

ORAL HISTORY OF JOHN W. NIELDS, JR.

Third Interview April 24, 2018

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewer is Elizabeth Cavanagh and the interviewee is John W. Nields, Jr. The interview took place at Covington & Burling on Tuesday, April 24, 2018. This is the third interview.

MS. CAVANAGH: John, last time we met we were talking about the case against Mark Felt and Miller and I think you had a little bit you wanted to add to our discussion from that time.

MR. NIELDS: I just wanted to mention the victims of the bag jobs. There were five victims. There were maybe seven or eight bag jobs, but on five victim homes. And one of them Jennifer Dohrn, who was a sister of Bernadine Dohrn, who was a really major Weatherman ... nasty player. I think she may have redeemed herself somehow. I can't quite remember. But anyway, I did not call her, Jennifer Dorn. The other four I did. One of them Leonard Machtinger was a lawyer at a reputable New York law firm, that was not an issue. One was, I think her name was Frances Carol Schrieberg, she was a lawyer for several Weathermen, unrelated to my case exactly. That was fine and she was a terrific witness. The two I want to talk about are the other two. One of them was Ben Cohen. He lived in a town in the Newark area of New Jersey, a small town. And I went up to interview him for the first time and I remember it must have been like December 21st because I was with my family going to where my parents and my childrens' grandparents lived in Long Island. I can't believe I did this, but I left them in the car with my wife while I went inside to

interview Ben Cohen. It was a preliminary interview. It was a first meeting. So I went into their house. He had a wife, I've forgotten her name. There was no furniture in the house. There was a wooden table that was a stick kind of table and there were 2 or 3 wood chairs and they were stick chairs. And I learned very soon after that that they had a daughter. The daughter was a so-called Weatherman. They had been completely unaware of any bag jobs. But the FBI had come around looking for their daughter. They were so ashamed that they moved houses immediately, which was into the house they were in when I saw them. The wife had never left the house in the 4 or 5 years since. She had been a librarian at the local library and she had never been outside of her house since the FBI came around. Ben Cohen did not want to testify. He told me he would not testify. And he had various reasons. There were hundreds of reasons. He came down once to meet with Phil Heyman, who was head of the Criminal Division and he met with Charles Renfrew, who was then Deputy Attorney General. He came to tell them/plead with them that he wouldn't testify. He was sort of unclear which of these things he was doing: make his case as to why he shouldn't testify or announce his decision. The issue did not get resolved ever until mid-trial. I think I subpoenaed him so he knew he had to show up. When his turn came to testify, and I knew this was going to happen, he wanted to talk to the judge, which he did at sidebar. He told the judge he thought he was going to have a heart attack and that he wasn't medically able to testify and gave

a few other of his litany of reasons why he shouldn't testify. I really wanted him. I wanted the jury to see this man. Judge Bryant then called me up without Ben Cohen there and said what's going on. I said, I think he's scared to death. He said, I don't want him to have a heart attack. I said I don't think he's going to have a heart attack and I think if he doesn't testify he's never going to get through this.

MS. CAVANAGH: Was it cathartic?

MR. NIELDS: Exactly.

MS. CAVANAGH: He needed to be heard?

MR. NIELDS: I don't think he needed to be heard. He was just afraid of it. It's like letting a child not go down a waterslide.

MS. CAVANAGH: He needed to push through.

MR. NIELDS: He needed to push through. I just felt that very strongly. Judge Bryant looks at me for a long time. I had a certain amount of credibility with him by that time. He said well I'm going to send him down to the nurse. If the nurse says he's medically able, then I'm going to tell him he has to testify.

MS. CAVANAGH: And?

MR. NIELDS: The nurse said he was able.

MS. CAVANAGH: [laughing] You got the medical all clear.

MR. NIELDS: So he gets on the witness stand and he testified on direct with his eyes closed 100% of the time. And he would give very short answers. He sometime referred to his daughter as... what did he call her... he wouldn't mention her name. "Certain persons," he would refer to her as "certain

persons.” Then on cross-examination, which I knew he was going to do, he said he would have told the FBI he had “no objection to the FBI coming to my house, I would have invited them in for tea.” In summation I told the jury they didn’t have to believe that. I had something in the record, I’ve forgotten what it was, I didn’t want to get personal, but there was something in the record that showed that his life had been altered by this whole situation. When he finished, I think I came back with a couple of short questions and I said no further questions. He opened his eyes like that. He gets out of his chair, I sit down in mine, he walks up to my chair and looks at me and in a loud voice said, “See you next time.” And he walked out the back. When I saw him out in the hallway when we had a recess, he said “I was great wasn’t I.”

MS. CAVANAGH: So it did help him.

MR. NIELDS: It totally helped him. And they could see this guy. If there was a human being on the face of the earth who was less of a threat to our national security than Ben Cohen, you would have to make him up.

Then the other one was Murray Bookchin, who was a self-styled anarchist, which simply meant that he was a pacifist. He was a professor at Ramapo College in Northern New Jersey. He lived in New York at the time of the bag jobs. But he had moved up to New Jersey. And when I contacted him and every time I spoke to him and I think I only spoke to him by phone, I don’t think I met him before he testified. He told me I’m going to take the 5th Amendment, the 1st Amendment, the 9th

Amendment and any other Amendment and I will refuse to answer any questions. He thought the government, and I was part of the government, and that we were scary people and we were going to do him harm. I don't think he really distinguished between the FBI and He was a smart man, he was interested in government obviously, governmental issues. So I started the trial without knowing whether I was going to get him. So here's the part. I decided very shortly before the trial began I needed to be the patriot in the room and that I was at real risk of not being the patriot in the room. I was sure the defendants were going to wrap themselves in their life of public service, and they were entitled to do this. I closed my opening statement with two-pages worth. See attached at pages 692-694.¹ And the point of this is that it was covered in the *New York Times*. There was a reporter that, Robert Pear, I think his name was. He wrote a lot of this what you're just reading now. He wrote down in his article. I get a call the next morning from Murray Bookchin, and he said "I read your statement, I'm coming."

MS. CAVANAGH: He was persuaded. That's fantastic.

MR. NIELDS: And I will say, I thought this won me the case. I thought I was going to win after I got that off my chest . . .

MS. CAVANAGH: "The Bill of Rights represents the deepest and highest aspirations of the American people." I think this is fantastic. How do you work on something like this?

¹ See attached Exhibit 1.

MR. NIELDS: I'll tell you but you've got to finish reading it.

MS. CAVANAGH: Okay. "No to bag jobs, no to anonymous sources, not here, not in America, not in the finest country in the world." You did paint yourself as a patriot, quite accurately.

MR. NIELDS: I'm not going to go into this. It's too long of a story. But in answer to your question, this particular thing I happen to be I'm not going to be able to talk about this. Let me think about how to explain it to you later. But it was ... I talked to one of my parents and said I've got a problem and I haven't figured out how to deal with it. And my parent said just do it. I said yeah, that's right I should. And then it just kind of came. I spent a lot of time on this opening statement and I had time because the jury selection took about 3 or 4 days and I wasn't doing much other than churning my own...

MS. CAVANAGH: So you really set the tone at the beginning.

MR. NIELDS: I thought I successfully did, and the defense lawyer who got up right after I spoke....

MS. CAVANAGH: Tough act to follow.

MR. NIELDS: Made the following statement within the first 2 minutes of his opening to the jury. "Don't kowtow to the United States Constitution."

MS. CAVANAGH: Doesn't seem like a wise strategy. Strange.

MR. NIELDS: But he was mad at what I had just done. And so he . . .

MS. CAVANAGH: It stole his thunder.

MR. NIELDS: Yeah.

MS. CAVANAGH: Because he wanted to argue, I'm sure, that they were the patriots, right.

MR. NIELDS: Absolutely.

MS. CAVANAGH: And that's a difficult argument to make after that.

MR. NIELDS: So okay, now we'll get to some more interesting things on the opposite end of this success spectrum.

MS. CAVANAGH: No, we have more success here. You in 1983 successfully argued against the Reagan Administration's plan to require parents to be notified when their daughters received birth control from federally funded family planning clinics. Do you want to talk what that was about?

MR. NIELDS: Sure, well about what you just said, the Reagan Administration didn't like the fact that family planning clinics that were funded by the federal government were counselling young girls and young women on and prescribing birth control. So instead of abstinence they were encouraging sex in the minds of some. The Reagan Administration didn't like it and they wanted to prohibit it. They passed a regulation that federally funded family planning clinics or just whatever, I don't think they were all family planning even, but maybe most of them were. They didn't like the fact that they were doing this and so they passed a regulation, not a law, but a regulation that forbade it without notification to a parent of the child that they were counselling on birth control.

MS. CAVANAGH: That was an HHS regulation?

MR. NIELDS: HHS regulation. So somebody in my law firm had a husband who was an important person in an organization whose acronym I can pronounce. It

was NFPRHA (National Family Planning Health Reproductive something else)

MS. CAVANAGH: I have it as National Family Planning and Reproductive Health Association.

MR. NIELDS: You got it, you got it, that's it. Now, Planned Parenthood was a co-party. I got asked by the woman whose husband was big in NFPRHA if I would do it and I said I would be delighted to do it and the firm was happy to have me do it.

MS. CAVANAGH: Pro bono?

MR. NIELDS: Oh yeah, pro bono. The reason I thought we could win the case was that there was a colossal amount of legislative history consisting of bills that were proposed on the floor of the House of Representatives to achieve exactly what the regulations sought to achieve and it got voted down by Congress over and over again. And it got voted down with people like Committee Chairs and stuff like that giving eloquent speeches saying that it had been demonstrated over and over again, you do this and the young women will not come. They would go wax eloquent about the drain on our governmental welfare programs from the cost of children whose mothers wish that they had never had them. These were eloquent. I remember Richardson Pryer who was a very well-respected Congressperson. Anyway I thought there's a very strong case here that the regulation, which is passed by the Executive Branch, is contrary to the will of Congress. The counsel for Planned Parenthood wanted a

constitutional argument. I said that's really fine. I'd love to have you do that constitutional argument and I'll do this one. There was a wonderful record that had been generated because as part of the process of proposing a regulation like this you've got to give public notice and you got to get comment, notice and comment and all that sort of stuff. There were 40 state governments that commented on this. And I would let you take a guess as to what the split was between against the regulation or pro.

MS. CAVANAGH: I bet southern states were opposed to your argument.

MR. NIELDS: 40 to 0 against the proposed regulation.

MS. CAVANAGH: Really. So none of those places filed anything in support of the regulation. Oh gosh, I figured there were 10 on the other side.

MR. NIELDS: No, exactly and I would have actually thought it would be 50/50. It was perplexing to me. And I finally think I figured out what was going on. The family planning, the comments were made, that they were written, generated by the governmental entities that would be administering the program. And those people were all motivated in a completely different way than the politicians were. They were living, the need to help poor women who were between the ages of whatever, 15 and 19, and they knew they were going to be able to help them only if they were able to do this and that the women wouldn't ask for it and if they did their parents would forbid it.

MS. CAVANAGH: So you were representing this client both in the district court and in the appellate court? Can you talk a little about the details of that?

MR. NIELDS: I only remember arguing a summary judgment motion before I think it was Judge [Thomas] Flannery, who was Irish-Catholic I think. All I did was read legislative history. I stood there and read legislative history. Quoting it and giving a one-sentence description of what the bill was that they were commenting on. I remember sitting down and the government lawyer stood up and started making an argument. He [Judge Flannery] said but what do you have to say about all this stuff I just heard. What am I supposed to do with it. So he ruled for us. [*Planned Parenthood Fed'n of Am., Inc. v. Schweiker*, 559 F. Supp. 658 (D.D.C. 1983).] And I think it must have gone up on appeal. It got affirmed, his decision got affirmed. [*Planned Parenthood Fed'n of Am., Inc. v. Heckler*, 712 F.2d 650 (D.C. Cir. 1983).] But I have no recollection of the argument or who the judges were even.

MS. CAVANAGH: There was more press coverage of the district court decision.

MR. NIELDS: It's possible the government never appealed. I don't know why I don't remember it. If there was an appeal and I can't imagine there wasn't, it was an uninteresting one. The work had been done in the district court. Anyway, that's the story of that.

MS. CAVANAGH: Did the case receive a lot of media attention?

MR. NIELDS: It depends on what your standards are for a lot. It got covered in the press, sure. It was thought to be a high-profile case.

MS. CAVANAGH: You weren't engaged in the later, there was a lot of later litigation on a similar issue but with abortion, and those cases tended to turn out differently.

MR. NIELDS: I was not and I did not develop a relationship with Planned Parenthood or something like that.

MS. CAVANAGH: So you didn't do more of those sort of cases later?

MR. NIELDS: Right. That's the story of that.

MS. CAVANAGH: If it's all right with you I'd like to hear a bit about your representation of Mary Treadwell. Maybe we can talk about your involvement with her legal issues, both in the '80s and maybe jump ahead to the '90s too and talk about all of that. There was a lot of local press about her cases. How did you first get involved with her, how did that come about?

MR. NIELDS: Judge Penn, who was a federal judge in the District of Columbia, might even had been Chief Judge then, I can't remember. This would have been 1982, maybe. '83 was the trial, right?

MS. CAVANAGH: Right. The trial was definitely in 1983. I'm not sure if you were appointed in '82 or '83.

MR. NIELDS: I'm sure it was '82. It was well in advance of the trial. He called my law firm. I think he called the managing partner of my law firm, who was Hal Baker and said we are desperately trying to find somebody to replace, I'm pretty sure I'm right about this, Deanne Siemer who might then have been ... she had a conflict of some kind and it may be that she'd taken a

government job. At some point she was general counsel of the Department of Defense. I had known her before.

MS. CAVANAGH: Was she at Covington or ...?

MR. NIELDS: No, no. She might have been at Wilmer. I think she was at Wilmer. Anyway he wanted somebody to represent Mary Treadwell, essentially pro bono. I think they paid \$10 an hour or something like that. It was a Criminal Justice Act appointment. So Hal came to me as the only person at Howrey who ever had anything to do with the criminal law. So I said fine, I would do it. It was a very complicated case and required huge amounts of preparation, but what I remember about that whole phase was there was a time when Mary came to me and said, and I hadn't really... I don't remember when I first met her or how long the meeting was. I know I did and I know I was perfectly lawyerly and perfectly polite and perfectly interested in her case. I never didn't have a case where I wanted to know everything I could about it. But I remember a point at which she came and said when do we get to the part where you are working on my case only. And I'm thinking that's a very sensible question you just asked me. And it should have been a month ago. I essentially said, now. You are absolutely right. There came another time, I'm almost sure there came another time, where this was expressed, but if it wasn't it was implied strongly, when are you going to get to know me. That was a wonderful process. I had enormous admiration for her. She started, and this will tell the beginning parts of the case. I think this was in the late 1960s. I may

screw up something in my historical memory but ... She and her then husband Marion Barry started an organization called Youth Pride or Youth Pride Inc., often called Pride. And went to the then Secretary of Labor, Willard Wirtz, and persuaded him to fund them. It could be they went to him first with a vague idea and he said give me a proposal and I'll see if I can get you funding. He was very pro what they were doing. Pride served young African-American inner-city men. It's not like they never did anything for anybody else, but that was what they were about and they got some money and they bought some uniforms and dressed up these 17, 18, 16, 19 year old unruly kids in uniforms and sent them around the lowest income part of the inner cities and had them clean up vacant lots and sweep the streets, and just do something that was productive for people and learned how to do that, and then it grew over time into almost an alternative to the public school system that had failed all these guys completely. They got a building at 14th & U Streets. It was actually a very nice building, a 3-story building and made that their headquarters for a decade or more. They educated kids, they taught them how to use computers, they taught them how to open a bank account and to deposit a check, they taught them how to go to the dentist and get the medical attention that they needed and would regret later in life if they didn't get it now. Educated them and introduced them to at least a vision of a life that was productive and not public welfare. One of their graduates, as they called them, who became a federal judge -- Gerald Lee was his name, in

Virginia. But I met lots of these people who she had, I don't know what you want to say, ministered to, served, gotten to know. She was a very strong person. She had a strong personality, but also a very soft heart. But she didn't brook fools gladly. At some point, anyway I learned all of this by just talking to her and having her introduce me to people who were around her or had been around her when she was doing all these things. At some point, mid-70s I think, she decided to take on another major project. They had some sort of thing where they raised money by putting advertisements on trash cans around the city.

MS. CAVANAGH: No I didn't see that. They operated gas stations.

MR. NIELDS: That may be right too. That sounds right. I'd sort of forgotten that. Where this case begins is she acquired from HUD a housing project called Clifton Terrace apartments. It had originally been a luxury apartment building way back when it was first built. Then as the 14th Street corridor deteriorated it became public housing and run by HUD and it had deteriorated abysmally under HUD's supervision. It was really in bad shape and reeked of poverty and inadequate maintenance. The rents which I guess came from HUD itself, I can't remember. All I know is Mary takes it over. It now is under private ownership.

MS. CAVANAGH: This is P.I. Properties, right. They had a spinoff organization from Pride.

MR. NIELDS: Yes. P.I. Properties. Pride, Inc. Properties. Very good. I couldn't have come up with that myself, and this was Clifton Terrace. So they take it over from HUD. I think there must have been a HUD subsidy. I think

that's what it was. So forget rents. I don't remember if the people who lived in Clifton Terrace paid some rent themselves, I feel like they must have.

MS. CAVANAGH: Right. What I have is ultimately, and you're going to talk about this, but the allegation was they were siphoning money from the tenants' rent payments. So maybe they were subsidized by HUD or Section 8 or something else.

MR. NIELDS: Yeah, I think that the money coming in was mostly government money from HUD but I can't remember whether the tenants also paid some or whether some tenants paid some or a graduated scale, I just don't remember that. All I can tell you that I'm absolutely sure about is that when HUD ran it, it had the same inflows and outflow imbalance that it had when Mary Treadwell ran it. And then when they kicked her out and took it over again, and I fought like hell to get this evidence admitted and only sort of half won. It was an outrage, given the government's theory the case, it was an outrage that I didn't get this, but HUD was operating at a bigger loss each year than Mary Treadwell was. So it was not turning into a whopping success under her, they had a very good beginning and lots of excitement and then it continued to run down because there wasn't as much money coming in as it cost to maintain the apartments in proper shape. I'm not telling you she was a brilliant manager of buildings, I have no opinion about that. What I am positive about is that nobody could have

done a good job with the inflows that she was getting from HUD, if that makes sense.

MS. CAVANAGH: Sure.

MR. NIELDS: So the indictment had 30 counts in it and this isn't just like 1 count of fraud with 30 pieces of mail sent in furtherance of it, which is a normal 30 count indictment in a fraud case. There must have been a conspiracy to defraud the United States count with means conspiracy to defraud HUD. And then there were a number of counts that, I'm forgetting some of this, but there were a number of counts that were like monthly reports that had to be filed with HUD and they were called "ABC Reports" and I don't remember what the "ABCs" were but they were detailed, trivial reports. Like how much money came into the laundry room in the last year, or something like that. And there were something like 9 or 10 counts that were false statements made on these forms to HUD. And they had the wildest theories of what would constitute something that was a false statement, I mean they were really loony. There were 3 counts of tax evasion. She had not filed tax returns for some short period of time, I mean relatively short period of time. But they didn't charge her with that, they charged her with evasion, and she was acquitted of all of those and should have been. I think Mitch Rogovin who had been at one point in time head of the tax division of the Justice Department, was her private lawyer on a tax issue and he testified at the trial and he had told her, as she vividly remembered: "here's what you do, and do it from now on, and you will

stay out of trouble: Every single piece of earning you get, put it into the same bank account and then spend it, however you want to spend it, but keep a record of how you are spending it. You do that and nobody is ever going to accuse you of tax evasion.” And she did. And we can prove that she had done that and there was no effort to evade taxes to conceal income so that was a happy part of the trial. I cannot tell you what, I just don’t remember, so that might account for 13 of the 30 counts and there’s another 17 that I can’t remember. They were all Clifton Terrace related but they had different theories of criminality to them. She got acquitted of all of the ones that I can’t remember.

MS. CAVANAGH: Right.

MR. NIELDS: What I thought the charge in the indictment was, and it was a hard to interpret conspiracy count; but there was a section of it that said the object of the conspiracy was ... and it was essentially misappropriation of funds for personal benefit. That we found out during the trial that that allegation came from a bookkeeper name Zellene Laney, who had testified in the grand jury that Mary had, with regularity, written, I can’t remember if it was a \$1,000 checks or \$10,000 checks to cash on the Clifton Terrace bank account and then walked away with cash, okay. Didn’t happen. We had all the checks, I can’t remember if we had the check register as well, but there were no checks written to cash.

MS. CAVANAGH: One of the newspaper articles said that the allegation was that she used \$2,200 in operating funds to help pay for her wedding ring; it was one of the claims in the newspaper article.

MR. NIELDS: That rings a vague bell but that was alleged. But there wasn't any evidence of it.

MS. CAVANAGH: And there were others indicted as well, right?

MR. NIELDS: And curiously I remember 2 other defendants and one was her sister, Joan Booth, who admitted that she had collected from the Clifton Terrace bank account like a \$1,000 medical bill . . .

MS. CAVANAGH: I don't know. I have that she pleaded guilty to conspiracy in tax evasion. But I didn't see more details than that.

MR. NIELDS: I think what they had on her was that she paid for a medical bill with Clifton Terrace money. I can't remember if she testified. I don't think she testified. And I don't think she was prepared to testify that. Mary Treadwell knew that she had done that. Or maybe Mary had found out about it and got really mad at her and made her pay it back or something. I think that's what happened.

MS. CAVANAGH: Interesting.

MR. NIELDS: And the other was Robert E. Lee, which is a very peculiar name for an African-American person, but that was his name. And he had committed fraud, gotten caught by Mary, and that is a piece of this case that I'm pretty sure there was fairly strong documentary evidence that this was something he had done and been very careful to conceal from her. But

Johnny Mickens, my memory is failing, anyway I'll get to that later, but Johnny Mickens I'm pretty sure was our very strong corroborative witness for Mary on the fact that both Joan and Lee were doing things; she was the big boss, they felt like little pawns and little sisters and they did stuff behind her back.

MS. CAVANAGH: Right.

MR. NIELDS: So anyway we tried this case for 5 and half weeks of trial, 5 weeks of trial, something like that.

MS. CAVANAGH: I read something funny about that. The jury was 8 women and 4 men and one of press reports reported that they jury was falling asleep during the prosecutor's opening statement and Judge Penn had to prompt the federal marshal to nudge them and he loudly tapped his mike to wake them up.
(laughter)

MR. NIELDS: Well I don't think this is a particular rare event in a federal trial.

MS. CAVANAGH: Really. But the opening statement . . .

MR. NIELDS: Yeah the opening statement, you'd think they would have been pretty interested. I can guarantee you nobody was sleeping when Mary was testifying. She was riveting and heartening. I thought we were winning the case at every step of the way.

MS. CAVANAGH: Some of the press was harsh on her. You know suggesting that . . .

MR. NIELDS: Oh the press just hated her . . .

MS. CAVANAGH: Her lavish lifestyle.

MR. NIELDS: Oh lavish lifestyle, give me a break. She was at Garfinckels. She bought some furs at Garfinckels. Well that was, according to the government, an absolute outrage. Purporting to work for the interest of these poor men and women in Clifton Terrace and Youth Pride and she bought a fur at Garfinckel's? So we had an expert witness who came in on 501(c)(3) type organizations, executive director and some sort of evidence about comparable size of project and organizational scope and mission. That guy was really convincing, I'll think of his name in a minute; ends with a "D". Anyway he testified and said she's below average in terms of her total compensation from all of the Pride organizations for the scope of what she was doing. And the idea that somebody doing that kind of thing isn't allowed to earn enough money to buy a fur?

MS. CAVANAGH: While you mention it, she lived at the Watergate, she drove a Jaguar, she vacationed in Jamaica.

MR. NIELDS: Well she and Marion Barry went down to Jamaica a couple of times.

MS. CAVANAGH: He wasn't implicated in any of this?

MR. NIELDS: No he was gone by the time Clifton Terrace, as he said he showed up at the - after the verdict was in. I was present for him saying, "Mary this is an outrage. You were always the one who cared about these people, not me." Sorry there was something I wanted to say to you and now it's gone out of my head.

MS. CAVANAGH: About the trial - you were saying how long the trial was, and maybe it was 4 months or 5 months or something like that.

MR. NIELDS: No, no, not 4 months or 5 months, 4 weeks or 5 weeks.

MS. CAVANAGH: Right, I'm sorry.

MR. NIELDS: You probably know this, the jury was out, I think 20 days. Well let me get to the bad part. So I thought we were doing very well. Oh I know what I wanted to tell you. This is apropos of how outrageous it was for somebody like Mary to be earning enough money to buy something at Garfinckel's. I remember her telling me this and I sort of didn't believe her and now I think I do. She said a black person has a disadvantage and it's hard being black, it's harder being a woman. And she meant that, I think, doing what she was trying to do, that people resented a woman acting with the sort of presumption of entitled power which she had for what was in her sphere. That was harder for people to accept than that a black person would be doing that.

MS. CAVANAGH: It didn't help that it was a black woman too. Just the combination.

MR. NIELDS: The two clearly was a - and they were - there was one prosecutor who was a really good guy and there were two that weren't in my opinion. I'm not mentioning names, but - and they would write briefs, pretrial briefs, that would use the phrase "self-aggrandizement" over and over and over again. Now, first of all, I don't write briefs that attack somebody's motives and personality. I mean sure if somebody - if I were trying a case in which somebody had stolen a billion dollars I might mention the word greed. But this was a word that felt to me like code for she's somebody who thinks she's uppity. She's getting bigger than she's allowed to be in this

world. It's horrible. And, so anyway, the trial goes on and we get to the end of the defense case and I told the jury about this guy in my opening statement - that Johnny Mickens was going to come in and he was going to make sense out of things for you. And a very small problem - I bumped into a very small problem - as I got into really preparing for his testimony and getting the last detail about it, and there was a stupid but technical problem with something that he had done, which I thought was explainable and not actually a problem, but the government thought it was a problem. It may have been. I don't remember whether I found out about it reading grand jury testimony of his or something like that. Anyway, it was a problem that made me think there is a downside to calling him and I think I'm ahead and why do it. So I didn't. It didn't feel right at the time.

MS. CAVANAGH: Did you discuss that with her?

MR. NIELDS: Oh yes. It was a joint decision.

MS. CAVANAGH: She agreed.

MR. NIELDS: Yes we both felt shitty about it right after we decided.

MS. CAVANAGH: Really? Did he want to testify?

MR. NIELDS: Sure. He was there, he wanted to help. He probably knew - it may have been him who raised the issue with me - this is what they hammered me with in the grand jury or something like that. And I said oh shit I don't need that. Anyway, it was - I mean I'm as ashamed of that as I am proud of the fact at the end of the FBI case I called three attorneys general and a

President all of whom were going to testify that the defendants had acted legally. That was a nery decision and I'm proud of it and this was an absence of nerve decision and I ...

MS. CAVANAGH: It's impossible to know though, right? It's impossible to know if it would have been helpful or not.

MR. NIELDS: I don't have a doubt in my mind. I mean sure is it impossible to know? Yes everything is impossible to know. But I don't have

MS. CAVANAGH: Right. You really wish you had.

MR. NIELDS: I'm not ambivalent. If I had felt great about it until the verdict came in, then I might have told you who, but I, it was a bad decision.

MS. CAVANAGH: You've been quoted as saying if there was one thing you could change in your legal career it would be that. Is that still true? Yes.

MR. NIELDS: But I still thought we were going to win.

MS. CAVANAGH: Right.

MR. NIELDS: But I thought we were going to win quickly. And I thought that they would like Mary Treadwell as much as I did, and nothing had happened in the trial that, to my mind, would have caused them to dislike her. So 20 days, and every day that went by, both Mary and I were sitting there saying this is feeling worse and worse and it means that the 30 counts have really prejudiced our ability to win. We have to win 30 different arguments and that's what they're doing. They are going through this indictment one count at a time and having a hard time deciding each one. We're not likely to win, go 30 for 30. So they come in with a guilty

verdict on conspiracy and on, I can't remember, 5 or 6 of the ABC form false statement.

MS. CAVANAGH: What I have is one count conspiracy, seven counts of making false statements.

MR. NIELDS: That's all ABC counts, so seven.

MS. CAVANAGH: And then acquitted on three counts of tax evasion, one count of wire fraud, and nine counts of making false statements. So that's what one of the newspaper articles said.

MR. NIELDS: Well maybe my memory of 30 counts is wrong because I don't think that quite adds up to

MS. CAVANAGH: Press is sometimes inaccurate

MR. NIELDS: Yes. But anyway ...

MS. CAVANAGH: They split it. Right.

MR. NIELDS: Seven. Yes, but at the end of the trial, and it was a low moment of my life, and I don't know why I did this, but I asked the judge's permission to interview the jurors. And he granted it.

MS. CAVANAGH: Wow.

MR. NIELDS: So I interviewed - I may have interviewed more - but there were two that were really important and one was a guy named Randy Tritell who was a lawyer at the FTC and the other was the foreman whose name - it's either Washington - I think his last name was Washington. And they both told me that the jury attacked the indictment from the end and they acquitted, acquitted, acquitted tax counts. Acquitted, acquitted, acquitted, acquitted,

acquitted, acquitted, acquitted, acquitted, acquitted, acquitted, acquitted, acquitted, acquitted, acquitted, acquitted, acquitted. But each time they acquitted, it got a little harder and the people who were clearly for acquittal, which included these guys, lost a little bit of sway, and then they get to the ABC forms and they are incomprehensible. I mean some of the theories were just silly and others just didn't have any evidence behind them. But - and I can't remember how much I learned from these guys about those counts, but the way they described it they eventually said, well under a *Pinkerton* charge that we've been given if those were in furtherance of the conspiracy, then if there's any false statement in there, we would convict her regardless of whether she was responsible directly for it. And so then they went to the conspiracy and they ended up 8 to 4 for conviction and these two guys were in the four. They got talked into voting for conviction because of a document that arose out of the time when Mary was acquiring Clifton Terrace from HUD and it was going to be under - they would own it - but under strict supervision by HUD and they would be under that supervision forever. They had a special kind of ownership. But somebody on Mary's side spotted what the document called a legal loophole through which it might be possible someday to own it outright. Free of HUD supervision. The jury decided - the four decided well that did happen and maybe it is a conspiracy to defraud the United States, and so we'll go ahead and vote with the prosecution - with the other eight. Of course obviously it's not a crime to use a legal loophole.

MS. CAVANAGH: Right. It's legal.

MR. NIELDS: But that was neither here nor there. And I used some of that in a way that I thought was arguably proper, even though generally you are not allowed to use a conversation with jurors to impeach the jury's verdict and I wasn't trying to do it. I can't remember how I used it, but the point is the government found out that I talked to the jurors, but they'd forgotten that I had gotten permission to do it and they were just getting ready to report me to the bar or something and I said, hey you might want to read the transcript before you do that. So that's my story.

MS. CAVANAGH: Well you know she - you know this of course - but she praised you very highly even after the verdict.

MR. NIELDS: Oh we remained very good friends.

MS. CAVANAGH: And you drove her to prison.

MR. NIELDS: I did do that.

MS. CAVANAGH: We didn't talk about her sentence. I have that she was sentenced to three years and a fine of \$40,000 and served 18 months in the federal prison for women at Alderson, West Virginia and that you drove her.

MR. NIELDS: Yes I did.

MS. CAVANAGH: And she was quoted as saying that was more traumatic for you than for her.

MR. NIELDS: I think that might be true. Yeah that was painful.

MS. CAVANAGH: And you spent your 20th anniversary in your office working on her case and Gail brought Chinese food and the three of you had a wedding anniversary dinner.

MR. NIELDS: That's true. That's a true fact. And my wife remembers it well.

MS. CAVANAGH: I'll bet. Not in an entirely positive way maybe.

MR. NIELDS: Well but she was very ...

MS. CAVANAGH: She understood.

MR. NIELDS: ... very supportive of the cause.

MS. CAVANAGH: And then there was an appeal. [*United States v. Treadwell*, 760 F.2d 327 (D.C. Cir. 1985).]

MR. NIELDS: Oh now that — I'm glad you mentioned that — that infuriated me. So first of all, I had argued until I was blue in the face with the judge that he had to instruct the jury that in order to convict under this indictment, that Mary had to join in a conspiracy whose object was self-enrichment and by misappropriating funds. He refused to give that instruction. A big problem with the indictment, the way it was drafted without an instruction like that, is that you had a huge probability of coming up with a non-unanimous verdict that looked unanimous. I mean the ABC forms are actually a good example of this because there were, say, eight alleged false statements on each form. Well supposing the jurors were 10-2 in my favor on any given false statement but they all agreed that there was a false statement somewhere in that form. And I don't remember if I got an instruction or even bothered to ask for one on the false statements like that

but I definitely told the judge that the indictment was made duplicitous by the possibility if you don't tell them what the conspiracy is so that they can identify and they can all agree on the same conspiracy, you are at risk of a non-unanimous verdict that looks unanimous. There was one that was a trivial little statement in a 501(c)(3) application that was stuffed into the conspiracy count. There was the "legal loophole" that was stuffed into the conspiracy count and there were at least five or six other discrete things and the jury - I know that the jury did not agree on unanimously that she did what the indictment said was the object of the conspiracy or even agree to it. So I briefed that post-trial, I'm sure, and I remember arguing before Judge Penn and he looked a little pale. As I got more and more clear about what my - he started to understand it better. He got more uncomfortable but he didn't set aside the verdict. [*United States v. Treadwell*, 594 F. Supp. 831 (D.D.C. 1984).] So then I go up to the court of appeals and I am as - I cared about the issue because I thought I understood it and not very many other people did. And we had case law. You could certainly construct a very intelligible legal argument from cases that would say, the way this is being handled is duplicitous, makes the indictment duplicitous. And I argued it on a wintery day and there was snow and I argued it in front of [Robert] Bork, [Carl] McGowan, and an empty chair. And the empty chair was Judge [Edwin Allen] Tamm. Judge Tamm was ex-FBI and he had reversed a case that I argued maybe a year or year and a half before that for no reason.

MS. CAVANAGH: Maybe not for no reason. This is coming off the Mark Felt case so maybe ...

MR. NIELDS: That's what I'm ...

MS. CAVANAGH: I jumped ahead.

MR. NIELDS: I mean I don't usually engage in this kind of suspicion but the fact that he reversed that other case, I think it was a *Sherwood Webster* case, and then I went back and we had a hearing in the lower court and then another court of appeals basically wrote an opinion that totally contradicted what he had written in his first opinion and so I ended up winning the case, but with unnecessary work. I can't remember if he listened to the oral - if he was on a remote from his home in the snow, or whether he just listened to the or claimed to have listened to the - but Bork and McGowan - particularly Bork, understood the argument. I remember him saying - I mean it was a dialogue. He got the argument. Like many judges, you look for a way to - for a long trial, a complicated case - you look for a way to affirm. So I wasn't confident that I was going to win with him but I thought I had a very good chance of winning with him and McGowan. And then I get an opinion written by Judge Tamm, who wasn't there. Anyway.

MS. CAVANAGH: Well I think the case said that it was troubling but there was essentially enough evidence because it was all circumstantial.

MR. NIELDS: Which doesn't really address the point.

MS. CAVANAGH: No. Not at all. Well I guess you also made an insufficient evidence argument too, it looks like.

MR. NIELDS: Oh if I did I didn't have any hope of winning it. I just

MS. CAVANAGH: There was another interesting argument that I'm just curious about that a document not in evidence was sent to the jury room and it mapped out the government's theories of liability in the case including a theory that was never otherwise mentioned at trial. Somehow this ended up in the jury room.

MR. NIELDS: Totally forgot that.

MS. CAVANAGH: That's what I read.

MR. NIELDS: You mean that's from the briefs or from the --

MS. CAVANAGH: No I think it's from the opinion.

MR. NIELDS: From the --

MS. CAVANAGH: I think so. I looked at this a while ago but I thought that was interesting and I guess --

MR. NIELDS: I totally forgot that.

MS. CAVANAGH: Yes, well you have a pretty good memory for a lot of the details. You can't remember everything.

MR. NIELDS: Yes.

MS. CAVANAGH: So she serves her time.

MR. NIELDS: She serves her time and as I said I kept in close touch but we both kept in close touch for a long time after that. Sometimes by phone, sometimes we'd get together for lunch, and I got to know her niece, Michelle Booth, who clerked for Judge Emmet Sullivan, I think when he was a Superior Court judge before he'd been made a federal judge. It might have been

after he'd been made a federal judge. I'm not sure. But I can't remember, but I think she started a charitable organization of her own and I think I contributed money to it or I may be misremembering. Anyway I remember having that connection and thinking that she had a very fine niece. She had a dog too. She had a boxer that she was very fond of and she was very interested in things political. I mean anything that was going on in the world politically she'd give me a call to say what do you think about this, what do you think about that.

MS. CAVANAGH: Well then she kept working in local government when she came out.

MR. NIELDS: She kept working in local government when she came out, up until I guess the second case, which you are about to ask me about.

MS. CAVANAGH: I am. So I have that she worked for city government as a specialist on female offenders for the DC Parole Board. She worked in the mayor's office of policy for Sharon Pratt Kelly. But then you came to represent her again in the 90's.

MR. NIELDS: Yes and it arose out of, I think they're called ANCs. Am I getting that right? It's the neighborhood group. It's --

MS. CAVANAGH: I don't have ANCs.

MR. NIELDS: AN -

MS. CAVANAGH: Was Columbia Heights advise - oh yes - Advisory Neighborhood Commission.

MR. NIELDS: That's it. Advisory Neighborhood Commission. ANC. There are ANCs in South Africa too or they used to be I think too. I don't think it's the

same acronym but it might be. Anyway, she was in that quasi-governmental entity for the neighborhood. And she embezzled some money. As you've undoubtedly gathered, I'm totally convinced that she had done - she committed no crime in the Clifton Terrace scenario. But that wasn't true here. She had run on hard times and had a temporary shortage of money and she misappropriated. So it came to me and I did everything I could to help her. I drew a - we also involved another lawyer who we thought was going to have a little bit better sense for the Superior Court than I. Her name was Nancy Luque. A wonderful lady.

MS. CAVANAGH: This was in front of Judge Henry Greene.

MR. NIELDS: It was in front of Judge Henry Greene who, God bless him, by the time the whole thing was done, he would like call me up - how is your client? And even while it was going on it was like - I made no bones about it and probably crossed a few lines in my support of her as a person, and Henry Greene just kind of developed a very friendly attitude toward Mary and I can't remember exactly what happened. Nancy Luque had predicted five months in jail and I think that's what she got.

MS. CAVANAGH: I have that she got four months. That she was sentenced in January 1998 to four months in federal prison after she pled guilty but she could have received ten years and a \$5,000 fine. So.

MR. NIELDS: He also was really accommodating to her in the timing of the service of the sentence. She had some health issues and she had an operation that would not be really doable while she was serving her sentence.

Something like that. I can't remember the details of it anymore. And even the prosecutor was, by the time I got done with him, he was like, took a very friendly attitude towards her.

MS. CAVANAGH: So did you keep in touch with her after that?

MR. NIELDS: Yes. She then moved to Baltimore and I didn't see her as frequently but I did continue to have conversations with her every time there was something and occasionally I just picked up the phone and called her, but mostly, we had conversations when something in the paper had occurred or something that she'd heard about had occurred and she just wanted to have a chat about it. I remember having a conversation with her after now Chief Justice Roberts confirmation hearings occurred and she was very impressed with him.

MS. CAVANAGH: Now she passed away a few years ago. Right? In 2012.

MR. NIELDS: She did.

MS. CAVANAGH: Well, did you have anything else you wanted to add about your experience with her in that case?

MR. NIELDS: No. Either I or you have summarized my feelings about all of that. Other than to say I was abysmally ignorant about what it would be like to be African American and what I understand about that, and of course it's not, it's different for every single human being, but whatever I understand about that, eighty percent of it comes from knowing her. It's an intimate relationship, attorney-client, particularly when there is as much to do.

MS. CAVANAGH: Was the firm supportive of how much time you spent?

MR. NIELDS: Yes. This was hardly the only time I did work we didn't get paid for, and not even the most extreme. And the firm was always supportive, every single time.

MS. CAVANAGH: And you were using other firm employees to work on the case with you.

MR. NIELDS: Well absolutely. I mean you couldn't do that case by yourself. Sara Johnson.

MS. CAVANAGH: She was on the brief, right? The appeal, I have.

MR. NIELDS: Yes she was at the trial too. She was there every day. I remember when the verdict came in and, "the defendant will please rise to hear the verdict" happened, and I think we all rose at the same time. But it - I remember distinctly that Sara Johnson wasn't copying me. And she was standing on the other side of Mary and she just stood up next to her. Mary was appreciative. Bob Joseph was the other lawyer I think who did the trial. And then we had other people to do legal research and stuff like that.

MS. CAVANAGH: Okay. Well we can do one of two things now. We can - one option - we can sort of step back a bit and during this period, you know, you were working on other cases that you might want to talk about when you were at Howrey before 1987. If there's something you want to talk about now. Or we can get started at least talking about Iran Contra.

MR. NIELDS: Well if you have got the tolerance from my jabbering, I'd rather save Iran Contra for when we have time.

MS. CAVANAGH: Okay. Sure.

MR. NIELDS: And just to cover a few minor, potentially a tiny bit interesting things. So the actually first - I had a few small things, small cases that just came in to me that were sort of parallel to the FBI case and happening at the same time, but I wasn't able to do much. But when I came back at the end of the FBI case, one of the things that I worked on - and this isn't really - the story isn't about me at all - but it was the firm had represented Litton Industries - I've forgotten whether anyway Litton - in a major antitrust case against AT&T. [*Litton Sys., Inc. v. AT&T Co.*, 700 F.2d 785 (2d Cir. 1983).] It had to do with business telephone systems. So Litton and AT&T were competitors in the business telephone system business. So this would be like going to a business and supplying them with 500 telephones and connect them up right and so forth. AT&T at that time owned the network, as you would call it. It was like all the wires that connect everybody's telephones to each other, which is pretty much the way telephones connected, I think, was by wires. AT&T had something that they called an interface device and they required anybody other than themselves who made business telephones - or I think any telephone - they had to buy from AT&T an interface device that allowed them to connect up to AT&T's wires that were coming out of their walls. The interface device cost more than the telephone. So if you were competing with AT&T, you had to charge the customer for two telephones for every one that AT&T had to charge them for if the customer bought their business telephone system.

MS. CAVANAGH: Which would make it hard to compete.

MR. NIELDS: It makes it a little hard to compete. AT&T said well nobody - without this interface device - there's no telling what kind of damage somebody else's telephone system could do to our system. Right? Maybe all the wires would catch on fire or something. It was complete nonsense. Bill Simon, who was a life-long - the Simon of Howrey & Simon and he was - I only had the privilege of being in a courtroom with him two or three times, all arising out of this matter and what came later. I never heard a better courtroom lawyer in my life. But he knew the antitrust laws backwards and forwards and he had longed to bring a case against AT&T all his life and Litton came along and hired him and they sued under the antitrust laws. The case resulted in a verdict trebled around \$300 million - I think \$340 million with post-trial interest that had accrued as a result of the appeal. Which was I think the biggest - certainly the biggest antitrust verdict ever, except for one that MCI won against AT&T for \$1 billion plus. The *MCI* case got reversed on appeal by the Seventh Circuit because of the size of the jury verdict. [*MCI Communications Co. v. AT&T Co.*, 708 F.2d 1081 (7th Cir. 1983).] All right? And I'm mentioning that for a reason. So I got involved in the case. First because Howrey had engaged in a bad piece of discovery misconduct and had gotten whacked with a significant, or the client got whacked with a significant sanction. I basically wrote the appeal and did some other things too, but I wrote the appeal. I wrote two pieces of the appeal. One was that piece, because

AT&T was asking that the whole case get thrown out because of it, and I wrote a second piece which was the *Noerr-Pennington* piece. Is that a familiar name to it?

MS. CAVANAGH: Yes.

MR. NIELDS: So AT&T had filed with the FCC their interface device program that they had, but all they had done is given the FCC notice of it. The FCC hadn't approved it or legislated it so to speak. Anyway, I wrote the answer to that. These were the two biggest and hardest parts of the appeal. And that was fairly easy once you - you had to unpack it all, but once you unpacked it, the argument was really strong that *Noerr-Pennington* doesn't protect these people at all. That this was unilateral conduct, private conduct. And then the other was tricky but it was going to be fine. At least I had confidence that it was not a big deal ultimately in terms of any possible impact on the case. I then had the privilege of being with Bill Simon the night before his argument where he gave a little bit of it - it wasn't really a moot court - and he would say that he didn't know how to write. So he asked me to write that part of the brief and this part of the brief. He also asked other people to write since he "didn't know how to write." Baloney. He would give oral arguments that were in perfect paragraphs. I mean they were - and perfectly organized and he had a steel trap analytical mind when it came to the antitrust laws, enormous amounts of experience. He was the most articulate courtroom lawyer I've ever heard and he was a kind - he would stand up and he knew his stuff so well and he exuded

confidence and judges would just - like he stood up and started talking and everybody listened. It was a gift from someplace. So anyway he tells me the night before the argument. He said, John, the only issue I'm worried about is damages, because of the *MCI* case which had already happened. And he said, in fact, the judge, because he was concerned about that issue, had screwed me on his damage instruction but I'm still worried about it.

This is a very --

MS. CAVANAGH: Because he's trying to - he's worried that it's going to be too large and it's going to be struck down on appeal.

MR. NIELDS: Too large - well yes - or that the case will be decided against him because of it.

MS. CAVANAGH: I see.

MR. NIELDS: Either one. But I think he was worried about the size of the damage award probably mainly as an argument about damages getting it reversed and then you have to have a new trial or something, right? You can't --

MS. CAVANAGH: Right.

MR. NIELDS: It's going to totally obliterate the verdict just like it did in the *MCI* case.

MS. CAVANAGH: I see.

MR. NIELDS: That was interesting to me. Foreign to my way of thinking. I mean this was a big picture kind of thing. So I go up the next day and sit next to him in the court of appeals and I knew he believed AT&T had made billions of dollars on its interface device scheme, and that the verdict was ridiculously low. That the damage award ... But he gives his argument

on everything else. I remember [James] Oakes was on the panel. Judge Oakes and I can't remember who the other two were. He gets to the end of his argument and I know he's about to address damages. And he then prefaces his remarks with something to signal, he was turning to damages and he said the following words: "Morality aside, this was the smartest business decision AT&T ever made." You could feel the words "morality aside" bouncing off the walls and I said, oh well, that's the end of that argument. And you know he had acquired enough credibility and had it innately. Well it was just over.

MS. CAVANAGH: That's funny.

MR. NIELDS: That's one of my favorite moments.

MS. CAVANAGH: What year was that -- mid '70's?

MR. NIELDS: No this was - see I came back - the FBI case finished in the end of 1980 so I was actually really a Howrey & Simon lawyer only starting in early 1981. I mean I joined the firm in '79. I think I told you about that before and then I went off to the *FBI* case immediately.

MS. CAVANAGH: I forgot.

MR. NIELDS: So this would have been - it could have happened before the end of '81. More likely it was in '82.

MS. CAVANAGH: Okay.

MR. NIELDS: Could have been either. And that may be all I want to tell you in this - oh let me tell you just one other case just because it was a fun case. We got hired, and this is one of the few things I did in addition to this Litton case,

that sort of somebody else brought into the firm, and you know maybe there are some others, but so there is a life insurance company in South Carolina called Liberty Life. This may not be worth telling you.

MS. CAVANAGH: We have some time.

MR. NIELDS: All right. So Liberty Life Insurance Company was sued by the Metropolitan Life Insurance Company for stealing all their agents or stealing a lot of their agents and having the agents take their customers with them and then substitute Liberty Life Insurance policies for Metropolitan Life Insurance policies. There was lots of case law. Anyway, we got hired by Liberty Life Insurance Company and I was responsible for the case. There was a lawyer named Duncan Whitaker, a marvelous lawyer here that was, you know, supervising it but he wasn't doing the day-to-day work. A guy named Gap [Gaspare] Bono and I did the day-to-day work and I didn't know any of this area of law, but it sounded like, gee, there is going to be a little bit of trouble and Liberty had taken a lot of their agents away that had probably taken customer lists with them. Maybe not, I can't remember whether they taken documents but they certainly took their clients and switched them over to Liberty Life Insurance. So fairly early on in the life of the case the first deposition happens and it's of an agent in Greenville - no not Greenville - somewhere in South Carolina. Myrtle Beach or something like that. I remember going down there and interviewing this guy and then after interviewing I understood the case better and I understood what he was about better and

they take his deposition and get a lot of stuff that would have seemed like pretty good stuff. I decided, I'm not just leaving this deposition, I'm going to let them know what they are going to be facing. So I said now why was it that you left Metropolitan Life Insurance Company? Well, he said that I was forbidden from switching my customers from the standard Metropolitan Insurance product (which had an internal rate of return of 2%) to what other companies were making available, which was called universal life. This was in the era of huge inflation. You know like 16% interest rates and stuff like that. And I wasn't allowed to switch them to universal life even though Metropolitan had some universal life product. Okay. So then you went to Liberty Life. Yes. So could you tell me of the conversation that you had with your client that resulted in switching? He said sure. "I would say you have Metropolitan Life Insurance, here are the premiums that you are paying, and here's the cash value that it now has, and here is the size of the death benefit. And then I would say here is the Liberty life Insurance universal product that you can buy with the same premiums." And I would say, how did you tell them that the death benefit compared? "Well the Liberty Life was three times as much death benefit as the — so when you died you got \$300,000 instead of \$100,000. Or \$3 million instead of \$1 million." And how about the cash value? Same thing. He said, "the cash value would be three times as big right as soon as you bought the policy." And then what did your customer say? "He said they wanted a new policy." I went over the questions. Right? How

would you like to have a trial like that happen to you? So settlement started very soon thereafter.

MS. CAVANAGH: And when was that? Was that early '80's?

MR. NIELDS: That was early '80's. It could have been '82, it could have been '83. And the lawyer who was sitting in that room. They had three law firms on that case. One of them was in Georgia, one of them was in - they filed three separate cases actually which sort of made no sense. One of them was in North Carolina and I think this guy was in South Carolina. It's possible that I'm wrong, that it was a North Carolina deposition. But whoever it was, he had had - I'd looked him up - and he'd had a lot of experience with these kinds of cases. Stealing employees and trade secrets and customer lists and stuff like that. He never showed up again. Never saw him. He never made another appearance but there were some wonderful Southern gentlemen lawyers that wanted to take me out to their country club and treat me to a meal and talk settlement.

MS. CAVANAGH: So they all ended up settling?

MR. NIELDS: Yes.

MS. CAVANAGH: Okay. Did you have another case that you wanted to --

MR. NIELDS: Well that's probably enough for now. That's --

MS. CAVANAGH: So next time we can spend some time on Iran Contra.

MR. NIELDS: Iran Contra.

MS. CAVANAGH: Okay. Well that will be it for today.

MR. NIELDS: That's great.

MS. CAVANAGH: Great.

END OF TAPE