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# Brown clearly tried unfairly

BATON ROUGE — Suspended state Insurance Commissioner Jim Brown filed his appeal of his conviction a year ago of lying to an FBI agent.

It made for interesting reading.

His appeal raises issues of fair play by federal judges of the opposite party (they are Republicans; Brown is a Democrat), the prosecutors and the FBI.

To refresh your memory, Brown, former Gov. Edwin Edwards and respected Shreveport lawyer Ron Weems were tried for allegedly fixing the liquidation of the Cascade Insurance to the benefit of the company's owner, former Shreveporter David Disiere.

Those who sat through the trial or followed it closely in the media quickly realized there was nothing to the charges. Some even thought the wrong persons were on trial.

Brown, Edwards and Weems were acquitted of all substantive charges that they committed a crime.

Brown, however, was convicted of lying to an FBI agent. (The government, fond of saying they "send a message" to the public with convictions succeeded only in sending the message that no one should talk to an FBI agent, something that pleased the defense bar.)

Now, here's the gig: Brown was convicted of lying to an agent. His word against the agent's.

And the convictions were based on the FBI agent's formal notes of an interview in Brown's office shortly after the case became public knowledge with the April 1997 raid of Edwards' home and offices.

There existed the agent's handwritten notes that were taken contempora-



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neously with the interview.

Now, here's a clear cut violation of fair play and equal treatment under the law: the judge granted Weems' motion to get the handwritten notes of the agent who interviewed him — and was acquitted of a charge of lying to the FBI agent.

But Brown was consistently denied access to the original handwritten notes of his FBI agent.

The trial judge, U. S. District Court Judge Edith Clement (nominated to the 5th Circuit by President Bush), instructed the jury that the handwritten notes supported the formal typed report.

The Republican judge also refused to allow Brown to put on a witness who he claims would have impeached the FBI's testimony.

Is that fair?

So, what we had was one defendant gets the notes and was able to cross-examine the agent about differences between the handwritten notes and the notes typewritten later.

That defendant was acquitted.

But Brown, the other defendant, doesn't get the notes — in the same trial, in the same courtroom. That immediately should violate everyone's sense of fair play.

The 5th Circuit Court of Appeals ruled Brown should not serve his six

months in jail pending his appeal. That means the court reached the legal conclusion that Brown had raised issues that are "likely" to result in a new trial or a judgment of acquittal. Strong stuff.

The 5th Circuit also granted Brown's request to get the agents' handwritten notes.

In his appeal, Brown says the handwritten notes vary from the typed reports on which his convictions were based.

For example, the agent testified that Brown said he never discussed "what it would take to settle" the Cascade liquidation.

The agent insisted Brown used the phrase "settlement issues" four times, but Brown's attorney said that phrase does not appear in the handwritten contemporaneous notes.

"That glaring discrepancy between the notes and (the agent's) testimony would have been devastating not only to the governor's case on these counts but also to the credibility of Agent (Harry) Burton generally," wrote Brown's attorney, Bill Jeffress of Washington, D. C.

That alone undermines the judge's instructions to the jury that the handwritten notes support the typed notes, wrote Brown's attorney, Jeffress said.

That is one example in Brown's appeal. There are others. It shall be interesting to read the prosecution's response.

But, again, the message out of all of this is don't ever talk to an FBI agent. Or if you must, have your attorney and a tape recorder right there.

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