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My File No. 2101

**April 9, 2008**

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**RE: Honorable G. Thomas Porteous, U.S. District Judge for the Eastern District of Louisiana,  
PETITION TO THE JUDICIAL CONFERENCE OF THE UNITED STATES FOR REVIEW  
IN THE MATTER OF COMPLAINT OF JUDICIAL MISCONDUCT AGAINST UNITED  
STATES DISTRICT JUDGE G. THOMAS PORTEOUS, JR. UNDER THE JUDICIAL  
CONDUCT AND DISABILITY ACT OF 1980 BEING NUMBERED 07-05-351-0085 ON THE  
DOCKET OF THE JUDICIAL COUNCIL OF THE UNITED STATES COURT OF  
APPEALS FOR THE FIFTH CIRCUIT.**

**GREETINGS ATTORNEY RONALD WOODS:**

**ENCLOSED PLEASE FIND PETITION FOR REVIEW AND EXHIBITS RELATED  
THERETO IN THE CAPTIONED MATTER, FILED WITH THE JUDICIAL  
CONFERENCE OF THE UNITED STATE ON APRIL 10, 2008.**

**THANK YOU FOR YOUR ATTENTION AND PATIENCE IN THIS MATTER.**

**SINCERELY,**

  
**Counsel for G. Thomas Porteous, U.S. District Judge.**

**IN THE JUDICIAL CONFERENCE OF THE UNITED STATES**

**IN RE: COMPLAINT OF JUDICIAL  
MISCONDUCT AGAINST A  
UNITED STATES DISTRICT JUDGE  
G. THOMAS PORTEOUS, JR.  
UNDER THE JUDICIAL CONDUCT  
AND DISABILITY ACT OF 1980**

**DOCKET NO. 07-05- 351-0085**  
**(As designated by the Judicial Council of  
The United States Court of Appeals for  
The Fifth Circuit)**

**CONFIDENTIAL**

**PETITION FOR REVIEW OF THE MEMORANDUM ORDER AND CERTIFICATION,  
THE PROCEEDINGS CONDUCTED BY THE SPECIAL INVESTIGATORY  
COMMITTEE, THE FIFTH CIRCUIT JUDICIAL COUNCIL REPORT, AND JUDGE  
DENNIS' DISSENT FROM THE MEMORANDUM ORDER AND CERTIFICATION  
PURSUANT TO 28 U.S.C. § 357(A)  
AND  
INCORPORATED MEMORANDUM OF LAW AND ARGUMENT**

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**To the Honorable John G. Roberts, Jr, Chief Justice of the United States and the  
Honorable, the Judges of the Judicial Conference of the United States:**

**COMES NOW ,the Petitioner, the Honorable United States District Judge Gabriel  
Thomas Porteous, Jr. (“Judge Porteous”), through undersigned counsel, pursuant to the  
Fifth and Sixth Amendments to the United States Constitution, Articles II and III of the  
United States Constitution, 28 U.S.C. §§ 351 *et seq.*, and the Rules Governing Complaints of  
Judicial Misconduct or Disability Effective April 15, 1993 as amended through July 15,  
2003 (“5<sup>th</sup> Circuit Disability Rules”), who respectfully petitions the Judicial Conference of  
the United States (“JCUS”) for review of the Report By the Special Investigatory**

Committee to the Judicial Council of the United States Court of Appeals for the Fifth Circuit (“Special Committee Report”), for review of the Memorandum Order and Certification from the Judicial Council of the Fifth Circuit (“Judicial Council Majority Certification”) and for adoption of Judicial Council Dissent from said Certification. (“Judicial Council Dissent”) <sup>1</sup>

Judge Porteous did not commit “Treason, Bribery, or other high Crimes and Misdemeanors.” U.S. Const. art. II, § 4. No grounds for impeachment exist. Therefore, the Judicial Council Majority Certification should be rejected.

In a scholarly, comprehensive, well-reasoned and wholly accurate treatment of this matter, Judge Dennis of the United States Fifth Circuit Court of Appeals, joined by three United States District Judges, dissented from the Judicial Council majority’s Certification and found that no grounds for impeachment exist. Exhibit 1C. Further, Judge Dennis found that the only two appropriate sanctions are 1) that Judge Porteous should have to meet several “strict precautionary” conditions and 2) that Judge Porteous be publicly reprimanded for his conduct. See Exhibit 1C at FN 103. For the reasons set out more fully below, Judge Porteous petitions the JCUS for adoption of the Judicial Council Dissent and enforcement of all conditions and limitations proposed therein, to-wit:

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<sup>1</sup> The Judicial Council Majority Certification, the 5<sup>th</sup> Circuit Report and Judicial Council Dissent are attached as Exhibit 1A Memorandum Order and Certification; Exhibit 1B Report By the Special Investigatory Committee to the Judicial Council of the United States Court of Appeals for the Fifth Circuit; Exhibit 1C: DENNIS, Circuit Judge, joined by MELANCON, HEARTFIELD, and BRADY, District Judges, concurring in part and dissenting in part from the Memorandum Order and Certification.

## **I. INTRODUCTION AND HISTORY OF THE PROCEEDINGS**

Judge Porteous states the facts ,the case, and the History of the Proceedings in this Section.<sup>2</sup> Judge Porteous then treats the constitutional standard for impeachment found in the U.S. Const. art. II, § 4, in Section II of this incorporated memorandum. Section III discusses the Judicial Council Majority Certification, the underlying 5<sup>th</sup> Circuit Report and the Judicial Council Dissent from the Judicial Council Majority Certification. Section IV states the premises for entitlement to relief due to the inherent unreliability of the Special Investigatory Committee of the 5<sup>th</sup> Circuit Judicial Council Proceedings. Section V is the Conclusion.

### **A. Statement of the Facts and Case**

Judge Porteous was confirmed by the United States Senate on October 11, 1994, as a United States District Judge for the Eastern District of Louisiana. Exhibit 2A at 2.<sup>3</sup> Prior to his service as an Article III judge, Judge Porteous was a state district judge for the 24<sup>th</sup> Judicial District Court (“24<sup>th</sup> JDC”) in the parish of Jefferson, State of Louisiana for ten years. *Id.*

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<sup>2</sup> Judge Porteous appears before the JCUS pursuant to 28 U.S.C. §357(a) as a party aggrieved by an action of the Judicial Council Majority under § 354.

<sup>3</sup> There are three complaints in this case all arising under the same facts filed under authority of 28 U.S.C. §§ 351 *et seq.* (“the Judicial Conduct and Disability Act of 1980”). Exhibit 2A is the original Complaint dated May 18, 2007 by the United States Department of Justice. Exhibit 2B is the Complaint filed by the Honorable Edith H. Jones, Chief Judge of the United States Fifth Circuit Court of Appeals on August 28, 2007, Effective May 21, 2007. Exhibit 2C is the Complaint filed on October 18, 2007, by the Special Investigatory Committee comprised of Chief Judge Edith H. Jones, Judge Fortunato Benavides, and Judge Sim Lake. Thus, each of these judges is a complainant as contemplated by the 5<sup>th</sup> Circuit Disability Rules. The October 18, 2007 complaint was signed by Ronald Woods on behalf of the Special Investigatory Committee.

For reasons completely unrelated to Judge Porteous, the FBI began an investigation into some of the judges of the 24<sup>th</sup> JDC. This exhaustive investigation resulted in the conviction of some fourteen defendants including two 24<sup>th</sup> JDC judges. *Id.* Judge Porteous was not charged with any crime.<sup>4</sup> See Exhibit 2A at 1.

The investigation did, however, turn up several unflattering facts about Judge Porteous' personal life and finances. Judge Porteous has a "history of alcoholism and reckless gambling". See Exhibit 2A at 21. These addictions have caused chaos in Judge Porteous' personal finances. As a result, throughout much of his professional life, Judge Porteous has at times relied upon the good nature and charity of a couple of longtime friends and lawyers at the Judge's old firm, Robert "Bob" Creely and Jacob G. "Jake" Amato, for financial assistance.<sup>5</sup>

It is important to note that this money was passed from friend to friend to help Judge Porteous meet incidental expenses and was completely unrelated to any legal proceeding or cause before the court. Importantly, Judge Porteous is not charged with, nor has he ever been charged with, bribery, *viz*:

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<sup>4</sup> All citations to the Record will be to the attached exhibits and to the Special Committee Hearing Transcript followed by the page number, hereinafter "SCHT at \_\_\_\_\_"

<sup>5</sup> Amato was a former law partner of Judge Porteous' while Creely was an associate at the firm. The record also reflects minimal gifts from another long time friend, Don Gardner.

**Judge Porteous:** You make no claim alleging bribery.  
**Mr. Woods:**<sup>6</sup> That's correct.

**SCHT at 21.** *See Also Exhibit 1C at 3.*(“ it is undisputed that the evidence does not support a finding of even a possibility that Judge Porteous committed treason or bribery.”).

In fact, the evidence shows that Judge Porteous ruled both for and against positions advanced by these friends on the few occasions they appeared in his court just as he would for any other litigants represented by any other attorneys. Bob Creely testified to-wit:

**Q** Yeah, over here in federal court.  
**A** Yeah.  
And you ruled against me, and this court had to overrule you.  
I don't know if you remember it.<sup>7</sup>  
**Q** I do remember it. But what I'm saying is that suggests that what you did for me didn't have any influence on if I thought the position was right or wrong.  
**A** I did not give you money for anything. . . .

**SCHT at 230 then:**

**Q** What I'm getting to Bob—and I'm not trying to make this complex. My rulings on the bench, in cases you did have or your firm participated in, did it rely one way or the other on what was being given to me?  
**A** That's correct.  
**Q** It did or it didn't?  
**A** Did not.

**Id at 231.** Jake Amato testified:

**Q** In fact, I think you've categorized during some of your grand jury testimony that I was going to do the right thing.  
**A** I always told my clients, other lawyers, and people I have dealt with that I have always known you to do the right thing.

**Id at 257, then he testifies:**

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<sup>6</sup> Mr. Woods is Mr. Ronald G. Woods former United States Attorney for the Southern District of Texas. Mr. Woods is one of two former United States Attorneys for the Southern District of Texas hired by the Committee to investigate and prosecute Judge Porteous in this matter. The other former United States Attorney is Lawrence D. Finder.

<sup>7</sup> The case to which Creely refers is *Union Planters Bank, N.A. v. Gavel*, Civ no. 02-01224 (filed April 24, 2002).

**Q** Yeah. And just so I am clear, this money that was given to me, was it done because I'm a judge, to influence me, or just because we're friends?

**A** Tom, it's because we were friends and we've been friends for 35 years. And it breaks my heart to be here.

The only case mentioned in the original complaint, *in re: Liljeberg Enters. Inc.*, 304 F.3d 410 (5<sup>th</sup> Cir. 2002), involved a very complex contract dispute represented on one side by several lawyers including Jake Amato and Leonard "Lenny" Levinson, both longtime friends of Judge Porteous. Exhibit 1B at 55. Judge Porteous did not disclose his relationship or the monetary gifts he received even in the face of a motion to recuse, which motion Judge Porteous denied. *Id* at 56.

Counsel for defendant Tenet in the *Liljeberg* case, Joseph Mole testified: "I also had some knowledge that the Liljebergs were very prone to trying to influence the judicial process through whatever means they could." SCHAT at 168. Mole does not lay any foundation for this belief but he apparently concludes that the hiring of Amato and Levinson were an attempt by the Liljebergs to influence the judicial process. Regardless of Mole's perception, the attorneys present had nothing to do with Judge Porteous or how he would rule.

Mole , in his own attempt to influence the judicial process, then decided to hire another close friend of Judge Porteous', Don Gardner, to be co-counsel for the defense. SCHAT at 168-9. There is not one shred of evidence to suggest that Amato, Levinson or Gardner ever tried to improperly influence any of Judge Porteous' decisions. In contrast Joseph Mole, who drafted the Don Gardner retainer agreement in its entirety (" Mole-drafted fee agreement"), decided to pay Gardener a huge sum of money on a sliding scale depending upon the outcome of the case. The Mole-drafted fee agreement provided for a

minimum \$100,000.00 fee to be paid to Gardner for enrolling as counsel, a \$ 100,000.00 bonus if Judge Porteous were to recuse himself, and several other financial incentives depending upon the outcome of the case. SCHAT at 178-9.

Mole testified that he offered Gardner these huge incentives in order to ensure a “good result” SCHAT at 181. Mole was given immunity for his testimony.<sup>8</sup> SCHAT 166-7. Mole persisted in this litigation strategy even though Gardner told him it would not do any good:

Q And what did you tell Mr. Mole about your friendship with me and how that would affect anything?

A I think I twice or three times declined representation because - - - I told them - - -they were concerned about, I believe, you on the case. Because they asked to recuse you and they weren't successful, and they wanted to have a friendly face.

And they kept on me. And I told them that I didn't think that my presence in the case would in any way determine the outcome one way or another, that I thought you would listen to the evidence and rule accordingly, based upon all my years of having dealt with you as a friend, as a judge, as a DA.

Q Did you tell them that it made no difference that Amato was on the other side, or Levinson?

A I told them that I didn't think that- - they thought it would influence them. I didn't - -I told them that I didn't think that it in any way affect the outcome of the case.

SCHAT at 462-3.

Mole corroborated Gardner's testimony : “Don, - - I have to say Don was always steadfast that he was not going to be able to influence the judge's determination of the case.” SCHAT at 182.

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The hiring of Gardener and the “influence” of Amato and Levinson were all the brainchild of Mole, who was defending an entity with significant exposure before a judge he was unfamiliar with and not known to tilt one way or another in his rulings. With all of these unknowns, Mole's client's was exposed to the full amount required by law. Mole's conclusions and assumptions and choice of co-counsel were all part of Mole's litigation strategy. Mole's sleazy litigation tactics cannot be imputed to Judge Porteous.

**Gardener also testified about the fee agreement:**

**Q All right. And you had—we've seen it, it's in the record—a contract with Mr. Mole for your fee?**

**A I did. A unilateral contract presented to me by the firm.**

**Q And one of the elements was that if you—you got a hundred straight up?**

**A Correct**

**Q And if I withdrew you got another hundred?**

**A I believe that's correct but I haven't looked at the contract in a while. There was a provision for that.**

**Q Did you ever make me aware of that- - -**

**A No.**

**Q - - - so that you could get this extra hundred?**

**A I never discussed that contract with you or made you aware of any of that.**

**SCHT at 463.**

The entire body of evidence shows that Judge Porteous was not swayed in any way by the presence of his longtime friends as attorneys in this case. At no time did Levinson, Amato or Gardener ever try to improperly influence Judge Porteous in any way. Mole never accused Judge Porteous of acting improperly. In fact, Mole found Judge Porteous to be a "very good trial judge" SCHT at 187, who was "fair." SCHT at 190.

Off of the bench, Judge Porteous' personal finances were a mess. By 1999, Judge Porteous had two mortgages on his home and almost \$ 200,000.00 in unsecured credit-card debt. See Exhibit 2C at 16. In January 2000, Judge Porteous took out a \$5,000.00 "signature" loan from Regions bank and over the next year extended the due date several times. Exhibit 1B at 32-33. By the Summer of 2000, Judge Porteous engaged a debtors-rights attorney who attempted to "workout" agreements with his unsecured "credit-card" creditors in an effort to avoid bankruptcy and to be able to pay Regions 100% of the debt he owed them. *Id.*

On March 28, 2001, Judge Porteous and his wife filed Chapter 13 bankruptcy. Exhibit 2A at 5. On the advice of counsel, and in order to prevent the media from making a sensational story of it, Judge Porteous and his wife filed bankruptcy under the names “Ortous, G.T.” And “Ortous, C.A.” SCHAT at 435. As was the plan, shortly thereafter, Judge Porteous and his wife filed an amended petition that included their correct names. *Id.* No creditor was harmed. No creditor complained. *Id.* No creditor ever received the incorrect petition. *Id.*

Contrary to the 5<sup>th</sup> Circuit Report’s findings, Judge Porteous’ attempted to make Regions whole and avoid bankruptcy at the same time. SCHAT at 434-5. Ultimately these attempts failed, but there was never any intent to defraud Regions bank or any other creditor. *Id.* Judge Porteous simply wanted to, as painlessly as possible, eliminate his debt without the embarrassment of a public bankruptcy. *Id.* Judge Porteous paid 34.55% of his debt, a much higher than average amount, in full compliance of his bankruptcy orders. SCHAT at 111.

All of the above mistakes, errors, and missteps were revealed after a years-long exhaustive investigation by the FBI. Despite this very thorough investigation, Judge Porteous was not charged with a single crime either by indictment or information. Exhibit 2A at 1.

**B. The History of the Proceedings**

On May 18, 2007, the Department of Justice filed a formal Complaint of Judicial Misconduct Concerning the Honorable G. Thomas Porteous. Exhibit 2A . In the 22-page complaint, in the form of a letter, the DOJ described the mistakes Judge Porteous has made and the reasons that they chose not to prosecute him for them. *Id.* Among the

reasons given by the DOJ were their inability to meet their burden of proof, difficulty in proving *mens rea*, and the materiality of the alleged false statements. *Id* at 1.

On July 5, 2005, Judge Porteous by letter, requests a continuance in order to secure counsel, set discovery deadlines, and requests a dismissal of the complaint for failure to follow mandatory requirements. See Exhibit 5.

On July 10, 2005, Chief Judge Jones , by letter “ . . . recognizes that you have the right to obtain substitute counsel and that such retention might require a slight delay in our earlier timetable.” See Exhibit 6.

On August 28, 2005, Chief Judge Jones files a “Complaint of Judicial Misconduct” declaring: “I initiate, *nunc pro tunc*, a complaint of judicial misconduct concerning the Honorable Thomas G. Porteous , Jr.(sic).”

On October 18, 2005, Judge Porteous, unexpectedly without counsel, by letter informs the Committee that he needs a “final continuance. . . in order to allow me time to obtain new counsel and prepare a defense.” Said request was arbitrarily, capriciously and unreasonably denied by the committee, See Exhibits 7 and 7A .

Also on October 18, 2005, the Special Committee for the Fifth Circuit Judicial Council files a third complaint against Judge Porteous styled “Charges of Judicial Conduct.” Which was signed by Ronald Woods “ On behalf of the Special Committee for the Fifth Circuit Judicial Council.” The Special Committee for the Fifth Circuit Judicial Council is comprised of Chief Judge Jones, Judge Benavides, and Judge Lake, all of whom are now complainants.<sup>9</sup> See Exhibits 2B & 2C.

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<sup>9</sup> Although styled as “Charges of Judicial Misconduct” this document is a judicial misconduct complaint which has no “mandatory form” but does have mandatory

On October 19, 2005, the Committee, by letter, denied Judge Porteous a continuance and “has decided to proceed with the hearing on October 29, 2007.” See Exhibit 7A.

On October 29-30, 2005, the special committee went through with the hearing. Judge Porteous once again moved for a continuance so that he may obtain counsel. SCHT at 5. This motion was denied. SCHT at 6.

Judge Porteous stood trial against three separate complaints of judicial misconduct without the benefit of counsel and without the benefit of discovery. Every other witness at the hearing was granted immunity for their testimony and was represented by counsel. The committee itself was represented by two former United States Attorneys. SCHT at 1,2.

On November 20, 2007, the Special Committee issued a report finding that the committee “strongly believes that grounds exist for the Judicial Council to refer this matter to the Judicial Conference of the United States, pursuant to 28 U.S.C. Sec. 354(b)(3)(A), because Judge G. Thomas Porteous has engaged in conduct ‘ which might constitute one or more grounds for impeachment under Article II of the Constitution.’ Such conduct might also constitute grounds for impeachment pursuant to Article III because Judge Porteous has not demonstrated ‘good behavior’ in his violation of laws, ethical standards, and financial disclosure requirements.”<sup>10</sup>

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requirements. See 5<sup>th</sup> Circuit Disability Rule 2A. Again, since Judge Porteous was denied his right to counsel, the validity of these charges, the validity of the complaint itself was not properly challenged.

<sup>10</sup> While each conclusion of the Special Committee is legally and constitutional wrong, it should be pointed out that the only standard for removal of office for a civil

## **II. TREASON, BRIBERY, OR OTHER HIGH CRIMES AND MISDEMEANORS**

**Impeachment for and Conviction of “Treason, Bribery, or other High crimes and Misdemeanors” is the only standard to remove a federal judge from office. U.S. Const. art. II, § 4.**

**Even if all of the allegations and findings of the 5<sup>th</sup> Circuit Report and the Judicial Council Majority Certification in this matter are taken as true, not one of them rise to this high constitutional standard for removal from office.**

**Judge Porteous hereby adopts, in toto , the Judicial Council Dissent’s analysis and discussion of these issues and urges the JCUS to adopt same. See Exhibit 1C.**

**Judge Porteous did not commit “Treason, Bribery, or other high Crimes and Misdemeanors” U.S. Const. art. II, § 4. No grounds for Impeachment exist. Therefore, the Judicial Council Majority Certification should be rejected.**

## **III. THE SPECIAL COMMITTEE REPORT AND THE JUDICIAL COUNCIL’S DISSENT.**

### **A. The Special Committee Report**

**Before the JCUS is the Special Committee Report which contains the “both the findings of the investigation and the committee’s recommendations for necessary and appropriate action.” See Exhibit 1B at 2.<sup>11</sup>**

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**officer of the United States, including Article III judges, is found in Article II Section 4 of the United States Constitution. An Impeachment process under Article III, as the Special Committee intimates, is a fiction created by the Judicial Council Majority and should not be considered.**

<sup>11</sup> **Chief Judge Jones, in her sole discretion, decided not to dismiss the complaint pursuant to 28 U.S.C. § 352(b). Once that decision was made, Chief Judge Jones was required by statute to appoint herself and “equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the**

The Special Committee Report is a “ charging document or prosecutorial brief”  
*See* Exhibit 1C at 4. The three-judge committee “strongly believes that grounds exist for the Judicial Council to refer this matter to the JCUS, pursuant to 28 U.S.C. Sec. 354(b)(2)(A) because Judge G. Thomas Porteous has engaged in conduct ‘which might constitute one or more grounds for impeachment under Article II of the Constitution.’ ”  
Exhibit 1B at 65.

While chocked-full of invective, conspicuously absent from this 66- page report is even a single finding that Judge Porteous committed any act of Treason or Bribery or any “ other high crimes and misdemeanors.”

Instead, without any reference to what standard of proof <sup>12</sup> was used or supposed to

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complaint;” 28 U.S.C. § 353 (a)(1). By choosing only Judge Fortunato Benavides, Judge of the United States Court of Appeals, Fifth Federal Circuit, and Judge Sim Lake, United States District Judge for the Southern District of Texas, Chief Judge Jones chose a minimum number of Judges for the Committee.

<sup>12</sup> By not even charging Judge Porteous with a crime, the DOJ acknowledges they cannot prove any of their allegations beyond a reasonable doubt. *See* Exhibit 2A.; Exhibit 1C at 36,fn 75. Under the new Breyer Committee Rules (“ Breyer Rules”), effective April 10, 2008, the standard to identify a complaint under Breyer Rule 5 is “clear and convincing evidence.” As stated, there is no reference to any standard used in either the Memorandum Order and Certification or the 5<sup>th</sup> Circuit Report.

If the Breyer Rules were to apply here, Breyer Rule 14 would decide the matter. Entitled CONDUCT OF HEARINGS BY SPECIAL COMMITTEE. Breyer Rule 14C provides “The Subject Judge has the right to counsel.” The comments to Breyer Rule 14 provide:

“Even though a proceeding will commonly have investigative and hearing stages, committee members should not regard themselves as prosecutors one day and judges the next. Their duty- - and that of their staff- - is at all times to be impartial seekers of the truth.”

And

be used by the Special Committee in arriving at its conclusions, the Special Committee Report condemns Judge Porteous, in no uncertain terms, for: 1) Not recusing himself in a single civil case where three 30 + year friends of his whom represented litigants on both sides of the litigation and also, over a period of several years, had at times bought him some meals, taken him on some trips and given him relatively small amounts of money, 2) Not disclosing to one of the attorneys in that litigation, Joseph Mole, and Mole's client the above facts; 3) filing a Chapter 13 bankruptcy petition that contained some incorrect information, including using pseudonyms to shield the Judge from media sensationalism, which was corrected by amendment less than two weeks after its filing; 4) paying a higher than average 34.55% of his debts in bankruptcy, complying with the trustees order, receiving a discharge and never receiving a single complaint from any creditor' 5) leaving off one credit card, in the Judge's wife's name, from the Notice to Creditor's list even though there was testimony that such an omission was accidental or inadvertent and where less than \$ 1,100.00 , mostly meals, was charged on this card, said card was paid in full and no creditors complained; 6) attempting to workout a settlement agreement with his credit card creditors in an effort to avoid bankruptcy; 7) excluding a \$5,000.00 "signature" loan debt from this settlement agreement so that he may pay 100% of this debt off to a bank

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**"Staff or others who are organizing the hearings should regard it as their role to present evidence representing the entire picture." Comments to Breyer Rule 14.**

**And**

**" Although Rule 15 ( c ) recognizes the subject judge's right to call witnesses on his or her own behalf, exercise of this right should not usually be necessary."**

**Judge Porteous urges the JCUS to keep the Breyer Rules and comments in mind when reviewing the SCHAT and the facts and the evidence of this case.**

with which Judge Porteous had a long standing relationship; 8) continuing to gamble while his bankruptcy case was open; 9) while a state court judge in the 1980s, appointing friends and supporters of his to act as “curators” for absent parties in litigation for a fee of \$175.00 per appointment. This practice is common in Louisiana and is performed from time to time by every single state district judge; 10) while an Article III judge, making some mistakes on his required financial disclosure statements for the years 1994-2000; 11) despite exhaustive investigation by the FBI into all of the above matters, Judge Porteous was not charged with a single crime. See Exhibit 1B.

**B. The Judicial Council Dissent.**

In stark contrast to the Special Committee Report, is the Judicial Council Dissent. The Judicial Council Dissent was authored by Judge James Dennis of the United States Fifth Circuit Court of Appeals and was joined by United States District Judges Tucker Melancon, Thad Heartfield, and James J. Brady. The Judicial Council Dissent studies every one of the twelve impeachments of federal judges in the history of the United States. See Exhibit 1C at 14-22. Further, the Judicial Council Dissent applies the evidence and facts of this case to the constitutional standard with reference to the jurisprudence of all past impeachments. Although necessary to support any valid conclusion reached in this matter, this analysis was undertaken neither by the Special Committee nor the judicial council majority:

“ A careful and judicious analysis of the evidence in the present case fails to demonstrate that Judge Porteous committed possible treason, bribery, or a high crime or misdemeanor.” Exhibit 1C at 3.

And

“ . . . neither the special investigating committee nor the judicial council majority

performed the difficult tasks of making a careful, judicious analysis of the evidence.” *Id* at 4.

“ . . . Consequently, neither the committee nor the council majority actually made a principled determination that any particular act or omission by Judge Porteous constituted a possible high crime or misdemeanor.” *Id*.

Thus, the major bright-line distinction between the Judicial Council Dissent and the judicial council majority opinion is highlighted: the judicial council majority did no analysis whatever of the standard for impeachment or the jurisprudence of past impeachments. Further, although the judicial council majority “strongly believes” that Judge Porteous committed several acts of which he was accused, the judicial council majority does not identify any one of them as either a high crime or a misdemeanor. Nowhere in the judicial council majority’s report or any of the three complaints filed in this case is there even one allegation that any of these acts or omissions was a “high crime or misdemeanor.”

The Judicial Council Dissent contains is the only analysis of the facts and law in the light of the constitutional standard for impeachment. The Judicial Council Dissent thoroughly analyzes every impeachment, the applicable laws and jurisprudence and considers all of the facts and evidence in this case. The Judicial Council Dissent concludes:

“This is not one of those rare and egregious cases presenting the possibility of an impeachable offense against the nation.” *Id* at 8.

Judge Porteous agrees.

**IV. JUDGE PORTEOUS WAS DENIED HIS CONSTITUTIONAL RIGHT TO THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE, DENIED HIS CONSTITUTIONAL RIGHT TO DISCOVERY, AND DENIED HIS CONSTITUTIONAL DUE PROCESS RIGHT TO HAVING A DISINTERESTED AND AN IMPARTIAL TRIBUNAL DECIDE HIS CAUSE BY THE SPECIAL COMMITTEE.**

**There is no evidence that could support a finding that Judge Porteous committed “ Treason, Bribery, or other high Crimes and Misdemeanors.” Still, the judicial council majority certified such to the JCUS for consideration. After due consideration, the JCUS should reject the conclusions of the judicial council majority because of their inherent unreliability. The October 29-30 hearing is fatally flawed because it contains numerous constitutional rights violations, statutory and rules violations, depriving Judge Porteous of *inter alia*, his right to counsel, right to discovery, right to an impartial tribunal, and rights of due process.**

**Specifically, the Special Committee violated 5<sup>th</sup> Circuit Disability Rule 10, Rule 11, and Rule 17. Further, the Special Committee denied Judge Porteous his right to the “Assistance of counsel for his defence” in violation of the 6<sup>th</sup> Amendment to the United States Constitution; *See Also Gideon v. Wainwright*, 372 U.S. 335 (1963). For the reasons set forth below, these numerous and serious violations require that the Memorandum Order and Certification be vacated and the cause remanded for new proceedings, to-wit:**

**A. The Special Committee Violated 5<sup>th</sup> Circuit Disability Rules 10 and 11 and Denied Judge Porteous his Right to Have the Assistance of Counsel for his Defence.**

**The Special Committee of the 5<sup>th</sup> Circuit Judicial Council violated Judge Porteous’ rights under the 5<sup>th</sup> and 6<sup>th</sup> amendments to the U.S. Constitution specifically the right “ to have the Assistance of Counsel for his defence.” Additionally, Judge Porteous is guaranteed that right to counsel by statute, 28 U.S.C. § 358(b)(2) and by Rule, 5<sup>th</sup> Circuit Disability Rules 10, 11.**

**Judge Porteous recognizes that the special committee hearing was not a criminal court proceeding and he is not an indigent. However, his absolute right to be**

represented by counsel in these proceedings is an “ obvious truth.” See *Gideon v. Wainwright*, 372 U.S. 335 (1963).

Furthermore, the proceeding is quasi-criminal.<sup>13</sup> The standard for impeachment and removal from office is “ on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” U.S. Const. art. II, § 4 Any proceeding that

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<sup>13</sup> One of the many problems presented by the special committee hearing is the very nature of the hearing itself. If judicial misconduct proceedings are quasi-criminal, which they appear to be, do the discovery requirements and protections of *Brady v. Maryland*, 373 U.S. 83 (1963), extend to these proceedings? Judge Porteous raised the issue at the hearing:

- Q. And you have no favorable evidence of anything about me at all. Is that right?
- A. Okay. Say that - - repeat that.
- Q. Well, have you ever heard of *Brady*? Do you have any *Brady* material that I would be entitled to that's not provided?
- A. No, sir.
- Q. And you've looked for it?
- A. I haven't looked for it, but I assume somebody has.
- Q. Well, who would that - -

JUDGE BENAVIDES: Let me ask a question of the witness. I'm a little confused.

For the relevancy of - - relevancy of *Brady* becomes material upon the return of indictment under - - and the obligation to present to a defendant favorable evidence or evidence that might help them in their defense.

There has not been a criminal indictment, and I don't know - - I'm just wondering the relevance and materiality of questioning related to *Brady* when there is no criminal indictment. SCHAT 30-31.

This is an unanswered question of constitutional law. Even so, if this proceeding is quasi-civil, presumably, Judge Porteous would have the benefit of the Federal Rules of Civil Procedure. Thus, the right to propound interrogatories, request production of documents, and depose witnesses in this matter. Judge Porteous is granted basic discovery rights by statute, 28 U.S.C. § 358(b)(2). These rights were ignored by the Special Committee in violation of Judge Porteous' 5<sup>th</sup> Amendment Due Process Rights.

decides “ Conviction” for “Crimes” is at least quasi-criminal. <sup>14</sup> The United States believes so. As one of the proffered reasons for not charging Judge Porteous with any crimes, the DOJ claims in their Complaint, that it gave consideration to impeachment as a form of punishment that can be used as an “alternative remedy” to prosecution. See Exhibit 2A at 1-2. As such, Judge Porteous’s Brady rights were violated by the Special Committee.

1. 5<sup>th</sup> Circuit Disability Rules 10, 11

Judge Porteous was denied his rights under Rule 10(D) of the 5<sup>th</sup> Circuit Disability Rules which confers a right to the Subject Judge to “call and examine witnesses, personally or through counsel.” See Rule 10(D). Even more problematic is 5<sup>th</sup> Circuit Disability Rule 11, to-wit:

Rule 11 is entitled RIGHTS OF SUBJECT JUDGE and provides in Subsection E:

**Representation by counsel.** The judge may be represented by counsel at all stages. The costs of such representation may be borne by the United States as provided in Rules 9(F) and 13(G).

As a Right of the Subject Judge, it is Judge Porteous’ right to have counsel assist in his defense. Judge Porteous repeatedly asked for the exercise of that right and yet the Special Committee denied Judge Porteous’ absolute right to counsel even in the face of a letter requesting time to obtain counsel. Exhibit 5. The Special Committee denied Judge Porteous’ motion to continue at the hearing when he requested time to obtain counsel. SCHAT at 5. While, the Special Committee denied Judge Porteous his absolute right to counsel, it must be noted that every witness at the October 29-30 hearing was represented

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<sup>14</sup> Judge Porteous acknowledges that Article II Section 4 refers to a Senate trial for Impeachment. He argues, however, that his *Brady* rights extend to this proceeding whereby the Judicial Council certifies to the JCUS that he should receive as punishment removal from office.

by counsel and the Special Committee itself was represented by two former United States Attorneys. SCHAT at 1,2.

This is a clear violation of 5<sup>th</sup> Circuit Disability Rule 11(E) As a result, there can be no confidence in the Special Investigatory Committee hearing result and the Memorandum Order and Certification should be vacated. Furthermore, the denial of Judge Porteous' right to counsel in this quasi-criminal proceeding is a violation of Judge Porteous' rights under the 6<sup>th</sup> Amendment to the United States Constitution. See U.S. Const. amend. VI.

2. The Special Committee Prosecutor misrepresented important facts of this case.

Despite, an exhaustive investigation by the FBI, Judge Porteous has never been charged with a crime. The DOJ, in their complaint, revealed that they could not prove any crimes beyond a reasonable doubt. See Exhibit 2A at 1. However ,at the hearing of this matter, Special Committee Prosecutor Ronald Woods represented to the Committee:

**MR. WOODS:** Your Honor, the Department of Justice filed the complaint immediately upon the decision not to go forward with criminal charges. The main reason they didn't go forward with criminal charges is because of the statute of limitations on a number of the offenses: the bankruptcy fraud, the false statements on his federal financial reports, the false statements to financial institutions, that is, Regions bank.

SCHAT at 10.

That statement is absolutely false. Judge Porteous voluntarily extended the Statute of Limitations 5 separate times--and would have granted more if they would have asked. See Exhibit 8. The DOJ spelled out the reasons they did not charge Judge Porteous with any crimes in their Complaint: They could not prove he committed any.

**B. The Special Committee Violated 5<sup>th</sup> Circuit Disability Rule 17 and Denied Judge Porteous his Due Process Right of Having a Disinterested and an Impartial Tribunal Decide the Cause.**

**Rule 2 of the 5<sup>th</sup> Circuit Disability Rules governs any complaints filed against an Article III judge in the United States Fifth Circuit and provides in pertinent part, to-wit:**

**(A) Form. There is no mandatory form but the complaint must contain the following information and be consistent with these guidelines. (Emphasis added).**

**(F) Signature and Oath. The complaint must be signed and the truth of the statements must be verified in writing under oath, or the complainant may declare under penalty of perjury that the statements are true. The complaint should contain the complainant's address and telephone number. (Emphasis added).**

**The original Complaint is Exhibit 2A. It is a 22- page letter signed by John C. Keeney, Deputy Assistant Attorney General Criminal Division United States Department of Justice. The statements in that Complaint are neither "verified in writing under oath" nor did the complainant ever "declare under penalty of perjury that the statements are true." This is a clear violation of Rule 2(F) and under Rule 3(D), the clerk of court was required to reject the Complaint. This was not done.**

**Judge Porteous first asked that the Complaint be dismissed on these grounds by his letter dated 5 July 2007. See Exhibit 5. In a letter of response to Judge Porteous dated 10 July 2007, Chief Judge Jones wrote:**

**" The Committee is reviewing your request for dismissal based on the complainant's failure to sign under oath, but it presently appears unlikely that the complaint is legally insufficient."**

**See Exhibit 6. No reasons were given for this conclusion.**

**At the hearing of this matter on October 29, 2007, Judge Porteous raises the issue again and Chief Judge Jones responds, to-wit:**

**JUDGE PORTEOUS:** Well, there's my problem. You tell me there is no complaint. When I brought that up and said the Department of Justice was the complainant you said it's a 2J, which is a complaint by your Honor. So, which one is it? I'm still trying to find out.

**CHIEF JUDGE JONES:** I really think that the distinction is meaningless in this context, sir, because the point of a 2J is to assure that there is a certain level of validity to the allegations that are made against a judge. We will shortly see the degree of that validity. But you raised what I regarded as a hyper-technical objection that they didn't swear this under penalty of perjury. But in lieu of that, we have grand jury documents, we have your own filings in your own handwriting, we have sworn testimony of witnesses. So, the distinction is immaterial as far as I am concerned.

SCHT at 17.

The distinction is neither meaningless nor immaterial. Chief Judge Jones signed a "Complaint of Judicial Misconduct" and exercised her "authority as Chief Judge. . . .to identify the matters contained in the May 18<sup>th</sup> letter as a Chief Judge-initiated misconduct complaint." Exhibit 2B at 2.

This "Complaint of Misconduct" does not identify the May 18<sup>th</sup> letter as a complaint. Instead, Chief Judge Jones claims that the letter "appears to me . . . complies with Rule 2(A)-(H) of this Circuit's misconduct rules." This is her Honor's conclusion despite the acknowledgment on the record, above, that the statements in the letter were not sworn under penalty of perjury by the complainant. See SCHAT at 17. In both the record excerpt at SCHAT at 17 and the "Complaint of Judicial Misconduct", Chief Judge Jones relies on the statements that Judge Porteous has sworn to under oath, *not the putative complainant*.

Chief Judge Jones committed grievous error here. By initiating her own complaint,

outside of Rule 2J, Chief Judge Jones becomes a complainant. As the Special Committee's own lawyer admits, to-wit:

**MR. WOODS:** As Judge Porteous pointed out this morning, we're here on a complaint that was filed by the Department of Justice and then superseded and added to by Judge Jones' complaint.

SCHT at 19. Thus, Chief Judge Jones' complaint, while based on the same base of operative facts, is separate and apart from the DOJ complaint of May 18, 2007, making Chief Judge Jones a complainant<sup>15</sup>.

As if this fact is not clear enough, Chief Judge Jones files yet another complaint against Judge Porteous. See Exhibit 2C. Exhibit 2C is a 21-page complaint filed on October 18, 2007, styled "Charges of Judicial Misconduct" that charges Judge Porteous with violations of numerous judicial Canons and federal statutes as well as alleged crimes committed prior to Judge Porteous' tenure as an Article III judge. From the complaint: "the Special Committee for the Fifth Circuit Judicial Council charges. . . " *Id* at 1. Then is signed by Mr. Ronald Woods "On behalf of the Special Committee of the Fifth Circuit Judicial Council." *Id*. At 21. Of course the "Special Committee of the Fifth Circuit Judicial Council" is a three-judge committee appointed by Chief Judge Jones that includes Chief Judge Jones, Judge Benavides, and Judge Lake.

The serious problem presented is once Chief Judge Jones becomes a complainant, according to the 5<sup>th</sup> Circuit Disability Rule 17, Chief Judge Jones should have immediately been disqualified from "participation in any consideration of the complaint.", to-wit:

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<sup>15</sup> 28 U.S.C. §351a- Filing a complaint by any person.

Any person alleging a judge has engaged in conduct ... may file ... a written complaint.

**RULE 17. DISQUALIFICATION**

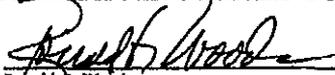
(A) Complainant. If the complaint is filed by a judge, that judge will be disqualified from participation in any consideration of the complaint except to the extent that these rules provide for participation by a complainant.

**RULE 17 SCENE**

Mr. Woods: As Judge Porteous pointed out this morning, we're here on a complaint that was filed by the department of Justice and then superceded and added to by Judge Jones' complaint. (Underline added.) (See SCHAT at pg 19).

Also see Complaint filed on behalf of the Special Committee of the Fifth Circuit Judicial Council (See Exhibit 2C ), to-wit:

“On behalf of the Special Committee of the Fifth Circuit Judicial Council:

  
Ronald G. Woods  
Investigator for the Special Committee ”

10/18/07  
Date

As noted on the Exhibit the special committee consists of 5<sup>th</sup> Cir. Chief Judge Edith H. Jones, U.S. Circuit Judge Fortunato Benavides and and District Judge Sim Lake, Thereby making each of them an instigator, an investigator and an adjudicator of the complainants; in spite of this status they presided at the hearing.



**RULE 17. DISQUALIFICATION.**

(A) COMPLAINANT. If the complaint is filed by a judge, that judge will be disqualified from participation in any consideration of the complaint except to the extent that these rules provided for participation by a complainant. (See Rule 17 of the Rules Governing Judicial Misconduct and Disability for the Judicial Council for the Fifth Circuit Court of Appeals.

(See Rule 17 of Rules Governing Complaints of Judicial Misconduct Or Disability for the U.S Court of Appeals for the 5<sup>th</sup> Circuit, effective April 15, 1983 as amended through July 15, 2003.)

Had effective assistance of counsel confronted Chief Judge Edith H. Jones with the affidavit in Exhibit 9; She being an Honorable Person and Judge would have, more likely than not, disqualified herself from the Special Investigating Committe and any participation in the process, other than as Complainant or a proper inquiry could have been conducted to determined the extent of this intrusion into the Executive Department by a Federal Judge and the effect of such on these proceedings.

To expect impartiality to appear in this scene is the ultimate hypocrisy.

If any of the rules allow this, then there is something wrong with the rules and they should and ought to be changed.

Not only was Chief Judge Jones not disqualified from “participation in any consideration of the complaint”, her Honor presided over the October 29, 2007, hearing, SCHAT at 4; overruled objections made by Judge Porteous, SCHAT at 427; denied a motion to continue SCHAT at 9, denied a motion to dismiss the complaint for failing to adhere to 5<sup>th</sup> Circuit Disability Rule 2 ;SCHAT at 17, and denied a motion to dismiss the complaint based upon untimeliness of the charges SCHAT at 14. Chief Judge Jones presided over and ruled upon charges alleged in the third complaint of October 18, 2007 filed by the Special Committee. Id. Whats more, by Rule, the entire Special Committee should have been disqualified from this hearing. Standing on equal footing with the denial of allowing Judge Porteous to secure the effective assistance of counsel is the denial of his right to face and cross-examine his accusers, both a violation of the Sixth Amendment, the presiding Judges refused to allow Judge Porteous to call any of the complainants to the stand and place them under Oath, ( SCHAT at 476 to 479).

These are all absolute violations of 5th Circuit Disability Rule 17. As a result, there can be no confidence in the Special Investigatory Committee hearing result because Judge Porteous' constitutional due process rights were violated. See U.S. Const. amend V. The Judicial Council Majority's Certification should be vacated on this ground alone.

#### **V. Conclusion**

Judge Porteous is guilty of making human mistakes and of falling prey to human weaknesses. It is undisputed that he suffers from alcoholism, depression, and anxiety. He also suffers from a gambling addiction. His depression and anxiety have been heightened over the last three years by the catastrophic losses in his life—the death of his wife and the loss of his home and all of his possessions due to Hurricane Katrina.

Judge Porteous acknowledges his mistakes and takes full responsibility for his actions. He has not gambled or consumed alcohol in over two years. He is seeking counseling and therapy for his depression, anxiety and addictions.

The Memorandum Order and Certification should be vacated. Judge Porteous was denied his right to counsel, denied the right to face his accusers, denied basic discovery rights and was denied his right to an impartial and disinterested tribunal.

Judge Porteous urges the JCUS to adopt the Judicial Council's Dissent. Specifically rejecting the "Judicial Council majority's certification of possible grounds for impeachment." Exhibit 1C at 48. Instead, the JCUS should "issue a public reprimand subject to strict precautionary conditions." *Id.* Judge Porteous will agree to every one of the Judicial Council Dissent's proposed "strict precautionary conditions", to-wit:

1. Judge Porteous be reprimanded by means of public announcement;
2. That on a temporary basis for a period of two years no criminal matters in which the United States is a party be assigned to him;
3. That he be required to enter a contract with the Lawyer Assistance Program of the Louisiana State Bar Association for counseling, monitoring, and such programs as it may require for recovery and rehabilitation for alcohol abuse and gambling addiction for a period of not less than five years;
4. That, if such restrictions are not already imposed by the Lawyer Assistance Program, he be required to undergo alcohol testing and treatment and be prohibited from entering any gambling establishment, and
5. That he be required to make such written and personal reports to a monitor to be appointed by the Chief Judge in respect to his recovery, rehabilitation, and financial condition, upon terms and conditions to be specified by the monitor during his tenure in office.

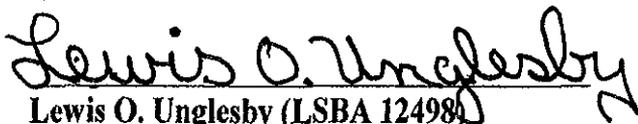
Exhibit 1C at 48 ; fn 103.

Judge Porteous did not commit "Treason, Bribery, or other high Crimes and Misdemeanors" U.S. Const. art. II, § 4. No grounds for Impeachment exist.

It is respectfully suggested that the Laws and Constitution of the United States demand that the Judicial Council Majority's Certification be rejected. Judge Porteous

submits that fundamental fairness requires that the Judicial Council Dissent be adopted and the sanctions therein be imposed or in the alternative this matter be remanded for a hearing consistent with the concepts of Due Process and fundamental fairness wherein Judge Porteous be allowed to secure the effective assistance of counsel; further it is prayed that Chief Judge Edith H. Jones, Circuit Judge Fortunato Benavides and District Judge Sim Lake be directed to disqualify themselves from any participation, in the remand, except as complainants; subject to being called, placed under oath and cross-examined like any other complainant.

Respectfully Submitted:



Lewis O. Unglesby (LSBA 12498)

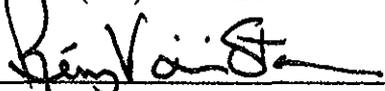
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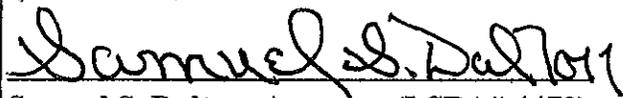
Phone (504) 835-4289

**CERTIFICATE**

**I, the undersigned attorney certify that a copy of the foregoing Petition for Review was served on:**

- 1. Chief Judge of the 5<sup>th</sup> Court Of Appeals, Edith H. Jones; and,**
- 2. Circuit Judge Fortunato Benavides; and**
- 3. U.S. District Judge Sim Lake; and,**
- 3. Circuit Judge James Dennis; and**
- 4. Ronald Wood, Attorney for the 5th Circuit Special Investigating Committee, in these proceedings, by placing same in their hands or the hands of a member of thier staff or depositing same in the U.S. Mail properly addressed and postage prepaid and/or FAXING same to their published FAX numbers.**

**9<sup>th</sup> day of April, 2008.**



**Samuel S. Dalton, Attorney (LSBA# 4473)**

IN THE JUDICIAL CONFERENCE OF THE UNITED STATES

IN RE: COMPLAINT OF JUDICIAL  
MISCONDUCT AGAINST A  
UNITED STATES DISTRICT JUDGE  
G. THOMAS PORTEOUS, JR.  
UNDER THE JUDICIAL CONDUCT  
AND DISABILITY ACT OF 1980

DOCKET NO. 07-05-351-0085  
(As designated by the Judicial Conference  
of The United States Court of Appeals for  
The Fifth Circuit)

CONFIDENTIAL

PETITION FOR REVIEW OF THE MEMORANDUM ORDER AND CERTIFICATION,  
THE PROCEEDINGS CONDUCTED BY THE SPECIAL INVESTIGATORY  
COMMITTEE, THE FIFTH CIRCUIT JUDICIAL COUNCIL REPORT, AND JUDGE  
DENNIS' DISSENT FROM THE MEMORANDUM ORDER AND CERTIFICATION  
PURSUANT TO 28 U.S.C. § 357(A)

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EXHIBITS

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EXHIBIT INDEX

- EXHIBIT 1A - MEMORANDUM ORDER AND CERTIFICATION IN THE ABOVE NUMBERED AND ENTITLED MATTER.
- EXHIBIT 1B- REPORT BY THE SPECIAL INVESTIGATORY COMMITTEE TO THE JUDICIAL COUNCIL OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT.
- EXHIBIT 1C- DISSENT WRITTEN BY DENNIS, CIRCUIT JUDGE, JOINED BY MELANCON, HEARTFIELD, AND BRADY, DISTRICT JUDGES, CONCURRING IN PART AND DISSENTING IN PART.
- EXHIBIT 2A - COMPLAINT, DATED MAY 18, 2007, PRESENTED BY THE U.S. DEPARTMENT OF JUSTICE, CRIMINAL DIVISION, REFERRING ALLEGATIONS OF JUDICIAL MISCONDUCT CONCERNING THE HONORABLE G. THOMAS PORTEOUS, JR. UNITED STATES DISTRICT JUDGE FOR THE

EASTERN DISTRICT OF LOUISIANA, PURUSANT TO 28 U.S.C. §§ 351-64 AND THE RULES GOVERNING COMPLAINTS OF JUDICIAL MISCONDUCT OR DISABILITY (AMENDED JULY 15, 2003).

EXHIBIT 2B - COMPLAINT OF JUDICIAL MISCONDUCT BY EDITH H. JONES, CHIEF JUDGE, FIFTH CIRCUIT COURT OF APPEALS, DATED AUGUST 28, 2007, EFFECTIVE MAY 21, 2007.

EXHIBIT 2C - CHARGES OF JUDICIAL MISCONDUCT FILED, "ON BEHALF OF THE SPECIAL COMMITTEE OF THE FIFTH CIRCUIT COUNCIL", IN DOCKET NUMBER 07-05-351-0085 OF THE FIFTH CIRCUIT COURT OF APPEALS JUDICIAL COUNCIL, DATED OCTOBER 18, 2007 AND SIGNED BY:



Ronald G. Woods  
Investigator for the Special Committee

10/18/07  
Date

EXHIBIT 3- REPLY MEMORANDUM BY UNITED STATES DISTRICT JUDGE IN DOCKET NO. 07-05-351-0085 SUBMITTED DECEMBER 5, 2007.

EXHIBIT 4 - RESPONSE TO REPLY MEMORANDUM SPECIAL COMMITTEE MEMBERS, EDITH H. JONES, FORTUNATO BENAVIDES AND SIM LAKE, DATED DECEMBER 10, 2007.

EXHIBIT 5 - JULY 5, 2007 BY G. THOMAS PORTEOUS, DISTRICT JUDGE REQUESTING A CONTINUANCE FOR THE PURPOSE OF SECURING COUNSEL AFTER PRESENT COUNSEL QUIT.

**EXHIBIT 6 -**

**JULY 10, 2007 LETTER ALLOWING JUDGE PORTEOUS TIME TO SECURE NEW COUNSEL AND TO FILE THE RESPONSE BY AUGUST 10, 2007 BY SPECIAL COMMITTEE MEMBERS AND SIGNED:**

Very truly yours,  
*Edith H. Jones*  
Edith H. Jones  
*Fortunato Benavides\**  
Fortunato P. Benavides  
Judge, U.S. Court of Appeals  
for the Fifth Circuit  
*Sim Lake*  
Sim Lake  
U.S. District Judge for the  
Southern District of Texas  
  
*\* signatures by permission*  
*[Signature]*

**EXHIBIT 7 -**

**OCTOBER 18, 2007 LETTER BY JUDGE PORTEOUS TO RONALD G. WOODS REQUESTING A CONTINUANCE BECAUSE HIS ATTORNEY, MICHAEL ELLIS, QUIT.**

**EXHIBIT 7A-**

**OCTOBER 19, 2007 LETTER BY RONALD G. WOODS DENYING JUDGE PORTEOUS' OCTOBER 18, 2007 REQUEST FOR CONTINUANCE.**

**EXHIBIT 8-**

**FIVE ( 5) WAIVERS OF THE STATUTE OF LIMITATIONS GIVEN TO THE GOVERNMENT BY JUDGE PORTEOUS.**

**EXHIBIT 9-**

**AFFIDAVIT OF KYLE SCHONEKAS (previously represented G. Thomas Porteous, U.S. District Judge):**

**“ . . . Mr. Ainsworth and/or Mr. Petalas explained to me that they were unfomfortable with the contacts that has been made by Judge Jones nad the inquiries she was making of the. For these reasons, they felt compelled to make these disclosures to me.” (Excerpt).**