ORAL HISTORY OF ROGER E. ZUCKERMAN
Seventh Interview
July 22, 2014

This is the seventh interview of the oral history of Roger Zuckerman as part of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewer is Gene Granof. The interview took place in the office of Mr. Zuckerman at his law firm in the District of Columbia on Tuesday, July 22, 2014, at 2:00 p.m.

Granof: Okay, we're on the record now, and just before we went on the record I had asked you about your continuing relationship with the Church of Scientology and particularly – I'm not sure how to put this – the fact that it is sort of regarded in many quarters as a cult or a fringe group and here this very reputable firm has this longstanding relationship with it.

Zuckerman: I will take what I think is a good question and use it as the basis for digressing a bit, and talking more generally about our relationship with the Church and other comparable organizations. We long ago made a decision that – probably it was not so much a conscious decision – but we ended up deciding that we would be willing to represent the widest array of institutions and individuals possible. Another firm, I think, that has used that model has long been Williams & Connolly, and I think since the 70s and 80s when we began doing that, many other firms have adopted that approach. If the client can afford to pay fees, the client gets representation. So, to give you a very contemporary example, we are engaged now on behalf of a number of Jewish-American families in a suit against the Arab Bank for paying bounties to the families of purported martyred bombers who in Israel have detonated themselves and injured or killed Israelis and Americans. Under various federal statutes, those payments constitute sponsorship of terrorism. A family of the victim would show up at the Bank and get $5,000 or $10,000 as a payment for the martyrdom that the bomber went through, and we and any number of others have sued on behalf of hundreds of Americans. We have sued the Arab Bank. It's in litigation in

New York. Well, the Arab Bank is alleged to have engaged in state-sponsored terrorism and will be held to account if it is found liable, which it likely will be for hundreds of millions of dollars or more. It is being defended by one of the most reputable law firms in the country, DLA Piper. And that firm I'm sure talked about it, but they see it as perfectly proper to defend this entity on allegations of terrorism. The Palestinian Authority in other matters, probably not a terrorist organization, unlike Hamas, but the Palestinian Authority is represented by a very reputable firm here in D.C. today. I mention those two recent examples because I think it's now much more commonplace to do this kind of work. In the 80s, we felt that organizations and individuals affiliated with such entities as Lyndon LaRouche and the LaRouche Democrats or the Church of Scientology or Synanon – very fringy type outfits – were clients that needed good lawyers. They were respectful of the advice they got, followed the advice they got, and the relationships established were decent relationships. And that probably arose from the fact that we had, in the 70s, grown up representing equally – but lower-level – maverick, rogue, outcast clients. People who were charged with drug offenses and pornography and the like. We had a burgeoning business representing national pornographers and their local outlets in the 70s, and the work was done by all of our lawyers, some of whom are now on the bench. I also represented Ron Humphrey in a major espionage case with a gentleman named David Truong, who was Vietnamese. They were both convicted of espionage in Alexandria. Truong just died about a week ago and the case was actually written up in his obituary. So in the 70s and then again in the 80s, we felt comfortable enough in our abilities and our skin to embrace clients like this, point one. Point two is, without being disingenuous or saying anything inappropriate, we nonetheless were able to befriend on a personal level many of these people. We are generally, well-adjusted, normal people – we are not particularly doctrinaire. We found many of our clients, apart from their somewhat odd world views, to be pretty decent, interesting people. I think

they sensed that there was a degree of friendship and "ease" to the relationship that made it professionally more effective than it would have been had we been uptight and distant in our personal relationships with these people. The two clients, for example, who I represented with the Church of Scientology were every bit as normal and American in their upbringing and their way as I was. They were regular guys. We went out and visited their homes in California and met their families. They just had a fixation with Ron Hubbard and his Dianetics. As long as you –

Granof: Dianetics?

Zuckerman Yes, it's the use of scientifically questionable devices like an E-meter to audit you through various stages of inquiry to the point where you are able to get at your inner issues and obtain a state of, I think they called it, "clear." It cost a lot of money and you would go through an auditing process, which is kind of a psychoanalytic counseling that had some electronic measures to it. At the end of the long process, you would be cleansed of a lot of bad feelings and attitudes. To this was married a much more complex world view that involved a lot of "science" that arose from Hubbard's early days as a science fiction aficionado and author. The Church was also encrusted in a bureaucracy with a lot of militaristic positions. You rose up through the ranks. There was a sea organization – a so-called "Sea Org" that had certain responsibilities. Much of it I can't really give you in detail. It was strange, but very popular and very attractive and very cult-like. After we represented them in the 80s in their espionage case – their government espionage case, in which they infiltrated the government, stole materials regarding their tax debts from the IRS – the Church was essentially run in a normal – this is going to sound oxymoronic – in a moderate way for a cult. There was nothing overtly vicious about it. It became a much more aggressive, and difficult organization in the 2000s with the passing of Mary Sue Hubbard, and with the passing of the

generation of leadership that we were involved in.

We became involved with the Church in two of its most difficult matters. The first was the criminal matter in D.C. where its leaders all went to jail that I described.

Granof: Yes.

Zuckerman: And the second occurs probably a decade and a half later with the death – did we go into this the last time - of a parishioner?

Granof: No, you just mentioned it.

Zuckerman: With a death of a parishioner in Clearwater, Florida. The Church had amassed a huge war chest and opened a second major headquarters in Clearwater. Its earlier headquarters had been in LA and it transferred to a leadership group called the "Sea Organization" in Clearwater a lot of its major leadership figures and they purchased a hotel, I think. I've been there once I think in Clearwater. At some point, I'm guessing now, in the early to mid- 2000s, in connection with their counseling, their auditing and their treatment of parishioners, they became involved with an unstable woman whom they were counseling. She, I guess, manifested some sort of psychotic indicators which allegedly required traditional medical psychiatric care, but because of their embedded antipathy to psychiatry they withheld the care and she died.

Granof: She committed suicide?

Zuckerman: I don't know how she died. I don't whether she committed suicide or died in some other fashion. The case was handled by our Tampa office, and the Church was sued and was prosecuted by the State's Attorney in Clearwater or the like for years as a serious criminal case and our firm defended the Church in both the civil and the criminal matter.

Granof: What was the criminal charge?

Zuckerman: Manslaughter. There was a long, long Grand Jury investigation and a civil suit and I'm guessing the matter went on for two to three years.

Granof: Were you involved personally?

Zuckerman: I was not involved directly. It's my understanding I think that the suit was settled and the Church was not indicted, but I can't be certain of that. But it was, at least in our experience, the second of the big cases that the Church confronted. I've had some contact with them personally since then, but I would say in the last four years or so we've done nothing for the Church. It's still, however, a part of the firm's essential culture that we will represent roguish, maverick groups in connection with their legal problems, if they need our advice, if they want our advice, and if they are able to pay for our advice. As I said when I began this little chapter, I think it's much more characteristic of American legal practice now across the board than it was when our firm began, to be open to representing these types of clients. In part, I think lawyers are more mature about those things now and more understanding of it, and in part for the reason, unfortunate or not, that there's an economic imperative that drives law firms. Therefore, if there's a client out there who can pay fees on a regular basis to be defended by a first-rate law firm, that is acceptable. There are limits.

An example of a limit: a large firm was asked to represent a major Columbian cartel drug figure and declined, I think properly, to do it because there were all kinds of risks that involved criminal culpability and the like. The cartel ultimately went to a lawyer who just at the time this issue arose had left the Department of Justice where he was involved in international criminal enforcement. He was opening his own office, I think, at that time was a very reputable guy. He ended up not only representing the cartel figure, but ended up becoming a major lawyer for the cartel, and he got to

the point where he became, the government alleged, too close to the cartel, was too much a policymaker and too much involved in their affairs. As a result, he was indicted and was convicted in the Southern District of Florida. My client and friend, F. Lee Bailey, in the 70s – as we discussed – was engaged by Glenn Turner, a then controversial marketer, to do legal work, but ostensibly strayed from the legal work he was doing to become an advocate and endorser for what Turner was doing – his pyramid marketing program. Lee got very close to that and ended up getting indicted, not convicted, but getting indicted for mail fraud along with Turner, who was convicted. There are strict limits. You're a lawyer. That's all you are. You're not an advocate. You deal with legal problems and only legal problems (a), and (b) the money that you get has got to be good money. It cannot be money that is derived from criminal activity. Under the money laundering statutes, lawyers - over the last ten or twenty years - have become increasingly sensitive to the fact that when an individual comes along, who is, for example, charged in a fraud – a white collar fraud – if the individual doesn't have funds that are free of fraud, the money is probably, at best, forfeitable to the government and at worst, to the extent you take it knowing of its illegal origins, you're potentially committing a money laundering violation. That's a circumstance, I think, that has for the better changed the scene. There are some lawyers, who are "dyed-in-the-wool" defense lawyers, who believe in the primacy of the defense function. They argue that the inability of individuals to use their funds to obtain counsel without regard to the source of the funds misbalances the rights at issue and jeopardizes the individual's Sixth Amendment right to counsel which should trump many of the strictures that limit the use of funds under various money laundering regimes. It's a continuing debate, and the lawyers who advocate this position continually lose. The normal response to this position being that it's not a Sixth Amendment violation because the individual at base has a right to counsel under the Sixth Amendment and the Court will appoint him one. His right to court-appointed counsel vitiates or

overrides any argument he may have that he's got the right to expensive downtown counsel under the Sixth Amendment. That's not how the Sixth Amendment is written according to the courts, and therefore, the argument that he's suffering grievously because he has no access to his money doesn't fly. One of the more recent examples – amongst the more recent examples of that problem – are situations of world-class fraudsters like Bernie Madoff or Allen Stanford. These are people, on the one hand, who had access to vast sums of money and, on the other hand, the money at least they had access to was pretty much not usable because it's all from tainted proceeds. Therefore, they had great difficulty lining up counsel and finding a way of getting counsel compensated. The normal way that counsel is compensated in those circumstances is by friends and family who presumably will make available the funds from untainted sources or from D&O insurance. However, there are limits to D&O insurance and the degree to which an insurance company will make available the proceeds from a D&O policy to a person like Stanford, who is a known fraud and cheat. That's for another day. It's a long history of litigation. That's my peroration on our firm's experience with Scientology and some of the other fringe groups. The only coda that I would put on it at the end is that I think experiences like that - experiences representing outliers – experiences representing people in horrific crimes like murders, first-degree murders, murders punishable by the death penalty – experiences like that broaden your range of skills and your sense of the great breadth of humanity that exists in this world. It broadens your ability to relate to and deal with people. Finally, I think amongst most people, in what I think is a maturing world, lawyers with this type of experience are respected. I think people feel much more at ease with lawyers who have seen all kinds of litigation combat than with lawyers who have tried nothing but business disputes, for example. I've described the work we did in the 70s and the work I did in the 80s. So let me turn to the progression of my career into the 90s and the early 2000s. The firm as well was involved in growth, and our growth and maturation as relatively

more senior members of the bar contributed to the growth and maturation of the firm, which probably grew to 50 or 60 lawyers by the early 90s. I guess what I want to do is speak first, if I can, about the firm and then about me. By the early 90s the firm had opened its New York office and so we had five offices. I'm guessing we had 60 or 65 lawyers.

Granof: Overall?

Zuckerman: Overall, with the main office in D.C. We lost, tragically John Evans, the partner who opened the Miami Office.

Granof: Yes, you mentioned in an earlier session that there were two deaths of relatively young attorneys.

Zuckerman: John died in 1987, after six years as our principal Miami partner, in the middle of the night of a still inexplicable heart malfunction. We continued the office quite successfully thereafter. Thereafter, I had a case in Central America involving a woman who was at odds with her husband. She was in the States. We were protecting her from the efforts of her husband to get custody of her child who was in the States. A younger partner named Bert Peña, a wonderful young man, went down to Central America in the early 90s, did some work and came back, and that first or second night he was back he got in bed and went to sleep and he never woke up.

Granof: You had mentioned these two inexplicable deaths.

Zuckerman: The exact same phenomena. We actually were concerned because there was more than acrimony between the client and her husband. There was some sense of physical danger. We were concerned that Bert had been poisoned when he went down to Central America, and we had not one, but two autopsies done. They could find no evidence of poison. But he died six years after John in pretty much the same circumstances. What makes it even more tragic is that John had a son, Tim, who was a very lovely young

man and a very talented lawyer. After John's death, we tried to support and guide Tim in his career. Tim married a lovely young woman from a wealthy family. After John's death, Tim was given a full battery of tests to make sure he did not carry – I think it's called "hypertrophic cardiomyopathy" – an enlarged heart with the propensity for sudden death. Tim and his bride were married and in 1997 or so – this is three years after Bert Peña died – they had a child who was christened one weekend at the local church that they attended in Coral Gables. Then, in the days that followed, Tim went and played racquetball and dropped dead of a heart attack, probably at about age 30 or 31, on the racquetball court. His funeral occurred in the same church about a week after the christening of his son.

Granof: What a tragedy.

Zuckerman: So, within a ten-year period or so, we lost John, we lost Bert and we basically lost John's son and it was extraordinarily devastating.

Granof: I think you had said in one of the previous interviews that the loss of those two lawyers made it very difficult to continue the Miami office. Not because there weren't good attorneys there, but because it needed a certain kind of leadership, and the attorneys didn't have that special quality.

Zuckerman: You've put it perfectly. These things happened in the late 80s and early 90s. They robbed us of two people who really were very forceful personalities who could have guided the office growth very efficiently. We ultimately grew to twenty. By 2003 or 2004 we had a huge office on the 8th floor of the Miami Center, which is right next to the Intercontinental Hotel. We were moderately, but not highly, profitable for a period of years down there, but the stress of declining profitability in combination with the absence of great core leadership caused the office to fragment in about 2005, 2006, 2007, something like that. A number of the partners went to Carlton Fields and a number went to Akerman Senterfitt – two very good

firms there. We've enjoyed very close relationships with those lawyers since then. I had invested a huge amount of my life trying to keep alive this office, which was the first of our offices outside of D.C., and although I accepted that we could not make it happen, it was a wrenching loss nonetheless. One of the early cases that I had in Miami in the 90s is indicative of the way in which the firm and its clientele were maturing. In 1980 or so, Iraq and Iran became engaged in a war with each other, and geopolitically we favored the Iraqis who were very anti-Iran. They were at war from 1980-1988.

We favored the Iraqi's very much, and Iran had a natural advantage in that they could muster many more troops on the ground. So Saddam needed what in the trade is called a force multiplier. Saddam conceived that cluster bombs would be that force multiplier. He needed bombs that you could drop on a battlefield that would explode in such a way as to kill or maim large numbers of troops. He had a relationship with a very sophisticated and very able Chilean man, who was trained as a mining engineer, named Carlos Cardoen. Carlos Cardoen was a man of about my age. He was educated in the States at either the University of Utah or Utah State in mining engineering and he understood explosives. He was also a very prominent Chilean businessman and very well connected throughout Chile and the political establishment there. He was aware that under Saddam Iraq was in the market for these kinds of armaments. He was also aware as well that the United States and the CIA, implicitly at least, favored Saddam. So he conceived the development of a cluster bomb in Chile that he would sell in a perfectly lawful way to Saddam. Cardoen traveled to Iraq and met with Saddam, and undertook to develop these munitions for him, believing that he was engaged in a legitimate business undertaking. He also believed that the United States didn't give a hoot about this, and if it gave a hoot, it really supported what he was doing. In order to make the cluster bomb, he needed a particular explosive that utilized zirconium. Zirconium was a mining

explosive, and zirconium was not manufactured in many places. The place that manufactured most of it was Teledyne, located, I believe, in the state of Washington in the United States. So Carlos negotiated with Teledyne to purchase large quantities of zirconium to put in his munitions to sell to Saddam for, probably at that time, hundreds of millions of dollars. It was a terrific opportunity and there was only one problem. The problem was that there was uncertainty about whether one could export zirconium from the United States for use in munitions, there being certain statutory and regulatory limits on such exports that came under what is called *The Arms Export Control Act* and other statutes. The uncertainty was resolved through the export of zirconium, not as a munition, but rather as a mining explosive. In the documents filed – the export documents filed – when referencing the use to be made of the chemical, zirconium, the use was described as a mining explosive.

Granof: So the company lied?

Zuckerman: So, let me simply put it to you this way, the export license and the documents underlying it were allegedly inaccurate. Whether Dr. Cardoen knew it, and if he knew it whether he believed that he was authorized by the CIA to do this is in my view still an open question. But the export documents were allegedly wrong, and one thing led to another and a criminal investigation began in Miami, and he was indicted in 1993. Carlos initially was referred to my partner, Roberto Martinez, a very prominent, young, talented, Miami litigator, who was with our office until about 1995 or 1996 when he became the acting U.S. Attorney. The initial engagement that Carlos made with our Miami office, our firm, involved Roberto and me. We flew to Mexico City in the early 90s. I'll never forget this flight. It should have landed about midnight, but it didn't land until about 4 in the morning. We met Carlos and his colleagues at what was a large table in the center of a huge ballroom, and it had a rather odd feel to it. We were engaged. For the next, probably, six years, I probably made a half dozen to

a dozen trips to Santiago to deal with Carlos and his firm. Bob Martinez made some trips, but ultimately he left the office, and Carlos became my responsibility alone. The case was intractable in its problems because one of Carlos' principal allies, one of his principal partners, was induced to cooperate with the government in Miami, and was debriefed by the government under a proffer agreement which essentially gave him immunity. This was Augusto Giangrandi. Augusto implicated Carlos. With that information the government had enough in its arsenal that, despite my advocacy, it could indict Carlos. It indicted him in the mid-90s, charging violations of *The Arms Export Control Act* and other statutes. It also indicted Teledyne in what was at the time a very high profile case. It indicted Teledyne and the Teledyne executive. Teledyne and the Teledyne executive were, of course, U.S. citizens, and could afford the burden of a trial. It ended up going to trial. A long case in Miami. They ended up being convicted and the executive – this is relevant – ended up getting a three-year sentence. Carlos, as a Chilean, was not extraditable, or at least at the time of the indictment there was uncertainty about whether he would be extradited. Chile declined to extradite him. Carlos owned a great deal of property in south Florida, and his property was seized by the United States Government. So I spent years negotiating a deal whereby for the payment of a certain sum of money to the U.S., his property would be free. After I did that, he was able to liquidate the property and presumably do better than he would have otherwise done. I spent years trying to negotiate a resolution of this impasse between an indicted individual in Chile and prosecutors who were intent on getting him, but couldn't really get him because he wasn't extraditable. However, Carlos could not travel, because once you are indicted there is an "Interpol red notice" that is filed by the U.S., and if you enter any Interpol member country you are interdicted and arrested.

My approach was to try to negotiate a benign plea. Something that's classically done in cases where a foreign individual is indicted who can't be

extradited. I've had many of these situations, many of them involving antitrust cases in which the executive of a foreign construction company or a foreign airline company who is indicted for antitrust violations in the states is not extraditable. Their wish is usually this, "If you could cut a deal for me, if the deal is reasonable, I'll take the deal and be done with this." However, the U.S. Government generally does not negotiate deals without the person being within its jurisdiction. On occasion, it will – generally, it doesn't. It might have in Carlos' case except that the two prosecutors took the following position: "The Teledyne employee who didn't make a lot of money off of this went to jail for three years, and it also happened that he died in jail. Put that to one side. He went to jail for three years. If a Teledyne executive who was a peripheral participant at best, who didn't make a lot of money, and who only participated in this scheme to create false export documents got three years, then Carlos has got to get a whole lot more than three years, even putting aside the Sentencing Guidelines." And that, of course, was unacceptable. As a consequence, after six or eight years of going to Chile, hanging around Santiago, meeting with Carlos, and going to Miami, the intractability of the matter became sufficiently real that Carlos and I threw up our hands. I think that a high percentage of these unextraditable matters that deal with the parties who are at complete impasse result in the client in effect being sentenced, as it were, to nothing more but also nothing less than severely restricting his ability to travel the world. Now, if he were in the European Union, it's a bit of a different story. I've had clients in the European Union who feel as if they can risk being tagged with an "Interpol red notice" because they can travel freely within the European Union without dealing with border crossing issues – without dealing with passports and the like. All of that is surely true until you've had your first auto accident or you get your first ticket and you're a foreign national in France or Italy and you begin to have issues regarding your passport. This was a matter, however, that was, I think, a matter of more topicality and greater significance with a more substantial client than I had

dealt with for the most part in the 70s and 80s. F. Lee Bailey probably being an exception. It was, I think, one of the two most significant cases that I had during the 90s. The second case I propose to you that we leave until next time.

Granof: Yes. Where is Carlos today?

Zuckerman: Carlos is in Chile.

Granof: And you still have any communication with him?

Zuckerman: I have not communicated with him in a long time. He suffered for a good while from cancer – he's beaten it, I think. He's got a lovely family. He's extremely well-known. He's very philanthropic. He's a very good person. He's sophisticated. He supports the Arts. If you ask most Chileans of middle-class or above, they will have heard of him.

Granof: This is – there's something that strikes me as maybe missing which is, why was the government, how'd the government find out about this and why was it so interested in pursuing this export license matter as a criminal matter? There must have been some real interest in it.

Zuckerman: They are really good questions. I can't remember the event that triggered the government's interest, but I think the government's interest emanated from a rigorous enforcement policy that the Department of Justice had adopted for dealing with violations of *The Arms Export Control Act* and arms merchants who were running around the world engaged in arms trading in a way that was uncontrolled and oftentimes very dangerous. This was a big phenomenon in the 80s and thereafter, so it was conceived as a significant problem.

This concludes the seventh interview.