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Jim Brown to ask for acquittal

by John Hill

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BATON ROUGE -- Suspended state Insurance Commissioner Jim Brown will be back in court Wednesday to ask for acquittal or at least a new trial on allegations that he lied to an FBI agent nearly four years ago.

U.S. District Judge Edith Brown Clement of New Orleans has called for oral arguments on Brown's motions to overturn his October conviction on seven counts of lying to an FBI agent investigating the liquidation of a failed insurance company. The judge has set Brown's sentencing date for Jan. 31, two weeks after this week's hearing.

Judges do not often call for oral arguments on motions for a new trial. So Brown's attorney, Bill Jeffress of Washington, D.C., is optimistic that he will win.

The reason is that Brown was denied access to FBI agent Harry Burton's contemporaneous notes taken during an April 1997 interview with Brown. Prosecutors gave co-defendant Ron Weems, a Shreveport lawyer, copies of the agent's handwritten notes and he was acquitted on all charges, including one count of lying to an FBI agent.

"Our strongest argument is clearly that Jim gets convicted on an interview that the agent said he took notes on and we cannot get the notes, so there's no way to impeach him at trial," Jeffress said. "The law, fortunately, on this is very strong."

The downside is the judge herself. "This motion



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obviously would require her to say she made a mistake," Jeffress said.

Brown, Weems and former Gov. Edwin W. Edwards were acquitted of charges that they conspired to settle the liquidation of Cascade Insurance Co. on terms favorable to its owner, former Shreveporter David Disiere.

But Brown was convicted on seven of 13 charges that he lied to FBI agent Harry Burton. During the trial, Burton testified that Brown made material false statements. Brown testified that he did not make those statements.

When prosecutors asked Burton how he was certain, he said he had taken notes during the interview, typed several days later on an official FBI 302 form, a report of an interview.

Jeffress asked for the handwritten notes. But the judge, in front of the jury, denied the request, saying the typed notes reflected what was on the official report.

Jeffress said the message to the jury was that Burton was truthful.

In his motion for a new trial, Jeffress lists several other incidents in which he believes Burton lied on the stand. Among the incidents is Burton's statement that he had perfect FBI records. While another FBI agent, Karen Gardner, had told defense attorneys that she had filed a sexual harassment suit against Burton that was settled.

In another instance, Burton said he could not recall any contact with former U.S. Attorney Ed Gonzales about Gonzales' investigation of Cascade Insurance. Jeffress attached a copy of Gonzales' notes that show numerous contacts with Burton.

But during the trial, Burton said he never had seen Gonzales' notes so, therefore, Jeffress was unable to use the notes to attempt to impeach Burton's testimony, the lawyer said.

Burton stood by his testimony. "I can't really comment about this matter, which is pending. But, obviously, my testimony in the courtroom was truthful," the FBI agent said.

Jeffress, whose new law partner is James Baker, the lawyer that President-elect George W. Bush sent to Florida to handle the fight over the presidential election recount, said a "fundamental question is why were they -- the government -- so adamant about keeping those notes hidden?"

Said Brown, "I have received great public support. And I am convinced when all is said and done, my name will be cleared and I will once again be insurance commissioner."