than what he told me an hour
18 ago, so this is the great evolving issue. But I just want
19 the court -- I would ask that Mr. Greenberg take the stand
20 so I can question him on what he said out in the hall which
21 is different than what he just said to the court. This is
22 the biggest waste of time.

23 MR. EDWIN EDWARDS: Judge, my grandson was a
24 member of that firm until a month ago. I waited for Mr.
25 Perdigao to leave, and I looked at him and smiled and said,

1 you are amazing. I thought he was an amazing witness. He
2 remembered dates and times and everything else. I didn't
3 consult him after the hearing. He came up and shook hands
4 with me, and we chatted on a friendly basis. He didn't say
5 anything about that. For him to assume I was insulting or
6 demeaning to the witness is unbelievable. I never said
7 anything like that. I said, you are amazing, and I really
8 meant it, sincerely. I don't like some of the things he
9 said, but he's an amazing witness. He remembers dates,
10 places, numbers, documents everything else right down the
11 line. I don't think you ever heard a more informed or
12 articulate witness than that. I'm telling you, there's no
13 reason for Mr. Perdigao to take umbrage to that.

14 MR. SMALL: I will say that that's exactly
15 correct. Mr. Greenberg represented to the court he used the
16 word unbelievable. That is not what he represented to me.
17 He said the word amazing. There's a family relationship.
18 Mr. Perdigao was not intimidated. It is not an issue, and
19 for Mr. Greenberg to come and misrepresent it to the court,
20 I think, is a problem, a serious problem.

21 MR. LETTEN: Your Honor, we believe that Mr.
22 Edwards' conduct is following a pattern. We believe that
23 Mr. Edwards is obviously concerned about the way the trial's
24 going. We believe that his comments this morning were
25 calculated, we believe this is calculated --

1 THE COURT: What's happening to my rule that I
2 keep everybody here until the witness leaves? Why do you
3 think I let the witness leave on his own without anybody
4 moving out? I mean, this is what I'm trying to do. I've
5 done that every time. I tell everybody that the jury goes
6 out, then the witness is invited to leave. Mr. Guidry
7 stayed a lot, if you recall, he didn't want to walk out. I
8 don't know what he did after I left the courtroom, but he
9 didn't leave while I was still in the courtroom. I let Mr.
10 Perdigao leave before I left, and I guess as he left
11 something happened.

12 MR. LETTEN: As he was leaving, apparently that's
13 what occurred, Your Honor.

14 The problem is, we have a course of conduct now
15 that I believe -- I'll be honest with you, I believe Mr.
16 Edwards is following a course of conduct in which he -- and
17 his intention is -- and I believe he'll be unsuccessful in
18 attempting to begin to at least master manipulate events as
19 he attempted to do in the Eastern District many years ago.
20 I don't know if the horse and buggy's going to be next, but
21 we have serious concerns about the sanctity of the courtroom
22 as a place for witnesses to come without being harassed,
23 where prosecutors can go without be harassed, and we do ask
24 for sanctions, Your Honor.

25 MR. EDWIN EDWARDS: Your Honor, I went to the

1 press at noon today. I said, henceforth I'm not going to
2 stop here. I'm not having any more comments, because I have
3 a tendency to say things that are flippant, so from here on
4 out, don't ask me any questions. Edwin Edwards has no more
5 to say about this trial. Whether it violates the gag order
6 or not, to say I'm harassing six U.S. Attorneys and FBI
7 agents is ridiculous. I know this man. I looked at him and
8 said, you're amazing, because I think he is amazing. And
9 after the break he came out and shook hands with me, and we
10 chatted for fifteen minutes about my grandson who just left
11 his firm. He didn't take umbrage to what I said.

12 THE COURT: I'm not going to interrupt the trial
13 right now. I'll handle something before we leave today. I
14 don't know what I'm going to do, but I'll decide what I want
15 to do, but I'm not going to interrupt the witnesses, and
16 I've got a jury sitting there, and I would just rather use
17 the time to take care of the jury.

18 MR. COLE: If we're going to go down a road on
19 this on something which I deem to be very trivial and
20 misunderstood, Your Honor, then we're going to move that
21 there be a hearing on Mr. Harper nodding at witnesses while
22 they're on the stand, and we'll go into that, which I think
23 is a far more serious problem that the jurors have noticed.
24 I mean, if we're going to talk about the sanctity of the
25 courtroom and raise that standard, then let's apply it

1 universally --

2 THE COURT: Wait, wait, wait, wait, wait. Okay,
3 we'll finish this after. I'm not here to conduct a hearing
4 now. I've gotten everybody's position. I just wanted to be
5 advised. We have a jury sitting there. I told them we were
6 only going to be a few minutes. Let's complete the
7 testimony for today. If we've got to do anything else,
8 we'll do it, whether it's on your matter or whether it's on
9 your matter.

10 MR. GREENBERG: There's one more thing before the
11 next witness, Judge. There's going to be some
12 co-conspirator issues with the next several witnesses that I
13 figure we should take up before we start.

14 THE COURT: Let's do that instead of being up
15 here.

16 MR. LETTEN: Also I think it's safe to say, Your
17 Honor, the Treasure Chest matter has been concluded with the
18 conclusion of this last witness.

19 THE COURT: With the last witness?

20 MR. COLE: Then can we find out what the next
21 matter will be?

22 THE COURT: Let's do one thing at a time. We've
23 got plenty of time after the jury leaves for today.

24 (End of bench conference)

25 THE COURT: Okay, let's go to the next matter.



U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, NW, Room 3256
Washington, D.C. 20530

APR 6 2007

The Honorable James B. Letten
United States Attorney
Eastern District of Louisiana
500 Poydras Street
Room B210
New Orleans, Louisiana 70130

Dear Mr. Letten:

We have completed our investigation of judicial criticism of your conduct in *U.S. v. Collins and Barry*, No. H-98-18 (S.D. Tex. Sept. 5, 2005), relating to your alleged lack of candor regarding the government's cooperation agreement with Patrick Graham, and the benefits provided to Mr. Graham under that agreement. Based on the results of our investigation, we concluded that you did not commit professional misconduct or exercise poor judgment in this matter, but rather that you acted appropriately under all the circumstances. Accordingly, we consider this matter to be closed.

Thank you for your assistance with our investigation.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Marshall Jarrett".

H. Marshall Jarrett
Counsel

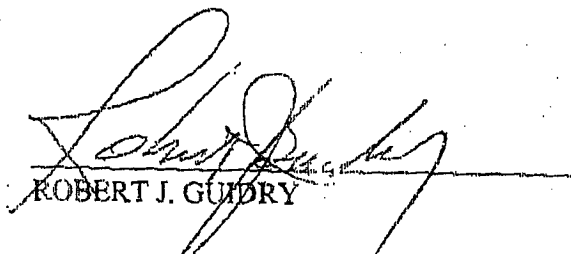
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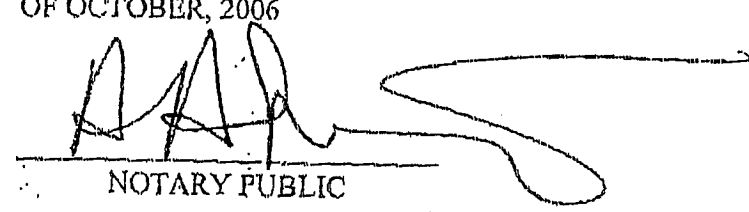
PARISH OF ORLEANS

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified, personally came and appeared, Robert J. Guidry, who after being sworn did depose and state as follows:

I, Robert J. Guidry, never gave or provided, directly or indirectly, anything of value including cash payments, to Congressman William J. Jefferson, or former United States Attorney Eddie J. Jordan, Jr., in connection with my plea negotiations and/or subsequent plea agreement of October 15, 1998.


ROBERT J. GUIDRY

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 25 DAY
OF OCTOBER, 2006


NOTARY PUBLIC



U.S. Department of Justice

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530

APR 25 2007

The Honorable Jim Letten,
United States Attorney for the
Eastern District of Louisiana
500 Poydras Street
Room B210
New Orleans, LA 70130

Dear Mr. Letten:

As you know, we initiated an inquiry into allegations of misconduct against your office made by the attorneys for James Perdigao. Thereafter we requested and have reviewed your response to these allegations. Based upon the results of our inquiry, we have determined that further investigation by this Office is not warranted. Accordingly, we consider this matter to be closed.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "H. Marshall Jarrett".

H. Marshall Jarrett
Counsel