

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMITTEE ON THE JUDICIARY)

United States House of Representatives)
Washington, D.C. 20515)

Applicant.)
_____)

Misc. No. 09-424 (RCL)

**APPLICATION OF THE COMMITTEE ON THE JUDICIARY OF THE
U.S. HOUSE OF REPRESENTATIVES FOR EIGHT ORDERS
IMMUNIZING THE TESTIMONY OF, AND OTHER INFORMATION PROVIDED BY,
EIGHT INDIVIDUAL WITNESSES IN THE IMPEACHMENT INVESTIGATION OF
DISTRICT JUDGE G. THOMAS PORTEOUS, JR.**

Pursuant to 18 U.S.C. §§ 6002 and 6005, the Committee on the Judiciary of the U.S. House of Representatives (“the Committee”) respectfully submits this consolidated application for eight separate orders, attached hereto, providing immunity to the following individuals, Robert C. Creely, Jacob J. Amato, Jr., Warren “Chip” Forstall, Rhonda Danos, Leonard Levenson, Bruce Netterville, Jody Rotolo, and Donald C. Howard, and requiring them to provide testimony and other information which they refuse to give or provide on the basis of their privilege against self-incrimination at proceedings before or ancillary to the Committee. As detailed below, in the pending Committee impeachment investigation of U.S. District Judge G. Thomas Porteous, Jr., each of these eight witnesses has material information, each has advised through counsel that he or she will not testify absent immunity, and the procedural requirements for use immunity orders – including the prerequisite vote of the Committee and notice to the Department of Justice (“Department”) – have been satisfied.

1. Rule X of the Rules of the House of Representatives (111th Cong.) vests the

Committee with broad oversight responsibility over various subjects, including the “judiciary and judicial proceedings, civil and criminal,” . . . “[c]riminal law enforcement,” and “[f]ederal courts and judges” Rule X(1.) (k) (1), (7), and (8). House Rule XI authorizes the Committee to conduct investigations, hold hearings and require the attendance of witnesses and the production of documents in connection with matters within the Committee’s jurisdiction.

2. On September 17, 2008, the House passed House Resolution 1448, which provided in pertinent part: “*Resolved*, That the Committee on the Judiciary shall inquire whether the House should impeach G. Thomas Porteous, a judge of the United States District Court for the Eastern District of Louisiana.” H. Res. 1448, 110th Cong. (2008) (emphasis in the original). On January 6, 2009, Chairman Conyers introduced House Resolution 15, which continued the authority of House Resolution 1448 in the current Congress. H. Res. 15, 111th Cong. (2009). On January 13, 2009, the House passed Resolution 15 by voice vote. On January 22, 2009, the matter was referred by the Judiciary Committee to a Task Force established to conduct the inquiry. *See Meeting on Approval of Committee Rules, Ratification of Subcommittee Chairmanships and Membership, and Re-establishment of the Task Force on Judicial Impeachment* at 30-34, 111th Cong. (2009) (statement of John Conyers, Jr., Chairman, Committee on the Judiciary) available at <http://judiciary.house.gov/hearings/transcripts/transcript090122.pdf>.

3. This impeachment inquiry was initiated by a letter from the Department to the Fifth Circuit Judicial Council, dated May 18, 2007. This letter described numerous instances of alleged misconduct by Judge Porteous. The Fifth Circuit appointed a Special Investigatory Committee to investigate the Department’s allegations. The Special Committee requested records from the Department, held an adversarial hearing, and then issued a Report to the Judicial

Council of the Fifth Circuit, dated November 20, 2007. The Special Committee's Report concluded that Judge Porteous had committed misconduct that "might constitute one or more grounds for impeachment." Report by the Special Investigatory Committee to the Judicial Council of the United States Court of Appeals for the Fifth Circuit at 65, *In the Matter of Judge G. Thomas Porteous, Jr. United States District Judge, Eastern District of Louisiana*, No. 07-05-351-0085 (Nov. 20, 2007). On December 20, 2007, the Judicial Council accepted and approved the Special Committee's Report by a majority vote. On June 17, 2008, the Judicial Conference endorsed the Judicial Council's recommendations and forwarded to Speaker of the House Nancy Pelosi a Certificate certifying "that consideration of impeachment of United States District Judge G. Thomas Porteous (E.D. La.) may be warranted." Certificate of the Judicial Conference of the United States at 1, to the Speaker, United States House of Representatives, June 17, 2008. On September 10, 2008, the Judicial Council of the Fifth Circuit issued an "Order and Public Reprimand", taking the maximum disciplinary actions allowed by law against Judge Porteous, including ordering that no new cases be assigned to him and suspending his authority to employ staff for two years or "until Congress takes final action on the impeachment proceedings, whichever occurs earlier." Order and Public Reprimand at 4, *In re: Complaint of Judicial Misconduct Against United States District Judge G. Thomas Porteous, Jr. Under the Judicial Conduct and Disability Act of 1980*, Judicial Council of the Fifth Circuit, No. 07-05-351-0085 (Sept. 10, 2008).

4. The Committee expects to call Robert C. Creely, Jacob J. Amato, Jr., Warren "Chip" Forstall, Rhonda Danos, Leonard Levenson, Bruce Netterville, Jody Rotolo, and Donald C. Howard to testify and provide other information at proceedings before or ancillary to the

Committee. As the Committee explained in its letter to the Attorney General on July 30, 2009, and hereby incorporates by reference, all eight witnesses are in possession of information that is material to the Committee's impeachment inquiry. Five of the witnesses have already received immunity for prior grand jury testimony, and a sixth was prosecuted and pled guilty. All eight are represented by counsel and their attorneys have advised that the eight witnesses will not testify unless compelled to do so by way of a grant of court-ordered immunity. A copy of the July 30, 2009 letter is attached as Exhibit A.

5. On July 29, 2009, by a vote of 30-0 (being at least two-thirds of the Committee's forty members), the Committee adopted a resolution directing the House Office of the General Counsel to apply for separate orders pursuant to 18 U.S.C. § 6005, with respect to each of the eight individuals, requiring the individual to give testimony or provide other information which the individual refuses to give or provide on the basis of his or her privilege against self-incrimination, at proceedings before or ancillary to the Committee investigation and other congressional proceedings related to the facts and circumstances relevant to the possible impeachment of Judge G. Thomas Porteous. A copy of the Committee's July 29, 2009 resolution is attached as Exhibit B.

6. By letter hand-delivered on July 30, 2009, the Chairman of the Committee notified the Attorney General pursuant to 18 U.S.C. § 6005(b)(3) of the Committee's intention to request immunity orders for the eight individuals. *See* Exhibit A.

7. By letter dated August 10, 2009, the Department of Justice advised that it has no objection to the Committee's application for these immunity orders, and that the Department waives the ten-day statutory notice period under 18 U.S.C. § 6005(b)(3). A copy of the August

10, 2009 letter is attached as Exhibit C.

Accordingly, the Committee respectfully requests that the Court issue the attached eight orders immunizing from use in prosecutions the testimony of, and other information provided by, Robert C. Creely, Jacob J. Amato, Jr., Warren "Chip" Forstall, Rhonda Danos, Leonard Levenson, Bruce Netterville, Jody Rotolo, and Donald C. Howard at proceedings before or ancillary to the Committee.

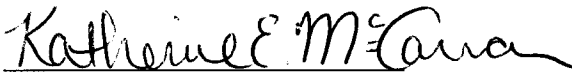
Respectfully submitted,

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Counsel for the Committee on the Judiciary,
U.S. House of Representatives

August 11, 2009

¹ Attorneys in the Office of General Counsel for the U.S. House of Representatives are “entitled, for the purpose of performing the counsel’s functions, to enter an appearance in any proceeding before any court of the United States . . . without compliance with any requirement for admission to practice before such court” 2 U.S.C. § 130f(a).

Exhibit A

JOHN CONYERS, JR., Michigan
CHAIRMAN

HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JERROLD NADLER, New York
ROBERT C. "BOBBY" SCOTT, Virginia
MELVIN L. WATT, North Carolina
ZOE LDFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
STEVE COHEN, Tennessee
HENRY C. "HANK" JOHNSON, JR. Georgia
PEDRO PIERLUISI, Puerto Rico
MIKE DUGLEY, Illinois
LUIS V. GUTIERREZ, Illinois
BRAD SHERMAN, California
TAMMY BALDWIN, Wisconsin
CHARLES A. GONZALEZ, Texas
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
DANIEL B. MAFFEI, New York
LINDA T. SANCHEZ, California
DEBBIE WASSERMAN SCHULTZ, Florida

LAMAR S. SMITH, Texas
RANKING MINORITY MEMBER

F. JAMES SENSENBRENNER, JR., Wisconsin
HOWARD COBLE, North Carolina
ELTON GALLEGLY, California
BOB GOODLATTE, Virginia
DANIEL E. LUNGREN, California
DARRELL E. ISSA, California
J. RANDY FORBES, Virginia
STEVE KING, Iowa
TRENT FRANKS, Arizona
LOUIE GOMMERT, Texas
JIM JORDAN, Ohio
TED POE, Texas
JASON CHAFFETZ, Utah
THOMAS ROONEY, Florida
GREGG HARPER, Mississippi

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY

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WASHINGTON, DC 20515-6216
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<http://www.house.gov/judiciary>

July 30, 2009

VIA HAND-DELIVERY AND FIRST-CLASS MAIL

The Honorable Eric H. Holder, Jr.
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Re: Notice of Application for Court Orders of Use Immunity in the Impeachment Investigation of the Honorable G. Thomas Porteous, Jr. for Robert C. Creely, Jacob J. Amato, Jr., Warren "Chip" Forstall, Rhonda Danos, Leonard Levenson, Bruce Netterville, Jody Rotolo, and Donald C. Howard

Dear Attorney General Holder:

As you may be aware, the Committee on the Judiciary, through its duly authorized Impeachment Task Force (the "Task Force"), is conducting an impeachment investigation into District Judge G. Thomas Porteous, Jr. of the Eastern District of Louisiana, which was initiated by a letter from the Department of Justice ("the Department") to the Fifth Circuit Judicial Council. In connection with this investigation, the Committee intends to seek testimony from the following eight individuals: Robert C. Creely, Esq.; Jacob J. Amato, Jr. Esq.; Warren "Chip" Forstall, Esq.; Rhonda Danos; Leonard Levenson, Esq.; Bruce Netterville, Esq.; Jody Rotolo; and Donald C. Howard.

Pursuant to 18 U.S.C. § 6005, this is to notify you of the Committee's intention to request from a United States district court orders of use immunity for the eight individuals. Five of the eight individuals have already received orders of use immunity, obtained by the Department, and a sixth has entered into a plea agreement with the Department. In light of this background and the need to proceed expeditiously, the Committee requests the Department to waive the statutory ten day notice provision and advise us of your consent to the Committee's prompt application for orders of use immunity.

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The eight individuals for whom the Committee will seek immunity orders are as follows:

1. Robert C. Creely, an attorney who has practiced in Gretna, Louisiana, was Judge Porteous' law partner in the late 1970s, when the judge was in private practice. Mr. Creely is a long-time friend of Judge Porteous and, according to the Committee's information, has over a lengthy period of time provided the judge with numerous meals and other things of value.

The Department obtained court-ordered immunity for Mr. Creely to compel his March 2006 grand jury testimony. The Department, on behalf of the Fifth Circuit, also applied for and obtained an immunity order to compel Mr. Creely to testify before the Fifth Circuit Investigative Committee in August of 2007.

The Task Force served a deposition subpoena on Mr. Creely. His counsel, Ralph Capitelli, Esq., has informed Task Force staff that Mr. Creely will not testify unless compelled to do so by way of a grant of court-ordered immunity.

2. Jacob J. Amato, Jr., an attorney who has practiced in Gretna, Louisiana, worked for Mr. Creely and Judge Porteous when they were law partners. Mr. Amato and Mr. Creely subsequently became law partners. Mr. Amato is a long-time friend of Judge Porteous and, according to the Committee's information, has over a lengthy period of time provided the judge with numerous meals and other things of value.

The Department obtained court-ordered immunity for Mr. Amato to compel his May 2006 grand jury testimony. The Department, on behalf of the Fifth Circuit, also applied for and obtained an immunity order to compel Mr. Amato to testify before the Fifth Circuit Investigative Committee in October 2007.

Mr. Capitelli, who is also Mr. Amato's attorney, has informed the Task Force staff that Mr. Amato will not testify unless compelled to do so by way of a grant of court-ordered immunity.

3. Warren "Chip" Forstall, an attorney who has practiced in Gretna, Louisiana, according to the Committee's information, also has provided things of value to Judge Porteous. Mr. Forstall possesses information about the relationships between Judge Porteous and other attorneys, and the Committee expects him to corroborate other witnesses.

The Department obtained court-ordered immunity for Mr. Forstall to compel his March 2006 grand jury testimony. The Department, on behalf of the Fifth Circuit,

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also applied for and obtained an immunity order to compel Mr. Forstall to testify before the Fifth Circuit Investigative Committee, although Mr. Forstall ultimately was not called to testify before the Investigative Committee.

Mr. Capitelli, who is also Mr. Forstall's attorney, has informed the Task Force staff that Mr. Forstall will not testify unless compelled to do so by way of a grant of court-ordered immunity.

4. Rhonda Danos is a former employee of the United States District Court for the Eastern District of Louisiana, and was, at all pertinent times, Judge Porteous's secretary. She is knowledgeable about the judge's relationships with certain attorneys. According to the Committee's information, Ms. Danos was herself taken on trips, including to Las Vegas, by a bail bondsman who sought access to Judge Porteous by ingratiating himself with Ms. Danos.

The Department obtained court-ordered immunity for Ms. Danos to compel her March 2006 grand jury testimony. The Department, on behalf of the Fifth Circuit, also applied for and obtained an immunity order to compel Ms. Danos to testify before the Fifth Circuit Investigative Committee in October 2007.

Ms. Danos's attorney, Pat Fanning, Esq., has informed Task Force staff that Ms. Danos will not testify unless compelled to do so by way of a grant of court-ordered immunity.

5. Leonard Levenson, an attorney who has practiced in Gretna, Louisiana, according to the Committee's information, has over a lengthy period of time provided the judge with numerous things of value. In addition, Mr. Levenson was one of the attorneys involved in a complicated civil case assigned to Judge Porteous in which Judge Porteous declined to recuse himself.

The Department obtained court-ordered immunity for Mr. Levenson to compel his April 2006 grand jury testimony. The Department, on behalf of the Fifth Circuit, also applied for and obtained an immunity order to compel Mr. Levenson to testify before the Fifth Circuit Investigative Committee in August 2007.

Mr. Levenson's attorney, Franz Zibilich, Esq., has informed Task Force staff that Mr. Levenson will not testify unless compelled to do so by way of a grant of court-ordered immunity.

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6. Bruce Netterville, an attorney who has practiced in Gretna, Louisiana, was associated with Louis Marcotte, a bail bondsman, in the early 1990s when Judge Porteous was a state judge. According to the Committee's information, Mr. Netterville possesses information about things of value that Mr. Marcotte gave Judge Porteous, including a trip to Las Vegas in which Mr. Netterville also took part and which he may have paid for in part, and of things that Judge Porteous did for Mr. Marcotte.

Mr. Marcotte's association with several state court judges in Louisiana was the subject of a federal criminal investigation – termed “Wrinkled Robe” by the FBI – that resulted in the indictment and conviction of several individuals, including two Louisiana state judges.

To the best of the Committee's knowledge, Mr. Netterville has not been immunized on any prior occasion. Mr. Netterville's attorney, Robert Haber, Esq., has informed Task Force staff that Mr. Netterville will not testify unless compelled to do so by way of a grant of court-ordered immunity.

7. Jody Rotolo, a former employee of Creely and Amato, was the law firm's bookkeeper. To the best of the Committee's knowledge, Ms. Rotolo has not been immunized on any prior occasion.

Ms. Rotolo's attorney, Steve London, Esq., has informed Task Force staff that Ms. Rotolo will not testify unless compelled to do so by way of a grant of court-ordered immunity.

8. Donald C. Howard, a former employee of the Department of Interior, Minerals Management Service, in New Orleans, Louisiana, had regulatory or contracting responsibilities related to Rowan Companies (“Rowan”) – an oil rig business. In 2004 and 2006, Mr. Howard attended an expensive hunting trip sponsored by Rowan, which Judge Porteous also attended. During this period of time, Rowan was involved in litigation before Judge Porteous. Mr. Howard was later prosecuted for and pled guilty to failing to disclose those trips on his financial disclosure forms.

Mr. Howard's plea agreement does not specifically make clear that he cannot be prosecuted for any other crimes arising from his receipt of trips from Rowan. Task Force staff has been in touch with Mr. Howard's attorney, Richard T. Simmons, Jr., Esq., and is seeking to have Mr. Howard cooperate without immunity. However, we think it likely that Mr. Howard's attorney will demand immunity.

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* * *

On July 29, 2009, by a record vote of 30-0, the Committee passed a resolution directing the House General Counsel to apply to a district court for immunity orders pursuant to 18 U.S.C. § 6005 with respect to these eight individuals. As noted, I respectfully request that you waive the statutorily-required ten day notice period for a Committee request to receive immunity orders for these eight individuals.

Sincerely,


John Conyers, Jr.
Chairman

cc: The Honorable Lamar Smith
Ranking Minority Member

The Honorable Adam B. Schiff
Chairman
Impeachment Task Force

The Honorable Bob Goodlatte
Ranking Member
Impeachment Task Force

Ron Weich, Esq.
Assistant Attorney General
Department of Justice

Exhibit B

House Committee on the Judiciary

Resolution

To Direct House General Counsel To Apply for Immunity Orders Relating to the Possible Impeachment of Judge G. Thomas Porteous

Resolved, that the Committee on the Judiciary directs the House General Counsel to apply to a United States district court for separate orders pursuant to 18 U.S.C. § 6005, with respect to each of the following individuals, requiring the individual to give testimony or provide other information which the individual refuses to give or provide on the basis of his or her privilege against self-incrimination, at proceedings before or ancillary to the Committee investigation and other congressional proceedings, related to the facts and circumstances relevant to the possible impeachment of Judge G. Thomas Porteous:

- Jacob Amato, Jr., an attorney who has practiced in Gretna, Louisiana
- Robert Creely, an attorney who has practiced in Gretna, Louisiana
- Warren Forstall, an attorney who has practiced in Gretna, Louisiana
- Rhonda Danos, a former employee of the United States District Court for the Eastern District of Louisiana
- Donald Howard, a former employee of the Department of Interior, Minerals Management Service, with an office in New Orleans, Louisiana
- Leonard Levenson, an attorney who has practiced in Gretna, Louisiana
- Bruce Netterville, an attorney who has practiced in Gretna, Louisiana
- Jody Rotolo, a former employee of the firm Creely and Amato.

Similarly, in the 1945 impeachment inquiry into the conduct of District Judges Albert W. Johnson and Albert L. Watson, grand jury testimony was produced to the Judiciary Committee pursuant to a court order, and hundreds of pages of that testimony were made part of the record. The counsel to the Subcommittee handling the impeachment inquiry represented that the “grand jury testimony has been released to the committee for any purpose the committee chooses to use it for in connection with their official business. There are no limitations on it. Anything the committee chooses to do is the business of the committee.”¹

¹See, e.g., “Conduct of Albert W. Johnson and Albert L. Watson, United States District Judges, Middle District of Pennsylvania: Hearing before the [Impeachment] Subcommittee of the Committee on the Judiciary on H. Res. 406 (78th Cong.) and H. Res. 138 (79th Cong.),” (1945) at 198 (statement of M. H. Goldschein, counsel for committee). The Hearing transcript contains other references to the court order. See also *id.* at 88 (“The testimony just read from is from volume 8, Transcript of grand jury testimony at the March term, 1944, of the grand jury, which we have by order of Judge Smith been permitted to use before this committee.”); 139 “[This exhibit] ... comes from the files of Judge Albert W. Johnson, which I marked as a grand jury exhibit, and is part of the evidence that Judge Smith in his order permitted us to use before the committee.”). The table of contents references that excerpts of the grand jury testimony of 12 individuals were introduced into evidence various occasions throughout the hearings and ultimately made part of the public record. Attached to this pleading, as “Attachment II,” are the table of contents, the pages containing the quoted statements, and a few examples of the Committee’s use of the materials as part of its inquiry.

Exhibit C



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 10, 2009

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letter, dated July 30, 2009, notifying the Attorney General that, in connection with its impeachment investigation of United States District Court Judge G. Thomas Portcous, Jr., the Committee has voted to apply for orders to compel the testimony of Robert C. Creely, Jacob J. Amato, Jr., Warren "Chip" Forstall, Rhonda Danos, Leonard Levenson, Bruce Nettekville, Jody Rotolo, and Donald C. Howard under Title 18, United States Code, Section 6005. Your letter also requested that the Department waive the ten-day notice period provided under that statute.

The Department has no objection to the Committee's application for these orders and, further, agrees to waive the ten-day statutory notice period under 18 U.S.C. § 6005(b)(3).

Thank you for your attention to this matter. Please do not hesitate to contact this Office if you need additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald Weich".

Ronald Weich
Assistant Attorney General

cc: The Honorable Lamar S. Smith
Ranking Minority Member

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
COMMITTEE ON THE JUDICIARY)	
)	
United States House of Representatives)	Misc. No. _____
Washington, D.C. 20515)	
)	
Applicant.)	
_____)	

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF THE APPLICATION OF THE COMMITTEE ON THE JUDICIARY
OF THE U.S. HOUSE OF REPRESENTATIVES
FOR EIGHT ORDERS IMMUNIZING THE TESTIMONY OF
AND OTHER INFORMATION PROVIDED BY,
EIGHT INDIVIDUAL WITNESSES IN THE IMPEACHMENT INVESTIGATION OF
DISTRICT JUDGE G. THOMAS PORTEOUS, JR.**

The Committee on the Judiciary of the U.S. House of Representatives (“the Committee”) has applied to this Court for eight immunity orders, pursuant to 18 U.S.C. §§ 6002 and 6005.

Section 6005 provides, in pertinent part, that:

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to . . . any committee, or any subcommittee of either House [of Congress] . . . a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the . . . committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that --

....

(2) in the case of a proceeding before or ancillary to a committee or a subcommittee of either House of Congress . . . the request for such an order has been approved by an affirmative vote of two-thirds of the

members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

This statute provides the mechanism by which a witness before a congressional committee or subcommittee receives “use immunity” for providing testimony or other information. The immunized witness remains subject to prosecution for the transactions about which he or she testifies if the government sustains the burden of proving at trial that it did not use the immunized testimony or its fruits in the prosecution. *Kastigar v. United States*, 406 U.S. 441, 459-62 (1972). Because the Court’s inquiry on an application for an immunity order is narrow and its tests are mechanical, the application may be decided *ex parte* without a hearing. *Ryan v. Commissioner of Internal Revenue*, 568 F.2d 531, 540 (7th Cir. 1977).¹

Section 6005 sets out the two requirements for an immunity order, both of which have been satisfied here. First, “the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee.” 18 U.S.C. § 6005(b)(2). The Committee’s July 29, 2009 resolution satisfies this requirement. (Exhibit B to the Application).

Second, “ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.” 18 U.S.C. § 6005(b)(3). On July 30, 2009, the Chairman of the Committee notified the Attorney General of the Committee’s intention to request an immunity order for the following eight

¹ The Committee may apply for an immunity order prior to a witness’s invocation of his or her Fifth Amendment privilege at a Committee proceeding. *In re Application of U.S. Senate Permanent Subcommittee on Investigations (Cammisano)*, 655 F.2d 1232, 1236-38 (D.C. Cir. 1981).

individuals: Robert C. Creely, Jacob J. Amato, Jr., Warren “Chip” Forstall, Rhonda Danos, Leonard Levenson, Bruce Netterville, Jody Rotolo, and Donald C. Howard. (Exhibit A to the Application). The Department has informed the Committee that it has no objection to the Committee’s application for these orders. (Exhibit C to the Application).

Accordingly, it is appropriate for the Court to issue the eight separate orders attached hereto immunizing from use in prosecutions the testimony of, and other information provided by, Robert C. Creely, Jacob J. Amato, Jr., Warren “Chip” Forstall, Rhonda Danos, Leonard Levenson, Bruce Netterville, Jody Rotolo, and Donald C. Howard at proceedings before or ancillary to the Committee.


Respectfully submitted,

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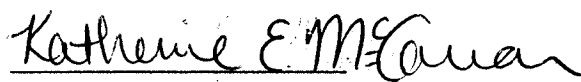
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(202) 225-9700

Counsel for the Committee on the Judiciary,
U.S. House of Representatives

August 11, 2009

NOTICE OF DELIVERY

On August 11, 2009, I caused to be delivered one courtesy copy each of the foregoing documents: (1) Application of the Committee on the Judiciary of the U.S. House of Representatives Motion for Eight Orders Immunizing the Testimony of, and Other Information Provided by, Eight Individual Witnesses in the Impeachment Investigation of District Judge G. Thomas Porteous, Jr.; (2) Memorandum of Points and Authorities in Support of the Application of the Committee on the Judiciary of the U.S. House of Representatives Motion for Eight Orders Immunizing the Testimony of, and Other Information Provided by, Eight Individual Witnesses in the Impeachment Investigation of District Judge G. Thomas Porteous, Jr.; and (3) Proposed Order by hand-delivery on the U.S. Department of Justice.


Katherine E. McCarron