

# **LAWTON M. CHILES CENTER FOR FLORIDA HISTORY ORAL HISTORY PROJECT**

**Interview with: Robert E. Puterbaugh**

**Interviewer: James M. Denham**

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**Transcription: Isabelle Cyr with edits by James M. Denham  
and Robert E. Puterbaugh**

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**Denham:** Hello Bob. Previously, we were discussing your first years practicing law after your service in the military with the Lake Wales law firm. Can you tell us about the merger of the two law firms in Lake Wales and Lakeland? So, you can continue Bob.

**Puterbaugh:** Well, someone needed to go to Lakeland and since I had just returned from the Army and I haven't been back to Lake Wales for more than a year or so, I went to Lakeland and I enjoyed the opportunity to work with Jay Peterson. I moved to Lakeland and took up my residency in the Lakeland office with Jay and we hired some young lawyers like Claude Sweat and Kevin Knowlton and some others to work at the Lakeland office and that was the start of the Peterson & Myers law firm in Lakeland.

**Denham:** Did you know Jay Peterson before that?

**Puterbaugh:** I had met Jay previously. Clint Curtis first introduced me to Jay, and we spent some time in Tampa at a Florida Bar meeting. Jay was on the Board of Governors of the Florida Bar, and Jay and Clint and I went to a Florida Bar meeting at the Tampa International Airport. That was the first time I met Jay, so I did know Jay before I went to Lakeland.

**Denham:** At that time there were only two or three people. What were the main parts of business at that time?

**Puterbaugh:** Well Jay had a background of being involved in everything in Polk County and in Lakeland; City Attorney, and he represented some very important clients. He represented

Lakeland General Hospital, now Lakeland Regional Medical Center. He represented Robi Callen who owned and operated many Holiday Inns throughout the world, and Jay did work for Publix, for Mr. George Jenkins. Jay had a great practice. If you look back at all the prominent businesses and people in Lakeland at that time, the odds are, Jay represented a high percentage of them.

**Denham:** Wow. So, he needed you?

**Puterbaugh:** He needed support of a larger firm because Lawton Chiles had become a United States Senator and you've got George Carr leaving, who's about to depart to become a federal judge.

**Denham:** Exactly.

**Puterbaugh:** Jay had a need. I mean he could have done well by himself, but he wouldn't have been able to really serve all the clients he had and so it was a perfect marriage so to speak. It was a family-type relationship. Neal Myers was married to Jay's sister and the Woolfolk Myers firm in Lake Wales offered Jay the support that he needed so the firm then became the Peterson & Myers firm as you know it today, although there were different variations of the name, but you got to a point where there's so many individual names in the firm that we went to using Peterson & Myers for the firm's name as opposed having everyone's name listed.

**Denham:** Who stayed in Lake Wales and who came over?

**Puterbaugh:** From Lake Wales? Everyone stayed in Lake Wales except me.

**Denham:** Okay.

**Puterbaugh:** Eventually, there were others that came over from Lake Wales, like John Mann, and there were others that came. Basically, we grew the Lakeland firm by hiring new people, like I said, Claude Sweat, who was Judge Clifton Kelly's son-in-law, Kevin Knowlton, who is still with our firm and there are many others we have hired along the way. I guess we have between twenty-seven and thirty lawyers between our two offices Lakeland and Winter Haven because in the last couple of years we have pretty much closed down the Lake Wales office. In today's world of emails, zoom, skype and so forth, clients don't come into your office as much as they used to and so you don't need to have a branch office in every city so right now we're basically Winter Haven and Lakeland, East side of Polk County and West side of Polk County.

**Denham:** Well, we'd like to go into some of your cases. What was the first big case that you can remember when you came to the Lake Wales firm?

**Puterbaugh:** Well, probably the Ivory Lee Wilson slavery case, Ivory Lee Wilson and his brother Roscoe Wilson and one of his employees, “Big Man Bibbs”, William James “Big Man” Bibbs but everyone called him “Big Man Bibbs” because the government claimed that he was the enforcer for Ivory Lee Wilson, who was the leader and owner of a labor camp in Lake Wales.

**Denham:** And the essence of the case was they had gangs and farm laborers that they would control and send from place to place? And they enforced control over them, correct?

**Puterbaugh:** That's correct. The government alleged that Ivory Lee Wilson and his employees would go to New York and find homeless or desperate people in the Bowery or other down and out sections in New York, grab them up and put them in vans, drive them to North Carolina, and use them there for farm labor. Then they would bring them to Florida.

**Denham:** It's kind of trafficking, right? Would you say? In a way?

**Puterbaugh:** If you ask the government, they would say that Ivory went to New York and kidnapped the slaves and held them in bondage throughout North Carolina and Florida. Ultimately, they wound up in Lake Wales, Florida, at Ivory's labor camp. The Indictment was in the federal District Court in Tampa for basically slavery and that was in the 1976–1977-time frame.

**Denham:** Okay.

**Puterbaugh:** I was in the Lake Wales when the case started. I represented Ivory Lee Wilson. Jack Edmund, a famous lawyer in Bartow at that time, represented Roscoe Wilson and then there was an appointed lawyer, a young Tampa lawyer, whose name was Stanley Lane, who represented “Big Man” Bibbs.

**Denham:** What was the result of that case?

**Puterbaugh:** The ultimate result was that all three were convicted of slavery or holding persons to involuntary servitude. We appealed to the then Fifth Circuit Court of Appeals in New Orleans and that court upheld the convictions and then we filed a Petition for a *Writ of Certiorari* in the United State Supreme Court because there was a Second Circuit case that held that you can't hold someone in slavery or involuntary servitude if they have an opportunity to escape and do not afford themselves of that opportunity. Unfortunately for the defendants in our case, the Fifth Circuit held contrary to the Second Circuit and indicated that even if the person being held had an opportunity to leave, if they were afraid to leave, then the slaveholder or person holding them could be convicted. So, there were two separate and diametrically opposed circuit opinions. We thought that we had a pretty good shot at the United States Supreme Court taking the case, to

decide which circuit was correct, because as you can imagine in 1977, there were not many slavery or involuntary servitude cases on the books.

**Denham:** They actually used the term slavery?

**Puterbaugh:** Oh, yes. And they also said holding them in peonage or involuntary servitude, was in violation of the laws that were enacted after the 13<sup>th</sup> Amendment. The Amendment does nothing on its own until laws were passed to enforce the 13th Amendment. In the Fifth Circuit written Opinion, the court noted that the primary purpose of the involuntary servitude law was to “abolish all practices whereby incidents of slavery was legally enforced.” And throughout the Fifth Circuit opinion, the word slavery was used many times. This was probably one of the only slavery case on the books, and the one in the Second Circuit was really the only other case. We had two circuits weigh in, with diametrically opposite views, but the United States Supreme Court eventually decided that they were not going to decide which circuit was correct so in any event, the United States Supreme Court denied our Petition for a *writ of certiorari*, so Ivory, Roscoe and “Big Man” Bibbs wound up serving some time in a federal prison but were released shortly thereafter and for many years they still ran a labor camp in Lake Wales and had workers who picked fruit and so forth for all the major citrus operators.

**Denham:** You still have contact?

**Puterbaugh:** Well, he didn't kidnap any more slaves, or at least the government left him alone. But there were a lot of interesting aspects to that case, especially the fact that I was trying the case in federal court along with Jack Edmund, who was an absolute legend in the legal community at that time.

**Denham:** Along with the Wilson cases, in the early years, you have the blood plasma case, *US versus Smith* is that correct?

**Puterbaugh:** Yes. That was early on and I think it was in the late 1970s or early 1980s somewhere around then. It was an early case, and it involved the Plasmapheresis Center in Lakeland on Pine Street. If you recall what Pine Street was like in the 1970s, there were a lot of down and out homeless people that hung out around Pine Street and who would sell their blood at this Plasmapheresis Center. The government indicted the owners of the Center for violation of various FDA (Federal Drug Administration) laws and regulations and that was an interesting case in federal court in Tampa. Again, Jack Edmond represented one of the defendants and I represented one of the owners of the blood center, and the US attorney in that case was Terry Smiljanich, a very, very, nice and competent young lawyer, outstanding and very professional lawyer in my opinion. Even though we were on the opposite side, I had a lot of respect for Terry. He tried a very clean case in terms of the trial and we had a great judge.

**Denham:** Are you referring to Judge Benjamin Krentzman?

**Puterbaugh:** Judge Krentzman as I recall, and I had a great relationship with him and I respected him greatly. And Jack Edmund, it was always enjoyable trying a case with Jack, I remember in the Ivory Wilson case, he recited to the jury, a Robert Service poem, *The Men Who Don't Fit In*, very colorful trial lawyer. And opposing council, in the blood plasma case, Terry Smiljanich was a fine prosecutor and a pleasure to deal with as a prosecutor, even though you're on the opposite side, battling in the courtroom, It's always nice when you're up against someone who's both competent and a decent person and Terry was both.

**Denham:** Can you summarize what the charges were and how you defend it?

**Puterbaugh:** That was of course right before AIDS, and most of the FDA's concern was with alleged adulterated blood and of course hepatitis or other blood borne diseases. I haven't looked at the record of this case in a while but in general the Government was alleging that the owners of the Plasmapheresis Center, and a doctor associated with the Center, acted in a way that the blood could have been adulterated and that the doctor did not properly perform the physical examination or the examinations of the donors that he should have conducted. I recall an allegation that really got the jury's attention visually was the allegation that the Plasmapheresis Center workers poured blood into plastic garbage cans and then stirred the blood with a boat paddle. I remember that allegation and there were all kinds of allegations and of course we had witnesses that supported the position that many of the things the government alleged had not happened and so forth and it was a very long trial, five weeks. In those days, you actually moved to Tampa for the federal trials. You didn't drive back and forth because you worked at night getting ready for the next day's trial and then you had to get up early in the morning and there really wasn't a lot of hotels or motels in downtown Tampa in the early 1970s that were adequate and then the Hyatt opened and that was the first really decent hotel in downtown that you could stay in that era, and then of course 1976, Tampa had obtained an NFL team and everything changed, all the hotels started to open and so forth.

**Denham:** Can you remember the results of the case? They were convicted? Did they get some serious time?

**Puterbaugh:** They weren't sentenced to long terms. While the jury convicted our clients, I think the evidence we put on in response to a lot of the government's allegations caused the judge to not sentence them to lengthy prison term.

**Denham:** Everybody says when you're in federal court against federal prosecutors who have a case against your clients that their conviction rate is really, really high. Is that generally true, would you say?

**Puterbaugh:** Absolutely true, it was true then, it is true today. That's for several reasons. Number one: to a certain degree you've got great prosecutors. Not to say you don't have good prosecutors in the state courts, but you have some of the top prosecutors in federal court. The other thing is you have the FBI as the investigating agency and the FBI historically has done an excellent job of preparing federal cases for trial, something that many state prosecutors many time don't have, is an investigating agency of the quality of the FBI and most importantly and I think this was true then and true today, that federal prosecutors don't take a case to trial unless they have, what we might call a slam dunk or a case where they just think there's no question that the defendants will be convicted. So, all those things translate into a higher conviction rate in federal courts than in state courts. The state prosecutor has to prosecute a lot of cases that might not be necessarily as strong. Of course, your federal statutes also work in favor of the government. And again, the federal prosecutors can be selective on which cases they prosecute so they don't prosecute a case that they think won't be successful, or even fifty- fifty, but they want a case where they think it's almost 100% that they will obtain a conviction. But everyone now and then, if you're a defense lawyer in federal court, you win a case. I won some but you're going to lose most of your cases in federal court quite frankly. A lot of what you do in federal court is not necessarily win the case in terms of a not guilty verdict but try to establish that the government's allegations aren't quite as bad as the indictment reads and therefore that translates into the judge maybe not sentencing your client to as long of a term in a federal prison. For example, each of the defendants in the blood plasma case could have been sentenced to as many as 34 years in prison, according to the newspaper article at the time, but as I recall, Judge Krentzman's sentences were relatively short and fair, 3 years for my client and 18 months for one of the other defendants although you know, even one day in federal prison would not be attractive but certainly a sentence of 18 months or even 3 years in a federal prison is a lot different than 34 years.

**Denham:** There is another case that you were involved in, Alfonso Scaglione, can you tell us the actual case name?

**Puterbaugh:** This was in 1973–1974-time frame and certainly that's a long time ago but I do recall it because it involved a lot of individuals, some of whom were alleged to have been part of the crime family in Tampa, the Trafficante Crime Family. Some of the individuals involved in that case were Alfonso Scaglione and Luis Henry Figueredo, Jr.. This was a sports betting case, again in federal court and we ultimately filed a Petition for a *writ of certiorari* in the United States Supreme Court and again it was denied but it was a memorable case because of some of the colorful characters involved. Like I said it was a long time ago and I don't have a perfect memory of the case, but I do recall the Petition to the United States Supreme Court. I guess now we will go into the 1980s cases.

**Denham:** Can you tell us about a case that you had in Wauchula involving the Elks club and what was entailed? What were the issues involved.

**Puterbaugh:** Well, it involved the Moose and Elks clubs, two private clubs in Wauchula and we used to call Wauchula and Hardee County, the “Kingdom of Hardee,” because Hardee County was kind of a law and world unto themselves, and this case was in 1980. I remember this vividly because there were a series of cases and at that time Hardee County, the “Kingdom of Hardee”, was a dry county but if you had a private club and you were a member of that club you could drink at the private club, and the Moose and Elks clubs were private clubs but sometimes you know private clubs in dry counties tend to push the envelope a bit. Someone who might not be a member of the club comes in they'll serve him a drink; you know that probably happens in every dry county in the United States where there are private “bottle clubs”. But the State Beverage Department in Tallahassee, for whatever reason, decided they wanted to make an example out of the Moose and Elks Clubs in Wauchula. So they sent an undercover beverage agent into Wauchula, who posed as a businessman looking to buy real property or some such thing, and he would talk to people in Wauchula about buying property and so forth and then he would go over the Elks club or to the Moose Club, and you know, take a drink.

Probably no question that the clubs technically violated a law in the State of Florida but certainly not something that any prosecutor or prosecutorial agency should have spent much time or money on, but in any event the State charged and prosecuted the leaders of the Elks and Moose clubs. I represented the Moose defendants and a young Bartow lawyer by the name of Jack Wilkins represented the Elks, and we go down there and try the case before a Hardee County jury. I remember they sent this special prosecutor down from Tallahassee to try the case and in the jury selection he asked one of the jury members: “Now Mrs. So and So, do you know any of the other jurors,” and of course everyone in the courtroom, including the judge, broke up in laughter because in Wauchula everybody knows everybody. In any event we tried it, and the defendants were found not guilty. Apparently, that irritated the hell out of Tallahassee, so, as I recall, they sent somebody else in undercover.

And we tried that case and I will never forget it because this is really funny. When the jury came back, the foreperson of the jury was a lady. On the way out of the jury room into the courtroom, she looks over at us at the defense table and gives us a wide grin and a thumbs up, as a way to indicate that the jury had again ruled for our clients, so they were acquitted again. As I recall there may have been a third attempt at prosecution, but it got so ridiculous, that the judge in that case entered a standing order in Hardee County, that if the defendants were charged and arrested again, they would immediately be released on their own recognizance and would not have to post bail. Finally, the Florida Beverage Department and the special prosecutor in Tallahassee, as I recall, gave up and there were no more prosecutions of the Moose and Elks in Wauchula. Then a very humorous article appeared in a newspaper titled *Tomorrow they may thirst*, which referred to my clients as “outlaws”, to me as “a high-powered Lakeland lawyer and a quick-drawing legal gunman hired to gun down” those who had charged the outlaws. I think it was either in the *New York Times* or *The Lakeland Ledger*. Maybe both, because in those days the *Lakeland Ledger* was part of the *New York Times* media system.

**Puterbaugh:** You know, Give me a break. Of all the criminal cases in the books, that's not one that seems to be too egregious. Minor cases, but I sure did get a lot of publicity out of representing the Moose "outlaws" in the Kingdom of Hardee.

**Denham:** Yeah. Okay, one of the most memorable cases I would imagine that you probably ever worked on was the SH Oil case, correct?

**Puterbaugh:** Absolutely.

**Denham:** So, Mr. Puterbaugh, Can you tell us about that from the beginning in terms of what the issues were and who the major players were and all that.

**Puterbaugh:** Well, it all started in Winter Haven. Stephen Smith was from a very distinguished Winter Haven family. His family went back generations, and he knew everyone in Winter Haven, and everyone knew him. Everyone knew his family. Everyone knew his mother and grandmother and I mean he was just one of the premier individuals in Winter Haven. His grandfather had helped pioneer the citrus industry in Winter Haven. Heather, his wife, was president of the Junior League, and involved in the Winter Haven Garden Club, and those kinds of organizations in Winter Haven. Smith had formed a company called SH Oil Gas & Exploration, S and H for Steve and Heather. He presented himself as having hundreds of oil wells all over the United States, in Texas, Ohio, Pennsylvania, probably other locations, and he was selling interests in these oil wells, but he was very selective as to who he would let in. He would only let in his close friends or business associates in Winter Haven.

And the returns that he was paying his investors were phenomenal, between 64 and 95 percent annually, I mean you know you could invest \$100,000 with Steve and your first monthly dividend check you know might be \$10,000, so that you get all your money back in a very short period of time, so everyone in Winter Haven wanted to invest with Steve. Steve would basically turn down most people, and they would almost beg him to allow them to invest with him, and many times if they were turned down by Steve, they would go to another investor who was investing with Steve and invest through that investor.

So, it became a very pretty prestigious thing if you were an SH Oil investor in Winter Haven and of course, SH Oil was nothing but a simple garden variety Ponzi scheme where Steve was using money from new investors to pay dividends to old investors and the amazing thing about this Ponzi scheme was that it went on for so long. Most Ponzi schemes will implode after a relatively short period of time, because at some point in time there are not enough new investors to allow the perpetrator of the Ponzi scheme to funnel money to the old investors, but Steve managed to keep it going and part of the reason why he was able to keep it going was that everyone wanted to invest with him and so when SH Oil was finally shut down by the state of Florida, it was still ongoing, it had not as yet imploded. Most Ponzi schemes implode but SH Oil was an ongoing Ponzi scheme when it was shut down by the state of Florida. Bill McBride,

an attorney with the Holland and Knight law firm was appointed as the receiver for SH Oil, and SH Oil was shut down on December 30, 1987.

I'll never forget the afternoon of December 30, 1987, when the president of Barnett Bank of Polk County came into my office after SH Oil was shut down. At that time, the Holland & Knight law firm represented various Barnett banks, pretty much statewide, including Barnett Bank of Polk County, but Bill McBride, one of Holland & Knight's attorneys was appointed the receiver for SH Oil, so it was a conflict of interest and Holland & Knight couldn't also represent Barnett Bank of Polk County. Because of that conflict, the president of Barnett Bank of Polk County came into my office the afternoon of December 30th and told me that the State of Florida had shut down SH Oil and that SH Oil and Stephen Smith were one of the bank's largest customers and that Holland & Knight couldn't represent Barnett since McBride was the appointed receiver. The president of the bank asked me if I could help and represent the bank in this matter. And that was the start of what turned out to be a long representation of Barnett, basically statewide on many cases.

**Denham:** Just so that we understand, Barnett Bank is key here because they were fiduciary of S&H. Is that correct? And also, they were loaning money to other investors to invest in the company, is that correct?

**Puterbaugh:** What's important to understand is the organization of Barnett banks at the time. Barnett Banks Inc. was a holding company in Jacksonville and under the holdings company were Barnett Bank of Polk County, Barnett Bank of Lee County, Barnett Bank of Tampa, Barnett Bank of DeLand etc etc, and so Barnett Bank of Polk County was Stephen Smith's bank and Barnett Bank of Polk County had loaned a considerable amount of money to Stephen Smith and to SH Oil and the bank was also loaning money to people in Winter Haven to make investments with Stephen Smith and SH Oil. So when SH Oil was shut down and its assets frozen, this was a devastating blow to Barnett Bank of Polk County, in terms of their largest customer or at least one of their largest borrowers, being accused of fraud, and then they had all these loans out to people who had invested in SH Oil, so it was a very significant issue for Barnett Bank of Polk County. Ultimately, many of those investors started to blame Barnett for the fact that they had invested with Steve Smith and alleged that they had invested based on information supplied to them by Barnett. And there were, oh my gosh, over 700 investors and probably 90% of whom lived in Winter Haven. There were some from Lakeland, but we could probably count on one hand the number of investors in Lakeland because in Lakeland, Stephen Smith's name meant nothing, so people weren't investing with him in numbers as they were in Winter Haven.

**Denham:** So did these 200 or so people come after Barnett Bank as a class action?

**Puterbaugh:** Not as a class action. Ultimately, over 125 or more joined together and filed a federal court lawsuit against Barnett Bank of Polk County and Barnett Banks, Inc., the holding company in Jacksonville. But even though there were a large number of plaintiffs, it was a one

lawsuit, but it wasn't a class action lawsuit. It was all these individually named investors filing one federal court lawsuit against Barnett Bank of Polk County and the holding company. Then there was a totally separate lawsuit filed in state court in the Tenth Judicial Circuit here in Polk County by 15 to 20 or so investors. Between the two cases and over a several year period of time, I basically took the depositions of almost all of the investors who sued Barnett in state and federal court.. There were also investors scattered all over the world, but they all basically had some relation or tie to Winter Haven. For example: one investor in Winter Haven might get his brother, who lived in Washington DC, to be an investor or another investor in Winter Haven might get his father, who perhaps lived in Idaho to be an investor, but it all seemed to funnel back to Winter Haven. And Stephen Smith, for that reason, was referred to by the media as "*The Pied Piper of Winter Haven*". And *Fortune* magazine published a long article which they titled "*The Great Florida Oil Scam*". There were so many media articles, another was *Rise and Ruin, The Story of SH Oil*. And there were so many funny things about the SH Oil saga, but it was also tragic that many investors lost money, but there were also a lot of investors that made money, we called them the "winners" because the investors who got in early had already not only received their initial investment back, but had received much more in "dividends" by the time SH Oil was shut down. There were so many humorous things, for example, Smith would take investors to Ohio or Pennsylvania or wherever, then fly them in a helicopter over actual oil wells and Steve would point out, -now Dr. So and So, or Mr. So and So, that's your well down there and then that well over belongs to you, Mr. So and So... *Fortune* magazine even had really nice artwork in their article, *The Great Florida Oil Scam*, showing Smith in a helicopter pointing out wells to investors.

To think, after the fact, that just flying over oil wells was a way to verify your investments, it's funny, but at the time they all believed it and fell for his scam, because it was their hometown boy, Steve Smith.

**Denham:** He must have been quite a manipulator.

**Puterbaugh:** He was, he was, but the key was he was a fourth generation of a prominent family in Winter Haven. Everyone trusted him, everyone knew Steve and his family, and everyone was begging to invest in SH Oil. One vignette I can tell you about SH Oil, and in hindsight I find this very ironic, but about a year before SH Oil was shut down, I was representing an individual in Winter Haven and my client had to file financial affidavit in the case. I was going over all his assets listed on the affidavit and I saw this asset, SH Oil listed. At that time, being from Lake Wales and practicing law in Lakeland, I had never heard of SH Oil, and I said, "What is this SH Oil", so he starts telling me about Steve Smith and how he had invested x amount of money in SH Oil and how he's received all these fantastic returns each month and so forth. I said that sure sounds like a Ponzi scheme to me, and he said, "Oh no Bob, it's real, it's Steve Smith, he's got all these oil wells and he's brilliant." My client just went on and on about how it couldn't be a Ponzi scheme, and how Steve was one of the most honest and respected individuals in Winter Haven, etc., etc. I said okay, okay, and it was the first time I ever heard the name Steve Smith or heard

about SH Oil. My client later told me he should have listened to me, and he has told that story many times to others over the years.

And then, a year or so later, on December 30, 1987, I heard a lot more about SH Oil and Stephen Smith from the president of Barnett Bank of Polk County. I told the president of the bank that I would be glad to represent the bank and as it turned out, investors decided to blame Barnett and the story changed and oh, I didn't invest with Steve Smith because he was prominent in Winter Haven or because I wanted to get all these phenomenal returns, I invested because of Barnett, almost like every investor would say: "Barnett made me do it."

**Denham:** Somebody else is always at fault.

**Puterbaugh:** Absolutely. In fact, we had an expert witness for that case, a Professor from Harvard, as I recall who was the foremost expert in the United States on Ponzi schemes and had studied Ponzi schemes and what causes individuals to invest in Ponzi schemes. His testimony was that people invest in Ponzi schemes basically for one main reason and that is to obtain the high return on their investment, also known as greed. The number one reason is the return on investment, which overrides all other reasons. And of course, this was exacerbated in this case by the fact that you had to be part of Steve Smith's inner circle in Winter Haven in order to be allowed to invest in SH Oil.

**Denham:** That was very on his part, that was a real strategic movement on this guy's part, yeah, I mean it's the perfect thing, nobody's going to ask questions as long as we can keep the money coming.

**Puterbaugh:** And Steve never solicited anyone for money or to invest with him. He didn't have to--everyone, everyone was trying to invest, lining up to invest. I took depositions of all the investors who had sued Barnett and one investor, very prominent Winter Haven individual, who I'd had a prior relationship with and was very honest in terms of his testimony. But at his deposition, I asked, I won't use his name, but I said: "Tell me what it was like in Winter Haven when SH Oil was at its height and going full tilt and he looks at me and he smiles and says: "Bob, it was like there was no hell." That same investor referred to everyone's new favorite Christmas carol, sung to the melody of The First Noel, , "nooo-wells, nooo-wells, nooo-wells, no-wells"

**Denham:** In other words, you can do anything you wanted to do and everything was just rosy no matter what.

**Puterbaugh:** There were people in Winter Haven, they were going to Barnett Bank and depositing their monthly returns. Sometimes those monthly checks were 40, 50, 60 thousand dollars. And there were other investors who had been turned down by Steve so they would go to

another investor and have that investor invest their money for them. As I said, they were lining up to invest with Steve.

**Denham:** Here's some cash that's for me right.

**Puterbaugh:** Invest this in your name and then when you get your check, you write me a check, I mean, it was just incredible. The people who were involved were the who's who of Winter Haven. As I said, there may have been two or three I can remember, two or three Lakeland investors, but even they had a relationship in Winter Haven. One Winter Haven investor once pointed to Steve's SH Oil office in Winter Haven and said, "There sits the King and we are all his princes." That was why Smith was called *the Pied Piper of Winter Haven*.

After SH Oil was shut down, Smith hired this lawyer in Lexington, Kentucky, Montjoy Trimble was his name. So, after being retained by Barnett to represent the bank, I flew to Lexington, Kentucky, to meet with Steve's lawyer, Montjoy Trimble, because I wanted to find out as much as I could about the facts of the case and what was going on, because at that point, no one knew, there were all kinds rumors and allegations flying around. I learned from Montjoy that all of Steve's and SH Oil's business records were stored in a warehouse in Winter Haven and had not as yet been seized by the State of Florida or even accessed by the receiver, Bill McBride, or anyone else at that time. So, while I was in Lexington meeting with Smith's attorney, I bought all of Steve Smith's SH Oil business records and business papers. As I said they were at a warehouse in Winter Haven. So I flew back to Florida and moved all the records from the Winter Haven warehouse to my office in Lakeland, where they filled an entire large room. So basically, from day one, I had control and total access to all SH Oil records after my Lexington buying spree, so to speak. I informed Bill McBride, the receiver, that I now had all of SH Oil's records and I of course made them available to McBride, but during the entire litigation, I had those records in my office and they were invaluable in terms of the several hundred depositions we took in the federal and state cases the investors filed against Barnett. They were also invaluable in terms of my deposition of Steve Smith.

Ultimately, Steve Smith pled guilty to 98 felony counts in state court and to federal bank fraud charges in federal court and was serving his sentence at Saufley Federal Prison in Pensacola Florida, so I took a 16-day deposition of Steve Smith. Not all consecutive days— like for three days at the time or four days at the time in Saufley Prison. It was the longest deposition I have ever taken, and it was taken in the break room of a federal prison. I questioned Steve Smith about every individual investor and his relationships with each individual investor and of course I had all his investor records for each investor and all of his communications with each investor, since I had his records. For the investors' attorney on the other side to have sit and listen to those 16 days of depositions, I am sure it was mind numbing because when you're taking a deposition, it's easy because you're talking and are engaged in dialog with the witness, but to just sit and listen to someone else take a deposition for 16 days, that will drive you nuts. I remember one day at the prison, I started out in the morning and all I did that day was take land records from Texas and Pennsylvania of all these oil wells that Smith supposedly owned, to

establish that he did not own them. And of course, that was basically—"let me hand you Mr. Smith what appears to be a record of an oil well in such and such county in Texas (and I would recite the legal description) and please tell me if you ever had an interest in that oil well or in that property". When you do that with 200 different documents--It's fine if you're doing it, but to just sit there and listen to it, it'll drive you crazy and I remember the lawyer for the investors, saying about 3:00 in the afternoon, "I can't take this anymore, I am leaving. I'll waive my presence, but I just can't take this anymore". But I took Steve's deposition, day after day after day and it was so interesting and informative to hear from Steve why and how each individual investor had become an investor, to ultimately establish that their investment in SH Oil had nothing to do with Barnett.

**Denham:** And so, do you think he was being straight with you on the deposition?

**Puterbaugh:** Oh, yeah, yeah, at this point of time he had no reason not to be. Obviously, he had run a Ponzi scheme, but in terms of his testimony on deposition, at that point in time, he was being truthful because there was absolutely no reason for him not to be. He already had been sentenced. He was serving his time in a federal prison, Saufley federal prison, and he was clearly being straight, and of course, I had his investor records which basically corroborated his deposition testimony. There was another interesting thing that happened after the Barnett cases were resolved. Smith had filed bankruptcy and so the bankruptcy trustee hired me to assist in going after the winners, who knew SH Oil was a scam, to try to recoup money from the winners to go into the pot to pay off the losers. So, it was almost as if the tables had turned on these investors. Many winners with unclean hands had sued Barnett. But now I get to go after them because they were winners.

**Denham:** So you were able to get those records to determine who were the winners and who were the losers.

**Puterbaugh:** Absolutely.

**Denham:** I guess they had tax returns and other records.

**Puterbaugh:** We had all the records showing how much they received back over and above their original investment.

**Denham:** So you were, you were able to go back and try to claw back some of that money, right?

**Puterbaugh:** Yes, yes.

**Denham:** So, you were successful in doing that?

**Puterbaugh:** Yes, you sued Barnett, now I get to come back at you !

**Denham:** So, was that before Judge Alexander Paskay over in Tampa?

**Puterbaugh:** What happens is that there's a trustee appointed and so the trustee has to hire an attorney to recover assets so the bankruptcy trustee can then redistribute those assets. There were a lot of winners in Winter Haven, and they didn't like having to give up their winnings.

**Denham:** I'm sure they didn't like it, they probably thought they had escaped, in other words they probably thought, well, yeah a lot of people lost money but I made out okay so they were probably really shocked when all of a sudden you come back to them and say, hey, now look, you, you got more money than you put in, and you know these other people got nothing back and you're going to have to try to reimburse some of these other people. That would have been quite a surprise, I bet.

**Puterbaugh:** Well, even more importantly, what we were able to determine during the discovery and deposition process, and from request for production of documents from all these investors who had sued Barnett, is we were able to establish that there were some of the winners who actually found out that there were no oil wells and that SH Oil was a scam but they thought, as the *Fortune Magazine* article indicates--they thought Steve was laundering drug money, and therefore while there might not be oil wells, they were going to stay in because they were getting these "lucrative" returns. One investor even wrote a memo documenting a conversation with another investor basically saying we know there are no oil wells, but we'll stay in and just draw our money out gradually. We actually obtained that document as a result of a request for production of documents. A real smoking gun which caused the federal case to start to go south for the investors. So, there were a lot of those winners who sued Barnett that didn't have clean hands.

**Denham:** And let me ask you this. If they had not come back after Barnett like all the other hundreds did, would you have had that information on them as far as being a winner or a loser?

**Puterbaugh:** No, because I obtained all that information about winners and losers because I had purchased and had access to Steve's business records and was able to obtain documents from the investors through document requests and through the subpoena power I had by virtue of the law suits that the investors had filed.

**Denham:** Right.

**Puterbaugh:** But since they sued Barnett, I was able to take depositions and some investors even truthfully admitted that yes, they knew there were probably no oil wells and that they thought it

was something else and I had obtained documents through discovery where they had written memos or letters and so forth which, as I stated, showed they didn't have clean hands. This was way before emails or texts, but I had a lot of memos and letters and things where it showed that they clearly were suspicious or knew there were no oil wells. Some of them had even hired a Texas landsman to determine if there were any oil wells in Texas that Steve owned and I took his deposition in New Orleans. The Texas landsman investigated Steve and then reported back that after an extensive search he could find no evidence that Steve or SH Oil had any oil wells, but the investors who had hired the landsman thought Steve was into something else so they chose not to blow the whistle. It's very interesting, as I said before, SH Oil didn't implode because there weren't any more investors, someone had anonymously written to the state of Florida saying you need to look into SH Oil, it's a Ponzi Scheme.

**Denham:** So the state regulator started looking at it and shut it down much to the dismay of investors, right?

**Puterbaugh:** Oh, absolutely! The investors absolutely hated McBride because he had shut down and killed their golden goose. And they didn't get their checks anymore. When McBride shut it down on December 30th, there were checks on Steve Smith's desk waiting to go out the first week of January, hundreds of thousands of dollars' worth of checks. They didn't go out. And the investors blamed McBride for not getting their January checks. One investor told a newspaper: "We were all doing great until that S.O.B. walked in here."

**Denham:** Let me ask you this. Between Lexington Kentucky and all those records, how did you do it? How did you discover all of this? Did you have staff? Did you have people that were working for you at the law firm? It seems to me that you would have had to have had a lot of help.

**Puterbaugh:** I did have a lot of help, but foremost, I had a great client, the CEO of the Barnett holding company, Barnett Banks Inc, Charlie Rice. A wonderful man, a great client. I had never previously handled any legal work for Charlie Rice. I had represented Barnett Bank of Polk County on small matters, but Holland and Knight was their statewide counsel. But once I started representing Barnett Bank of Polk County and the holding company in the SH Oil saga and it became clear how serious this was for Barnett, both financially and reputationally, I became involved in working very closely with Charlie Rice because this was a significantly major issue for Barnett, and Mr. Rice, so he basically, he had one philosophy, if you were representing him or Barnett Bank, "I want to win," and he said, "I will give you all the resources you need but you keep in mind I want to win."

**Denham:** So, he had access to all these really smart auditors I would imagine, that really helped you.

**Puterbaugh:** Well, the ones that helped most at Barnett, the holding company in Jacksonville, Barnett Banks Inc, was represented by a top notch Jacksonville law firm and there was a fine lawyer in that firm named Bob Winicki. Barnett Banks, Inc. was also represented by a lawyer in Miami by the name of Peter W. Homer. Both Bob Winicki and Peter Homer were outstanding lawyers. Additionally, Charlie Rice's son, Dan Rice, was about to graduate from law school so I worked with Bob Winicki, Peter Homer and Dan Rice during the entire SH Oil saga. At that point in time, computers and litigation software were just beginning to come into common use in law firms. I remember Dan mentioning a mouse to me and I said what the heck is a mouse and we had an early computer program that allowed us to run word searches on depositions, and at that time, that was all new state of the art.

You take a deposition, you put it in the computer, and then you perform a word search, you know with the hundreds of depositions that we took, there were times in my law office in Lakeland, where we were taking up to three depositions at a time. I'd be in one conference room taking the deposition of one investor, Dave Connor in our office might be in another of our conference rooms taking the deposition of another investor, and Peter Homer or Dan Rice might be in a third conference room taking another deposition. We not only took the deposition of the investors, but we took the deposition of their financial advisors and depositions of other people who might have been related, one way or the other to an investor. An investor might say he talked to X, who might not be a party to the lawsuit, but I would then want to take the deposition of X and you know by the time this was over, we had taken literally hundreds of deposition, many lasting a full day or more. It was just an amazing case because you can't imagine all of the intrigue and so forth involved and you know it had just about everything. It had sex. It had greed. It just had so much.

**Denham:** Now, where is all that material now? Is it on file somewhere--all those depositions?

**Puterbaugh:** If they exist, they're in storage.

**Denham:** Okay, in your law firm.

**Puterbaugh:** Yeah.

**Denham:** Now what about the cases that were put in or what about the depositions that would have been recorded in trials, does the courthouse have then?

**Puterbaugh:** No. There would not anything that would have been filed in terms of evidence. The cases would have been destroyed because they don't.... keep those, but I had all the boxes of records and documents. I had boxes and boxes of SH Oil records. It was just this incredible, incredible wild case, of course it made national news because in that time frame, it was one of the largest Ponzi schemes in the United States. Now, today it would be a minor Ponzi scheme, because we have Ponzi schemes now, where there are billions of dollars involved.

But this was a Ponzi scheme involving hundreds of millions of dollars and at that time, it was a big deal, plus it was very colorful with all of the interesting characters, with Smith in helicopter pointing out the investor's oil wells. I remember some of the artwork that *Fortune* magazine used. There were these really nice watercolored drawings of Steve Smith showing Steve pointing, now this is So and So's well, that's your oil well down there and Mr. So and So, that's your oil well over there. That was probably the same oil well pointed out five times but from different directions. But the winners that found out that there were no oil wells, I mean all you had to do is to read this *Fortune* magazine article, "*The Great Florida Oil Scam*", to understand that some winners knew there were no oil wells. The allegation that state's biggest bank was implicated in the scheme. I mean, you know, there were articles, practically every newspaper in the United States ran articles about it, you know it was just an amazing case, amazing case. You know another thing about Steve Smith's Ponzi Scheme, I always said while he certainly withdrew a lot of money and lived well it wasn't a massive amount. It was more like, I many times referred to Smith as redistributing the wealth in Winter Haven. He was recirculating the money in Winter Haven, and the same money was just being recirculated and then it's like musical chairs.

**Denham:** Yeah, whenever the music stops

**Puterbaugh:** When the music stopped there were big winners and there were big losers. And of course, the investors were all angry and they wanted someone to blame, so they sued Barnett Bank. So, you can go to court files to see who they were or to *Rise and Ruin, the Story of SH Oil*.

**Denham:** The SH Oil cases were incredibly, incredibly wide-ranging and long-term but one of the, one of the upshots of that whole experience, was you got to know Charlie Rice who was the CEO of Barnett Banks, Inc. I imagine, your handling of that case really gave him the confidence to start steering other business your way I. So can you kind of talk a little bit about him and your memories of him and how your relationship with him really did result in more business>

**Puterbaugh:** Sure, as I indicated earlier, even prior to SH Oil, I had performed some relatively minor legal work for Barnett Bank of Polk County, mainly your normal local bank representation, closing a loan, perhaps file a lawsuit, defend a lawsuit, but nothing massive, and of course only related to Barnett Bank of Polk County, none of the other Barnett banks statewide. However after the SH Oil Saga, which ended very favorably for Barnett, I started doing more and more for Barnett, not only in Polk County but throughout the state, and all that stemmed from having worked on the SH Oil case with the top person at Barnett, CEO and Chairman of the Board, Charlie Rice, who was a significant and prominent figure in Florida banking during that period of time. And of course, the other top executives at Barnett in Jacksonville, including their General Counsel, Dick Swartley, and other senior executives at the holding company in Jacksonville, Ultimately, Charlie Rice asked me to represent other Barnett Banks throughout the

state of Florida in various litigation matters and he also put me on the Board of Directors of Barnett. So, I started working for other Barnett banks, such as Barnett Bank of Tampa, Barnett Bank of Highlands County, Barnett Bank of Pinellas County, Barnett Bank of Lee County and others that I have probably forgotten, which led to a number of significant cases in Lee County Florida which is basically the Fort Myers area. Down the road there were significant state and federal lawsuits in Fort Myers. But Charlie Rice as a person was an absolute joy to represent, probably one of the best clients, if not the absolute best client I have ever had because he was totally focused on the results and would give me the resources to obtain those results. In other words, his philosophy was I want to prevail. I want to win this case. Now that's not to say that if Barnett was perhaps in the wrong in something he would be very open to righting that wrong and resolving it, but if he felt that Barnett was being wrongfully sued or wrongfully blamed, like in the SH Oil cases, his philosophy was we're not going to settle this case, we're not going to give in, "I want to win and I want to prove that we did no wrong." So his philosophy in almost all the cases that I represented Barnett in was, I want to prevail in this case and I will give you whatever resources you need to get it done, so it was very enjoyable representing someone like that because you weren't constrained in terms of what resources you needed. If I told Charlie Rice, I need to take 50 depositions, it would be, "okay, what resources do you need to accomplish that" and so it was an absolute delight to be his lawyer because he gave you the resources you needed to obtain the end results that he wanted. I really enjoyed representing Barnett throughout the state and enjoyed representing Charlie Rice and he was just a fine individual as a client and as a person. He was an outstanding businessman, and you know he built Barnett into what it was when it ultimately merged with NCNB and ultimately Bank of America, but he was one of my favorites. I'd say clearly one of my most favorite clients during my career and then even after he retired from Barnett. I continued to personally represent him in various matters, so I would say the SH Oil case was a very significant turning point in my career in terms of statewide representation in major civil litigation, traveling all over the State of Florida, representing Barnett, very, very enjoyable.

**Denham:** Okay, not long after the former case in which you defended Barnett there was another case that occurred in Lee County or I think that the origin of that was the *Pacific Harbor Capital v. Barnett Bank* so can you explain the original complaint that Pacific had with Barnett and all that.

**Puterbaugh:** Actually, there were a number, there were a number of lawsuits in Lee County against Barnett. The Pacific Harbor Capital case was only one of many. The earlier lawsuits involved developers and investors and customers of the bank, and to a certain degree significantly similar to SH Oil, not so much as them being a Ponzi scheme but basically borrowers from the bank wanting to blame Barnett for their bad investments. You know it's the old story, "you shouldn't have loaned this money to me, you should have told me I shouldn't buy this property, you should have told me this was not a good investment, etc. etc." In the late 80's and early 90's, a bank couldn't file a lawsuit against a customer to repay a loan without getting a

lender liability counterclaim, “Well you shouldn't have made this loan to me, you should have told me I shouldn't make this investment, or I shouldn't have bought this restaurant, or I shouldn't have opened this restaurant, or I shouldn't have done this or that.” It was always the bank's fault, never the borrowers. So, we were faced with that in the banking industry. I represented other banks, Flagship Bank, Sun Bank, many other banks, all of which were faced with the same lender liability lawsuits and Lee County, for some reason, just seemed to have more than its share of these, so I was involved in many lawsuits down there. Barnett even gave me an office in their bank in Fort Myers.

Then, I believe in the 1997-time frame, this Pacific Harbor Capital lawsuit, which basically was the largest of the lawsuits. It was initially filed in Portland, Oregon, in the federal District of Oregon, against Barnett and several Barnett officers. Pacific Harbor Capital Inc was as large as I recall, northwestern utility company, headquartered in Portland, Oregon, which had loaned money to a development project in Lee County along with Barnett. Pacific Harbor was a co-lender under a participation agreement with Barnett, so to speak, in loans to various developers in Lee County. And so the federal lawsuit was filed in the federal District of Oregon, and initially, I had to go out to Portland, Oregon, to handle this case, and ultimately, I was able to convince the federal judge in Oregon to transfer the case back here to the Middle District of Florida, in Tampa, where it should be heard, so after the transfer, I didn't have to constantly travel back and forth to Portland, Oregon for hearings and so forth. So ultimately, the case was transferred to Tampa. This case was so amazing because the allegations in this case were so colorful and bizarre. One of Pacific Harbor's in house lawyers, as I recall, wouldn't even come to Florida for Hearings and depositions, because he was, according to what an FBI agent told me, afraid that Barnett had put out a contract out on him and he would be whacked if he came to Florida. Pacific Harbor accused Barnett of racketeering activity, and being part of a nationwide organized crime syndicate, connected to the Genovese crime family of New York and also of being part of an international drug cartel, the Medellin cocaine cartel. I even have in my garage to this day, one of the Pacific Harbor large exhibits which shows, according to Pacific Harbor, the organization of the Genovese crime family and the Medellin cocaine cartel and under those organizations is Barnett Bank of Lee County. In the lawsuit itself, they listed me as being a Percipient Witness and alleged that while I might be a resident of Polk County, Florida, I spent most of my time in Lee County defending Barnett Bank in all its nefarious activities as part of the Genovese crime family and the Medellin cocaine cartel. In their complaint they alleged that as early as the summer of 1992, I was legal counsel for Barnett in connection with the active concealment of the instant matter, whatever that was. I guess they thought I was the consigliere of this crime family which contained renegade bankers in South Florida. Other bizarre allegations accused Barnett Bank and its personnel of being involved in arranging fatal accidents to intimidate those who might expose their gangster ways. I guess that is why Pacific Harbor's in-house lawyer told the FBI agents in Lee County that he was afraid to come to Florida for fear of being whacked. Another colorful allegation that provides a real flavor of the case was Pacific Harbor's assertion that “Jairo “The Monkey” Duran, a high-ranking member of the Medellin cocaine cartel who had married Miss Colombia in a 1990 wedding ceremony costing \$500,000,

was pulled out of a Mercedes Benz automobile and killed by automatic weapons fire in Barranquilla, Columbia by three members of the Revolutionary Armed forces of Columbia, communist group”, apparently according to Pacific Harbor led by those renegade bankers from Fort Myers. In a nod to Marlon Brando, Pacific Harbor even alleged that the brother of a crooked developer in Fort Myers was the “Godfather” to Barnett’s on-site agent. That gives you a flavor of the bizarre allegations in this case. A 116-page “Second Amended Complaint” in this case contained 471 paragraphs of bizarre allegations of that nature. So, this was a case that also went on for several years. During the case, I even took depositions of witnesses who were in the Government’s Witness Protection Program. That was always interesting because the FBI would say if you want to take the deposition of X, you need to fly to Salt Lake City and stay in such and such a hotel and we will contact you as to where you can depose X. So, on one occasion I flew to Salt Lake City and took the deposition of this witness, who was alleged to be the “crooked developer” and brother of the “Godfather”. On another occasion, I wanted to take the deposition of a high ranking member of the Medellin cartel, who was also in the Government’s Witness Protection Program, and I was told to fly to Chicago and await instructions as to where that witness would be produced for his deposition, which turned out to be at a remote location in a suburb of Chicago. In the Pacific Harbor case, I took depositions in federal prisons in Miami and at Eglin prison camp in North Florida, depositions in Salt Lake City, in Chicago, in New York City, in Phoenix, Arizona, in Kansas City, in Pennsylvania, and numerous other cities and states throughout the United States. I used to joke with my co-counsel that the Pacific Harbor case a magical mystery tour of the United States.

I can tell you that I traveled to probably 15 different states and took depositions of all manner of the individuals, whether they were alleged to be part of Genovese crime family or the Medellin cartel, in order to debunk the ridiculous Pacific Harbor allegations. I recall that when I took the deposition of the representative of the Medellin cocaine cartel in Chicago, I asked him. “Have you ever been in a Barnett Bank?” and he answered: “No man”. I asked him “Have you ever in your life talked to anyone at any Barnett Bank?”. Again, he answered, “No man.” and then he said, intended humorously: “but I may have flown over some Barnett Banks.”

**Denham:** Let’s go back. What was the original allegation that Pacific made against Barnett that they had been defrauded of money or that they had lost so much money based on. . .

**Puterbaugh:** The project, a project in Fort Myers.

**Denham:** Was it a money launder again a money laundering issue.

**Puterbaugh:** The project was so large that to lend the money to the project, it would have exceeded Barnett Bank of Lee County's lending ability so, and this is very usual or common in the banking world, but in this specific case, Pacific Harbor was a joint lender or participant with Barnett Bank of Lee County in loaning money to the project and of course when the project

went south and couldn't repay the loans, as many projects sometimes do, Pacific Harbor looked to blame Barnett for getting them involved as a participant in the loans.

**Denham:** Big time in development yeah.

**Puterbaugh:** Pacific Harbor was looking to blame Barnett, they charged that Barnett lured them into participating in the lending to this project, and also accused various officials at Barnett of being complicit with some of these borrowers, in order to defraud Pacific Harbor. It's the old story of looking around to see who you can blame for making a bad lending decision or a bad investment.

**Denham:** So again, this is just another example of the lender. What was the term you use? The lender? The term that you used previously: lender liability?

**Puterbaugh:** Lender liability.

**Denham:** The lender liability, yeah. And that's what they were implying.

**Puterbaugh:** This was like lender liability, but it is usually the borrowers blaming the lender.

**Denham:** Yes.

**Puterbaugh:** In this case, it was one co-lender blaming the other co-lender.

**Denham:** I see.

**Puterbaugh:** In other words, the bank customer was a Barnett customer, but since the amount being loaned was so large...

**Denham:** Right.

**Puterbaugh:** Barnett sought a co-lender.

**Denham:** Yes, now I understand better, okay.

**Puterbaugh:** So Pacific Harbor was co-lender with Barnett. So when the project went south and the borrower was not able to repay the loans, Pacific Harbor turned on Barnett.

**Denham:** Right, Barnett lost money on the loan also, but Barnett is also being blamed by their co-lender, Pacific Harbor, for their loss also.

**Puterbaugh:** And in fact, there were individuals, not the bank itself, but there was an individual in Fort Myers who went to federal prison and I did take his deposition in federal prison, it was at Eglin prison camp in North Florida. There were some bad actors in Fort Myers. Was there anybody that was part of the Genovese Crime Family or the Medellin cartel? No.

**Denham:** How do they come up with that kind of stuff? Where, where do they get out the idea?

**Puterbaugh:** I would love to show you the flowchart, where they, like I said, I still have it in my garage, it is a large exhibit that Pacific Harbor tried to use to show that Barnett was part of the, was part of the Genovese Crime Family and the Medellin cartel, But it all, you know, it's such an amazing, it's 6 degrees of separation, the idea that everyone in the world is connected to everyone else through a chain of no more than six acquaintances. That this person once knew this person, and that person was known to deal with this other person, and that person once knew that person, and pretty soon we're in New York with this Genovese Crime family, you know, six degrees of separation. Using that kind of logic, you can associate or tie anyone to anyone else. But in the end, Barnett totally, totally, totally prevailed 100% in this lawsuit and a federal District Judge in Tampa finally dismissed the lawsuit completely. Then of course Pacific Harbor appealed that dismissal to the 11th Circuit Court of Appeals in Atlanta and they lost there. After that dismissal, my partner Steve Senn and I wrote a monograph for the National Legal Center for the Public Interest in Washington titled "*The Statute of Limitations Under RICO: Rotella and Beyond*" which was an analysis of the RICO Statute of Limitation, including a discussion of the Pacific Harbor case. As I have previously indicated, the Pacific Harbor case had so many interesting and bizarre allegations, and it also just seemed like every case I was involved in for a number of years, such SH Oil, had all these amazing, interesting and bizarre facts. The Pacific Harbor case, with allegations that read like a John Grisham novel was only one of many in Lee County. I used to refer to those cases as "*The Lee County Wars*" and so I look back on all the opportunities that Barnett gave me to participate in some of the most interesting cases of my entire career. I owe all that to Charlie Rice, who had confidence in being a relatively young lawyer in Lakeland Florida, to allow that young lawyer the opportunity to represent the various Barnett Banks.

**Denham:** Do you remember who the judge was for the case?

**Puterbaugh:** Well, we had, we had a lot of different judges, in Oregon, in Fort Myers, in Tampa, at the 11<sup>th</sup> Circuit, and there were numerous cases out of Lee County, both in state and federal court but sitting here today I don't recall all the judges, and the cases went on for so long that we had a number of judges rotate in and out.

**Denham:** Yeah.

**Puterbaugh:** We rotated through several, several judges. We started out in Oregon. And then we were assigned several judges here including a federal Magistrate Judge and so forth, and then the judges at the 11<sup>th</sup> Circuit in Atlanta, but I still don't remember, I could look at this, this is thirty-five years ago.

But there was another colorful character in Pacific Harbor case, this is really interesting, was an individual I will call "F", who was engaged in the business of real estate development and speculation in Lee County. Well "F" turned out to be a basically an informant to the IRS and FBI and he ultimately filed bankruptcy, and as I had previously learned in the SH Oil case, having records can really be important, so I bought "F's" business assets from the bankruptcy trustee and in F's desk we actually found a note that he made, which he unbelievably titled "How to Commit Perjury". You just can't make this stuff up. And in F's note, he set forth in detail how he was going to lie to the IRS and FBI and how he was going to persuade others to do the same and how the others should testify. It was all laid out in this note. So, when I found that document in the desk I had bought from the bankruptcy trustee, I provided it to the IRS agent and the FBI agents and they confirmed with "F" that he had written the document, and that was the end of his career as an informant. I always also felt "F" was somehow responsible for some of the crazy allegations in the Pacific Harbor Second Amended Complaint.

Another interesting story about "F" is that I, along with my co-counsel and another lawyer were taking "F's" deposition and it was a multi-day deposition and "F" would always bring his briefcase to the deposition and during the lunch break, he would always set it on the table, just so, and then when he came back from lunch he would take the briefcase with him and go into the bathroom and you know, it didn't take a rocket scientist to figure out he had a tape recorder in his briefcase and he was leaving it in our conference room over lunch so he could possibly listen in on what I and my co-council might say during the lunch break. So on the second day of "F's" deposition, I told my co-council, when "F" puts his briefcase on the conference table during the lunch break, we'll have a little fun, you know, and so, during the lunch break, while "F's" briefcase is on the table, I said to my co-counsel: "I have talked to my contacts at the FBI and I think at the end of this deposition they're going to come in and arrest "F" and take him to the slammer and book him, so stick around, I want you to watch that", none of which of course was true. So "F", comes back from his lunch break, picks up his briefcase, and goes into the bathroom, then he comes back out, he's totally white as a sheet, he was so nervous the rest of the afternoon, he was looking around constantly and couldn't wait to get out of the room and leave. When I told the FBI agents what I had done, they thought it was one of the funniest things they had ever heard of, and by that time, they were already fed up with "F" because of the perjury note we had discovered in "F's" desk, and knew he had been lying to them and the IRS all along. I mean, these Lee County cases, you can't make this kind of stuff up.

**Denham:** Yeah.

**Puterbaugh:** It's just, it's just incredible.

**Denham:** Okay, we are going to end this day. We are ending today, this is the 28th of August, and we will resume on another tape.