

## THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

**Before:** Edith H. Jones, Chief Judge, U. S. Court of Appeals for the Fifth Circuit; Jerry E. Smith, U.S. Circuit Judge; Carolyn Dineen King, U. S. Circuit Judge; W. Eugene Davis, U. S. Circuit Judge; Rhesa H. Barksdale, U. S. Circuit Judge; James L. Dennis, U. S. Circuit Judge; Edith Brown Clement, U. S. Circuit Judge; Priscilla R. Owen, U. S. Circuit Judge; Jennifer Walker Elrod, U. S. Circuit Judge; Leslie H. Southwick, U. S. Circuit Judge; Sarah S. Vance, U. S. District Judge; James J. Brady, U. S. District Judge; Tucker L. Melancon, U. S. District Judge; Neal B. Biggers, U. S. District Judge; Louis G. Guirola, Jr., U. S. District Judge; Sam Cummings, U. S. District Judge; Hayden Head, U. S. District Judge; Thad Heartfield, U. S. District Judge; Fred Biery, U. S. District Judge

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DOCKET NO. 07-05-351-0085

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IN RE: Complaint of Judicial Misconduct against United States District Judge G. Thomas Porteous, Jr. under the Judicial Conduct and Disability Act of 1980

### ORDER AND PUBLIC REPRIMAND

WHEREAS, on June 17, 2008, the Judicial Conference of the United States unanimously adopted the Report and Recommendations of the Committee on Judicial Conduct and Disability concerning United States District Judge G. Thomas Porteous, Jr.;

WHEREAS, in accordance with a recommendation contained in the Report and Recommendations of the Committee on Conduct and Disability requesting

that the Fifth Circuit Judicial Council make a considered judgment on the continuation or suspension of the underlying misconduct proceeding relating to Judge Porteous;

NOW, having considered the aforementioned recommendation from the Committee on Conduct and Disability, the Council, by a clear majority vote, takes the following action:

1. The Council hereby PUBLICLY REPRIMANDS Judge Porteous under Rule 20(b)(1)(D)(i) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings for the following conduct that is prejudicial to the effective and expeditious administration of the business of the courts within the Circuit:

Judge Porteous repeatedly committed perjury by signing false financial disclosure forms under oath in violation of 18 U.S.C. § 1621. This perjury concealed the cash and things of value that he solicited and received from lawyers appearing in litigation before him.

Judge Porteous repeatedly committed perjury by signing false statements under oath in a personal bankruptcy proceeding in violation of 18 U.S.C. §§ 152(1)-(3), 1621 as well as Canons 1 and 2A of the Code of Conduct for United States Judges. This perjury allowed him to obtain a discharge of his debts while continuing his lifestyle at the expense of his creditors. His systematic disregard

of the Bankruptcy Court's orders also implicates 11 U.S.C. § 521(a)(3) and 18 U.S.C. § 401(1).

Judge Porteous wilfully and systematically concealed from litigants and the public certain financial transactions by filing false financial disclosure forms in violation of 18 U.S.C. § 1001, 5 U.S.C. App. 4 § 104, and Canon 5C(6) of the Code of Conduct for United States Judges, which require the disclosure of income, gifts, loans, and liabilities. This conduct made it impossible for litigants to seek recusal or to challenge his failure to recuse himself in cases in which lawyers who appeared before him had given him cash and other things of value and for the Council and the Judicial Conference to determine the full extent of his solicitation and receipt of such cash and things of value.

Judge Porteous violated several criminal statutes and ethical canons by presiding over *In Re: Liljeberg Enter. Inc. v. Lifemark Hosps. Inc.*, No. 2:93-cv-01784, rev'd in part by 304 F. 3d 410 (5<sup>th</sup> Cir. 2002). In that matter, which was tried without a jury, he denied a motion to recuse based on his relationship with lawyers in the case, in violation of 28 U.S.C. § 455 and Canons 3C(1) and 3D of the Code of Conduct for United States Judges. In denying the motion, he failed to disclose that the lawyers in question had often provided him with cash. Thereafter, while a bench verdict was pending, he solicited and received from the lawyers appearing before him illegal gratuities in the form of cash and other

things of value in violation of 18 U.S.C. § 201(c)(1)(B). This conduct, undertaken in a concealed manner, deprived the public of its right to his honest services in violation of 18 U.S.C. §§ 1341, 1343, and 1346, and constituted an abuse of his judicial office in violation of Canons 5C(1) and 5C(4) of the Codes of Conduct for United States Judges.

Judge Porteous made false representations to gain the extension of a bank loan with the intent to defraud the bank and causing the bank to incur losses in violation of 18 U.S.C. §§ 1014 and 1344.

Judge Porteous, in his conduct described above individually and collectively, brought disrepute to the federal judiciary.

2. The Council, pursuant to Rule 20(b)(1)(D)(ii) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings and 28 U.S.C. § 354(a)(2)(A)(i), orders that no new cases be assigned to Judge Porteous for two years from the date of this Order and Public Reprimand or until Congress takes final action on the impeachment proceedings, whichever occurs earlier.

3. The Council, pursuant to 28 U.S.C. §§ 332(d)(1), orders that Judge Porteous's authority to employ staff be suspended for the period of time encompassed in paragraph 2 above.

4. The Council, consistent with 28 U.S.C. §§ 332(d)(2), directs all judicial officers and employees within the Circuit, particularly the Chief Judge

of the Eastern District of Louisiana and the Clerk of Court for the Eastern District of Louisiana, to take all necessary steps to carry into effect the above orders of the Council.

In issuing this Order and Public Reprimand and executing the actions contained herein, the Council is taking the maximum disciplinary steps allowed by law against Judge Porteous. Any further action to remove Judge Porteous from office and the emoluments thereof is the responsibility of Congress.

In conjunction with the issuance of this Order and Public Reprimand, the following documents are being made available for public access:

1. Report by the Special Investigatory Committee to the Judicial Council of the United States Court of Appeals for the Fifth Circuit, Docket No. 07-05-351-0085, submitted November 20, 2007 and Volume 1 of 2 Volumes of Exhibits and Volume 2 of 2 Volumes of Exhibits;
2. Reply Memorandum to the Report by the Special Investigatory Committee, submitted December 5, 2007;
3. Response to Reply Memorandum, submitted December 10, 2007;
4. Memorandum Order and Certification of the Judicial Council of the Fifth Circuit, dated December 20, 2007;
5. Dissenting Statement to the Memorandum Order and Certification of the Judicial Council of the Fifth Circuit;
6. 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 and Exhibit 1A, Exhibit 1B, Exhibit 1C, Exhibit 2A, Exhibit 2B, Exhibit 2C, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7, Exhibit 7A, Exhibit 8, Exhibit 9, and Exhibit List;

7. Certificate to Speaker, United States House of Representatives and Report and Recommendations of the Judicial Conference Committee on Judicial Conduct and Disability, and;
8. Crime Fraud Order dated June 21, 2004, and Crime Fraud Order dated October 19, 2004.

This Order and Public Reprimand is effective immediately and concludes the matter IN RE: Complaint of Judicial Misconduct against United States District Judge G. Thomas Porteous, Jr. under the Judicial Conduct and Disability Act of 1980 before the Council.

DONE this 10th day of September, 2008.

FOR THE COUNCIL:



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Chief Judge

Links to publicly available documents:

[Report by the Special Investigatory Committee to the Judicial Council of the United States Court of Appeals for the Fifth Circuit, Docket No. 07-05-351-0085, submitted November 20, 2007](#)

[Volume 1 of 2 Volumes of Exhibits](#)

[Volume 2 of 2 Volumes of Exhibits](#)

[Reply Memorandum to the Report by the Special Investigatory Committee, submitted December 5, 2007](#)

[Response to Reply Memorandum, submitted December 10, 2007](#)

[Memorandum Order and Certification of the Judicial Council of the Fifth Circuit, dated December 20, 2007](#)

[Dissenting Statement to the Memorandum Order and Certification of the Judicial Council of the Fifth Circuit](#)

[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](#)

[Exhibit 1A](#)

[Exhibit 1B](#)

[Exhibit 1C](#)

[Exhibit 2A](#)

[Exhibit 2B](#)

[Exhibit 2C](#)

[Exhibit 3](#)

[Exhibit 4](#)

[Exhibit 5](#)

[Exhibit 6](#)

[Exhibit 7](#)

[Exhibit 7A](#)

[Exhibit 8](#)

[Exhibit 9](#)

[Exhibit List](#)

Certificate to Speaker, United States House of Representatives and Report and Recommendations of the Judicial Conference Committee on Judicial Conduct and Disability

Crime Fraud Order dated June 21, 2004

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