"Smoking Guns"

The Rise & Fall of Chief Judge of the State of New York

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[First Abridged Edition]

"When we study law we are ... studying what we shall want [to know] in order to appear before [honest] judges ... . The object of our study, then, is prediction ... . Far the most important ... is to make these prophecies [before honest judges] more precise..."(The Path of the Law, ***Oliver W. Holmes*** 10 *Harvard Law Review* 457 [1897])

"***THE FIX***" is the singular, most important, ingredient that produces or insures a judicial result and can be equated with cancer, which is usually deadly unless recognized and confronted early!

Despite its manifest importance, "*judicial fixing*" is not a topic in the law school curriculum. The law student is *never* shown a single reported decision, which compels the conclusion that it was the product of a "*fix*"; *never* taught how to recognize "*fixed*" judges and/or "*fixed*" situations; *never* taught how judges are "*fixed*", the manner judges "*fix*" each other, or how to confirm whether a judge has been "*fixed*"; the *modus operandi* of "*fixed*" judges, or the dynamics involved in "*fixing*" and the viable options when confronted by a "*fix*".

Law school case books and authoritative texts fair no better, as they prune out *all* cases and references which might suggest any jurist was fixed, compromised, bribed and/or corrupted and/or conceal the evidence of the "*fix*".

Journalist students also are *never* shown any published decision where the compelled conclusion, even to those completely unlearned in the law, is that it was the product of a "*fix*".

"Events" that any reporter would dismiss "out of hand", as "contrived", "fanciful" or an affront to "basic common sense", are republished by respected members of the media, in respected media publications, as the embodiment of "truth" when the only "*source*" is a judicial opinion!

Every disposition from every action, state and federal, revolving around ***Puccini Clothes, Ltd.***, an involuntarily dissolved corporation, and the ***Estate of Eugene Paul Kelly, deceased***, was the product of "***THE HARD FIX***", *to wit.*, the scenario pursued and/or result was ."*impossible*"!

"***Smoking Guns* IA**"

1. When a person is being considered for a judicial position or elevated in the judicial hierarchy, he/she *must* disclose, *inter alia*, *all* actions where he/she was sued in a "*personal capacity*".

The disclosure in 2005 and 2009, by ***Jonathan Lippman*** of the existence and contents of: (i) ***Geo. Sassower v. Riley*** (Supreme, Westchester, #2004-780); (ii) ***Citibank (South Dakota) N.A. v. Geo. Sassower v. Citibank, N.A.*** (Supreme, Westchester #04-4818) and (iii) ***Geo. Sassower v. Starr,*** (#05Adv8655 [SDNY-WP]), in which he was sued in his "*personal capacity*" and defended in that capacity at *unlawful* and/or *unconstitutional* NY State cost and expense, would have "doomed" his nomination and candidacy!

2. For example: An *undenied* and *uncontroverted* allegation in the complaint in ***Geo. Sassower v. Starr*** (*supra*) alleges:

> "***Eliot Spitzer*** and ***Jonathan Lippman***, having fiduciary obligations over the judicial trust assets of ***Puccini Clothes, Ltd.*** and the ***Estate of Eugene Paul Kelly, deceased***, abandoned those obligations in favor of corrupt adversary interests."

An attorney, such as ***Jonathan Lippman***, who "abandons" his "fiduciary obligations in favor of corrupt adversary interests", commits the "*Ultimate Legal Abomination*" and should be disbarred, not elevated to be Chief Judge of the State of New York.

GEORGE SASSOWER, Esq.
Member of NY State & Federal Bars, 1949 to Date.

A Flawless Publication

3. The available evidence, compels the conclusion that ***Jonathan Lippman*** and those acting on his behalf, concealed the existence, contents and dispositions of the above three (3) actions.

4. Fraud and deceit includes concealing what is true, as well as uttering that which is false, which was the basis of condemnation by *every* jurist on the Supreme Court of the United States in ***Hazel-Atlas v. Hartford*** (322 U.S. 238 [1944]), and was the basis for imposing a term of incarceration of eighteen (18) years on ***Reginald Holzer***, a Chicago jurist, for misconduct far less egregious than here described (***U.S. v. Holzer***, 816 F.2d 304 [7th Cir.-1987]).

"*Smoking Guns* IB"

1. For a particular act, a government judge, official or employee can be sued in his/her "*official*" *or* "*personal*" capacity.

A. A "*suit*" against a government judge, official or employee in his/her "*official*" capacity is the same as "suing" the government entity itself (***Kentucky v. Graham***, 473 U.S. 159 [1985]).

With the government defending the judge, official and/or employee, in his/her "*official capacity*", the government defends at government cost and expense, and it satisfies any judgment recovered.

The defenses available to the government in an "*official capacity*" action, are those available to the government, as an entity, and not "*personal*" to the judge, official or employee, unless the statute provides otherwise.

B. Absent vicarious liability, never here present, a "*suit*" against a government judge, official or employee in his/her "*personal*" capacity, can *only* be defended by a non-government attorney, at non-government cost and expense, and it is the judge, official and/or employee, not the government, who satisfies any judgment recovered (***Reeside v. Walker*** (52 U.S. 272 [1851]).

The defenses available to the judge, official or employee sued in his/her "*personal capacity*", are those available to him/her "*personally*", *not* those available to the "*government*".

2. *Pork*, *ear-mark*, or *Christmas Tree* appropriations and expenditures, however needless and extravagant, are "legal" because they have been approved by Congress or the State Legislature, which have control of the Federal and State purses.

Unauthorized governmental expenditures, even those by the President or Governor, are *unlawful*, and in addition to the obligation to provide "*restitution*" to the government, they are punishable by fines and, terms of incarceration!

3. In *every* money damage action, state or federal, trial and appellate, "revolving around" ***Puccini Clothes, Ltd.*** and/or the ***Estate of Eugene Paul Kelly, deceased***, the government judge, official and employee was sued and defended in his/her "*personal*" capacity.

Thus, in *each* instance, the jurist, official and/or employee had to be defended by a non-government attorney, at non-government cost and expense.

Nevertheless, in *each* instance, the judge, official and/or employee was defended by a government attorney, at government cost and expense, although *unauthorized* and legally "*impossible*"

Consequently, in *each* instance, the official books and records had to be "*cooked*" to conceal the *unauthorized* and/or *unconstitutional* expenditures made.

4. In ***Geo. Sassower v. Riley*** (*supra*), separate "Notices to Admit", both dated July 7, 2004, were served on ***Jonathan Lippman*** and ***Eliot Spitzer***, and in each of them, none of the assertions contained therein were denied by either of them or by their attorney, Assistant NY State Attorney General ***Rachel Zaffrann***, who defended each of them, at *unauthorized* NY State cost and expense.

Except for the name, ***Lippman*** or ***Spitzer***, the assertions made in "Part A" were the same, and read as follows:

"Part `A':

1. The defendant, ***Jonathan Lippman*** , Esq. [***Eliot Spitzer***, Esq.] is aware that he is being sued in this action, in his personal capacity, for money damages, for conduct adverse to the legitimate interests of New York State and his official office.

2. The defendant, ***Jonathan Lippman***, Esq., [***Eliot Spitzer***, Esq.] is aware that in this personal capacity action, he is being defended by Assistant NY State Attorney General ***Rachel Zaffrann***, at unauthorized NY State cost and expense.

3. The defendant, ***Jonathan Lippman*** ,Esq., [***Eliot Spitzer***, Esq.] is aware that the NY State Attorney General and his office is and intending to `cook' their official books and records in order to conceal from NY State fiscal authorities, including the NY State legislature, that unlawful expenditures have been and are being made."

Thus, as admitted by ***Jonathan Lippman*** and ***Eliot Spitzer***, the defense and expenditures were was *unauthorized,* which has penal consequences and compelled "*restitution*"!

Indeed, these expenditures were prohibited by Article XIII §7 of the ***New York State Constitution***, which provides [with emphasis supplied]:

> "Each of the state officers named in this constitution shall, during his or her continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he or she shall have been elected or appointed; *nor shall he or she receive to his or her use any fees or perquisites of office or other compensation.*"

5. At no time or place has anyone ever asserted that compelling ***Alan G. Hevesi***, the former New York State Comptroller, to reimburse ***The State of New York*** for the *unlawful* NY State expenditures made by him for his ailing wife were improper.

Since the *unlawful* expenditures made and/or authorized by ***Jonathan Lippman*** and/or ***Eliot Spitzer*** were astronomical leaps more egregious than those made by ***Alan G. Hevesi***, no one could possibly justify not compelling them to make "*restitution*" to ***The State of New York***, for the *unconstitutional* expenditures made on their "*personal*" behalf!

6. In view of the documentary evidence in the White Plains, Westchester County Courthouses, State and Federal, available to anyone, a ***NY Penal Law*** §195 ("***Official Misconduct***") prosecution of ***Jonathan Lippman*** and/or ***Eliot Spitzer***, would be a "*slam dunk*" proceeding, requiring no more than ten (10) minutes of prosecution testimony by a custodian of the relevant documents, for which there could be no possible defense.

"*Smoking Guns* IC"

1. For twenty-five (25) years, NY State judges and judicial officials have been *defrauding* ***The State of New York*** by being defended, in the New York State and Federal courts, in their "*personal*" capacities, at *unauthorized* and/or *unconstitutional* cost and expense.

Jonathan Lippman was appointed to be Chief Administrator of the ***NY State Office of Court Administration***, confident that he, like former Chief Administrators of the ***NY State Office of Court Administration*** ["OCA"], ***E. Leo Milonas*** and ***Joseph W. Bellacosa***, would tolerate NY State judges being defended in their "*personal*" capacities by NY State attorneys, at *unauthorized* and/or *unconstitutional* NY State cost and expense.

2. Amendment XI of the ***Constitution of the United States*** (***Hans v. Louisiana***, 134 U.S. 1 [1890]), is an express "limitation" of federal judicial power.

Absent the very rare exceptions, never here present, *no* federal court can "entertain" a money damage tort action brought by a "*person*" in a federal forum, against a State, its judges, officials and/or employees in their "*official capacities*"!

In such an action, State judges, officials and/or employees can *only* be sued in their "*personal capacities*".

However, in such "*personal capacity*" action, the State judge, official and/or employee, can *only* be defended by a non-State attorney, at non-State cost and expense.

3A. Twenty-five (25) years ago, in NY Supreme Court, New York County, in actions by ***Hyman Raffe***, the most major stockholder-creditor in ***Puccini Clothes, Ltd.***, NY State officials and judges, such as, ***Xavier C. Riccobono*** and ***David B. Saxe***, sued in tort, for money damages, in their "*personal capacities*" were defended in their "*personal capacities*" by Senior Assistant NY State Attorney General ["NYSAG"] ***David S. Cook*** of the Office of NYSAG ***Robert Abrams***, at *unauthorized* NY State cost and expense (***Raffe v. Saxe, Riccobono, et el***, Supreme, NY #84-25337), although legally "*impossible*"!

Consequently, because of the "*fixing*" activities by NY Supreme Court, Administrator ***Xavier C. Riccobono***, an action was filed in the U.S. District Court, where such NY State representation, at NY State cost and expense, was *unconstitutional* by reason of Amendment XI/Hans (***Raffe v. Doe*** (SDNY #84-6272 [WCC]).

Seven (7) months *before* ***Raffe v. Doe*** (*supra*) was filed, ***Pennhurst v. Halderman*** (465 U.S. 89, 121 [1984]) was rendered, wherein the Court *directed* [emphasis supplied]:

> "[a] federal court must examine each claim in a case to see if the court's jurisdiction over that claim is barred by the Eleventh Amendment (***Hans v. Louisiana***, *supra*)."

Such "directive" comports with *all* actions where "subject matter jurisdictional" infirmities exists, compelling the court to *sua sponte* examine the issue, since the parties are not free to waive the defect!

Thus, an Amendment XI/Hans violation, even when not addressed and/or unintentional, results in a "subject matter jurisdictional" infirmity and renders the merit dispositions made to be "*null* and *void*" (***Pennhurst v. Halderman,*** *supra*)!

Although six (6) NY State judges and officials were sued in their "*personal capacities*", which is the *only* capacity in which they could be sued in the federal forum, they were defended at *unconstitutional* cost and expense, by Assistant NYSAG ***Jeffrey I. Slonim***, who was "paired" with Senior Assistant NYSAG ***David S. Cook*** in the Office of the NYSAG.

Five (5) of the six (6) NY State money damage defendants in ***Raffe v. Doe*** (*supra*), *to wit.*, ***Xavier C. Riccobono***, ***Robert Abrams***, ***David S. Cook***, ***Donald Diamond*** and ***Michael J. Dontzin***, received and/or were promised "*bribes*" from ***Citibank, N.A.***

Three (3) of the five (5) NY State defendants had been promised "*bribes*" by ***Citibank, N.A.***, whose "*source*" was ***Puccini Clothes, Ltd.***, an involuntarily dissolved corporation, where the NYSAG was the statutory fiduciary.

Since such expenditures were *unconstitutional*, New York State books and records had to be "*cooked*" in order to conceal same from NY State fiscal authorities, including the NY State Legislature, which controls the state purse, as a response to a ***Freedom of Information Law*** ["FOIL"] request ["FOIL" #03-540) confirms.

Thus, by the "hard print" publication of ***Raffe v. Doe*** (619 F. Supp. 891 [SDNY-1985]), U.S. District Court Judge ***William C. Conner*** was openly flaunting, in "hard published print", that he was a "*fixed*" and "*corrupt*" federal jurist.

Obviously, *before* Assistant NYSAG ***Jeffrey I. Slonim*** appeared for the six (6) New York State defendants in ***Raffe v. Doe*** (*supra*), he and his rogue clients, *all* law school graduates, *knew* that U.S. District Court Judge ***William C. Conner***: (i) had been "*fixed*", (ii) would *not* address the constitutional, Amendment XI/Hans, "subject matter jurisdictional" and other lethal infirmities, albeit mandatory, and (iii) although they *knew* the merit dispositions made were "*null* and *void*", an accusation, repeatedly made and *never* denied.

Raffe v. Doe (*supra*) is *inundated* with legal, ethical and rational, infirmities, to the point that anyone with a modicum of common sense, can easily recognize that it was the product of a "*fix*".

In the past almost twenty-five (25) years, U.S. District Court Judge ***William C. Conner*** has *repeatedly* been challenged to "swear under oath" or "affirm under penalty of perjury" that ***Raffe v. Doe*** (*supra*) is valid, particularly as to the undersigned, over whom he had no "*personal jurisdiction*". He has *repeatedly* refused!

Here, once again, U.S. District Court Judge ***William C. Conner*** is publicly challenged to "swear under oath" or "affirm under penalty of perjury" that the merit dispositions made in ***Raffe v. Doe*** (*supra*) are valid, particularly as to the undersigned. He will again refuse!

B. More than (20) years *after* ***Raffe v. Doe*** (*supra*) was published, with no one ever denying that the merit dispositions made therein were "*null* and *void*", as constitutionally infirm and a fraud upon the NY State purse, Assistant NYSAG ***Katherine E. Timon***, appeared for ***Francis T. Murphy***; ***Eliot Spitzer***; and ***Jonathan Lippman***, with like knowledge that the merit dispositions were lethally infirm (***Geo. Sassower v. Starr***, 338 BR 312 [SDNY-2006]).

Obviously, also *before* Assistant NYSAG ***Katherine E. Timon***, appeared for ***Francis T. Murphy***; ***Eliot Spitzer***; ***Jonathan Lippman*** and others in ***Geo. Sassower v. Starr*** (*supra*), they *knew* that U.S. Bankruptcy Judge ***Adlai S. Hardin, Jr.***: (i) had been "*fixed*", (ii) would *not* address the constitutional, Amendment XI/Hans, "subject matter jurisdictional" and other lethal infirmities, albeit mandatory, and (iii) *knew* the dispositions made were "*null* and *void*".

Absent articulated justification "*reimbursement*" to the ***State of New York*** is a ministerially imposed obligation by ***Timon, Murphy; Spitzer*** and ***Lippman***!

4. Notwithstanding the "judicial admissions" by ***Jonathan Lippman*** and ***Eliot Spitzer*** of the *unauthorized* NY State expenditures made by their "*personal*" defense representation (***Geo. Sassower v. Riley***, *supra*), Assistant NYSAG ***Katherine E. Timon***, *also* appeared for ***Jonathan Lippman***, ***Elliott Spitzer***, ***Francis T. Murphy***, ***Xavier C. Riccobono***; ***Ira Gammerman***, ***Donald Diamond***., ***David B. Saxe*** and others in ***Citibank (South Dakota) N.A. v. Geo. Sassower v. Citibank, N.A.*** (*supra*), at *unauthorized* NY State cost and expense.

For "*bribe*" payments of $5,000,000, NY State, Appellate Division, Presiding Justice ***Francis T. Murphy*** of the First Judicial Department and NY State, Supreme Court Administrator ***Xavier C. Riccobono*** of New York County, promised ***Citibank, N.A.*** and its entourage civil, criminal and disciplinary immunity.

NY Supreme Court Justice ***Ira Gammerman*** and NY Referee ***Donald Diamond***, both of New York County were to consummate the transmission of the "*bribe*" payments.

Acting NY Supreme Court Justice, now NY Appellate Division, Associate Justice ***David B. Saxe*** of the First Judicial Department and NY Referee ***Donald Diamond*** "*laundered*" the "*bribe*" payments from a "*source*" where "*public accountings*" are mandatory, through their offices.

The NYSAG, including ***Eliot Spitzer***, provided defense representation for these rogue jurists and officials in their "*personal capacities*", while *betraying* his fiduciary obligations to ***Puccini Clothes, Ltd.*** and the ***State of New York***.

The Office of Court Administration, including its Chief Administrator, ***Jonathan Lippman,*** was an essential participant in this criminal racketeering operation, whose activities included permitting judges sued in their "*personal*" capacities, to being defended by NYSAG attorneys, at *unauthorized* NY State cost and expense, and tolerating the failure to file mandatory documents, such ***NY Judiciary Law*** §35-a Statements!

With or without a criminal proceeding, "*restitution*" to the ***State of New York*** by all of the above is compelled . . . . . The Worst Is Still To Come

"*Smoking Guns* IIA"

1. *All* the judicial trust assets of ***Puccini Clothes, Ltd.*** were made the subject of larceny, engineered by ***Citibank, N.A.*** and ***Kreindler & Relkin, P.C.*** ["K&R"], its "estate chasing attorneys", leaving *nothing* for its nationwide legitimate creditors.

Puccini Clothes, Ltd., is *only* an extreme example of the usual, common and ordinary, where an involuntarily dissolved corporation has substantial assets, although the plundering of assets, rather than outright larceny, is the usual *modus operandi*!

In every court, in every jurisdiction, state and federal, trial and appellate, where a judicial trust or a court-appointed receiver is involved, a "p*ublic accounting*" is "*mandatory*"(75 ***C.J.S.*** *Receivers* §448, p. 617; 65 ***AmJur2d*** *Receivers*, §278, p. 861), since the "public" is entitled to know if its judges and/or their appointees are "crooks".

In New York, a court-appointed receiver, <u>*must*</u> "*account*", "at least once a year" (22 ***NYCRR*** §202.52[e]) and <u>*after*</u> the expiration of eighteen (18) months, the NYSAG, the statutory fiduciary, <u>*must*</u> make application to compel the court-appointed receiver "*to account and distribute*" (***NY Bus. Corp. Law*** §1216).

2A.. The initial "hard evidence" of the engineered larceny of the judicial trust assets of ***Puccini Clothes, Ltd.*** surfaced in November of 1983 when ***Citibank-K&R*** attempted to make "*bribe*" payments of $170,000 from the judicial trust assets of ***Puccini Clothes, Ltd.***, by "laundering" such monies, through the offices of Acting NY Supreme Court, now Associate Appellate Division Justice, ***David B. Saxe***, of the First Judicial Department.

For <u>*betraying*</u> ***Puccini Clothes, Ltd.***, their judicial trust, resulting in a judgment over in favor of ***Hyman Raffe*** against ***Puccini Clothes, Ltd.*** in the sum of $475,425.86, ***Citibank-K&R*** promised ***Feltman, Karesh, Major & Farbman***, Esqs ["FKM&F"], the law firm of ***Lee Feltman***, Esq., the court-appointed receiver of ***Puccini Clothes, Ltd.***, one-third (1/3) of the recovery, or approximately $160,000.

Thus, for <u>*betraying*</u> ***Puccini Clothes, Ltd.*** to the extent of $475,425.86, ***Feltman-FKM&F*** were going to receive $160,000 from its assets!

B. ***Citibank-K&R*** also attempted make a "*bribe*" payment of $10,000 to ***Rashba & Pokart*** ["R&P"] who, as a court-appointed investigatory accountants, attempted to conceal ***Citibank-K&R*** larceny of the assets of ***Puccini Clothes, Ltd.***!

In the few months that followed, the "hard evidence" of the ***Citibank-K&R*** engineered larceny of Puccini's assets and their other criminal conduct, reached avalanche proportions.

C. Also surfacing came the conclusive evidence of the involvement of NY State, Appellate Division, Presiding Justice Presiding Justice ***Francis T. Murphy*** in the criminal racketeering adventure of ***Citibank, N.A.*** (<u>see</u> ***Barr v. Raffe***, 97 A.D.2d 696, 468 N.Y.S.2d 332 [1st. Dept.-1983])

3. The surfacing of the "hard evidence" resulted in a formal agreement by and on behalf of ***Citibank, N.A.*** with NY Appellate Division Presiding Justice ***Francis T. Murphy*** of the First Judicial Department and NY State Supreme Court Administrator ***Xavier C. Riccobono*** of New York County, that for $5,000,000 in "*bribes*" it, its attorneys and co-conspirators, would be provided with "***total civil, criminal and disciplinary immunity***"!

To conceal its own prior larceny of the judicial trust assets of ***Puccini Clothes, Ltd.***, ***Citibank, N.A.*** insisted that the payment of $4,200,000 in "*bribes*" from its own assets was conditioned on the transmission of the remaining cash assets in ***Puccini Clothes, Ltd.***, in the approximate amount of $800,000, to members of the judiciary, openly asserting that no judge would order an "*accounting*", albeit mandatory, if it revealed that members of the judiciary were the recipients of "*bribes*"!

4. To advance and conceal this criminal racketeering enterprise, NY Appellate Division Presiding Justice ***Francis T. Murphy*** had Chief Judge ***Judith S. Kaye*** of the State of New York appoint NY Associate Appellate Division Justice ***E. Leo Milonas*** of the First Judicial Department to be Chief Administrator of the OCA.

There was no rational or financial reason for the appointment of Associate Justice ***E. Leo Milonas*** as Chief Administrator of the OCA, except to advance "***The Citibank Bribes For Total Immunity Enterprise***"!

Thereafter, the appointment of ***E. Leo Milonas*** by Chief Judge ***Judith S. Kaye*** to the Commission to inquire into the "***Pay to Play Racket***", revolving around "***Fiduciary Appointments***", was a statement that neither Chief Judge ***Judith S. Kaye*** or Chief Administrator ***Jonathan Lippman*** would escape implication in such activities, when the evidence was to the contrary.

5. "Part B 1-4" of the "Notice to Admit" of July 7, 2004, is the <u>same</u> for ***Jonathan Lippman*** and ***Eliot Spitzer***, with "5-11" appearing only in the "Notice to Admit" for ***Eliot Spitzer***" – <u>*all*</u> of which was *undenied* and *uncontroverted*:

<u>"Part "B"</u>:

1. There is no `final accounting' for the judicial trust assets of ***Puccini Clothes, Ltd.***, an involuntarily dissolved New York corporation (*cf.* 22 ***NYCRR*** §202.52[e]).

2 There is no judgment or final order terminating the Puccini judicial trust proceedings.

3. There is no order discharging ***Lee Feltman***, Esq., the court-appointed receiver for Puccini.

4. There is no order discharging ***Fidelity & Deposit Company of Maryland***, [hereinafter `F&D'] Feltman's surety.

5. The New York State Attorney General [hereinafter `NYSAG'] is the statutory fiduciary for all involuntary dissolved New York corporations.

6. As the statutory fiduciary, the NYSAG has extensive, almost limitless, powers over court-appointed receivers (*e.g.*, ***NY Bus. Corp. Law*** §1214) and some mandatory `duties' (*e.g.*, ***NY Bus. Corp. Law*** §1216).

7. As a mandatory `duty', permitting no discretion whatsoever, the NYSAG must make application to the court and compel a court-appointed receiver to file a `final accounting' and make `distribution' after the expiration of eighteen (18) months.

8. Neither NYSAG Spitzer, nor any of his predecessors in office, have ever made an application to compel a Puccini `accounting', albeit mandatory.

9. Neither NYSAG Spitzer, nor any of his predecessors in office, have ever rendered any act of significance intended to benefit Puccini, its stockholders or nationwide creditors.

10. A fiduciary, such as Spitzer, and his predecessors in office, as a matter of law, cannot legally represent interests which are acting adversely to Puccini, his statutory trust.

11. At the present time, Assistant NYSAG ***Charles F. Sanders*** is defending ***Donald Diamond*** and Assistant NYSAG Rachel Zaffrann is defending ***Fred L. Shapiro*** whose activities have included diverting Puccini's judicial trust assets to private pockets, and who are being sued in their private capacities.

12. The books and records of the NYSAG are being and intend to be `cooked' to conceal from NY State fiscal authorities, including the NY State legislature, the unauthorized disbursements being made on their behalf."

6. "Part C" of the "Notice to Admit" of July 7, 2004, is the <u>same</u> for ***Jonathan Lippman*** and ***Eliot Spitzer***, <u>*all*</u> of which were *undenied* and *uncontroverted*:

"Part C":

1. There are none of the mandatory ***Judiciary Law*** §35-a Statements by Acting NY Supreme Court, now NY Associate Appellate Justice, ***David B. Saxe*** of the NY Appellate Division, First Department, or by Special Referee ***Donald Diamond*** or by anyone else for the Puccini judicial trust.

2. Mr. Justice Saxe and Special Referee Diamond dissipated Puccini's judicial trust assets, and other assets, as `bribes' for judges, officials and others.

3. The compelled filing of ***Judiciary Law*** §35-a Statements by Judge Saxe and Referee Diamond would compel restitution to Puccini for these diverted assets.

4. Neither Chief Administrator ***Jonathan Lippman*** [***"Eliot Spitzer"***], nor any of his predecessors in office, have made any effort to compel the filings of ***Judiciary Law*** §35-a Statements by Judge Saxe or Referee Diamond."

7. The Bottom Line: To conceal these monumental "*bribes*" to high-echelon judges and officials and prevent "*restitution*" to the victims, who include ***The State of New York***, there are *none* of these "*public accountings*" albeit mandatory, which unquestionably was a decisive factor in the appointment of ***Jonathan Lippman***, as Chief Judge of the State of New York.

However, without a "*public accounting*" and "*due process*"to everyone having an interest in judicial trust assets, there cannot be a "judgment" or "final order" terminating a judicial trust proceeding, a discharge of the court-appointed receiver or his/her surety.

Today, almost thirty (30) years after ***Puccini Clothes, Ltd.*** was involuntarily dissolved, there is *no* "*public accounting*" for the judicial trust assets of ***Puccini Clothes, Ltd.***, there is *no* "judgment" or "final order" terminating this judicial trust proceeding, *no* order discharging ***Lee Feltman***, Esq., the court-appointed receiver or his surety, ***Fidelity & Deposit Company of Maryland*** ["F&D"], as the Court's Docket Sheet, Supreme: New York, #80-1816 confirms.

"*Smoking Guns* IIB"

1. *All* the disposable assets in the ***Estate of Eugene Paul Kelly, deceased***, were dissipated to satisfy the "*personal*" obligations and/or desires of NY Surrogate Judge ***Ernest L. Signorelli*** of Suffolk County and his appointee, Public Administrator, now Suffolk County Republican Leader, ***Anthony Mastroianni***, leaving *nothing* for any of its beneficiaries, including the prime beneficiaries, three (3) motherless infants, the children of the testator's predeceased daughter!

Anthony Mastroianni, having dissipated *all* disposable assets in the Kelly Estate, to satisfy personal obligations and desires, was then served with a substantial penalty assessment by the ***U.S. Revenue service*** ["IRS"] for *his personal* neglect to pay the Kelly Estate taxes due, although the funds were, at the time, available!

To satisfy this IRS tax penalty, caused by *his own neglect*, he seized the assets in the ***Gene Kelly Moving & Storage Trusts***, wherein the three (3) motherless infants were also the prime beneficiaries

As a result, the three (3) motherless infants received *nothing* from the ***Kelly Estate*** and *nothing* from the ***Kelly Trusts***!

2. In the counties of Suffolk, Nassau and Westchester in New York State, all in the Second Judicial Department, the Public Administrator is a salaried employee, who must "account" and turn over, all commissions received (***NY Surrogate's Court Procedure Act*** § 1207).

Consequently, the Surrogate-Judge in those counties, *never* designates the Public Administrator when the "estate" has significant assets. Instead he appoints one of his other cronies.

In those counties, the Public Administrator is *only* designates the Public Administrator where the estate has no significant assets.

The appointment of Public Administrator ***Anthony Mastroianni*** by Surrogate Judge ***Ernest L. Signorelli*** for the ***Kelly Estate*** was a clear statement that they intended to "screw" the ***County of Suffolk***, as well as the ***Kelly Estate***.

This conclusion was compelled when, immediately upon his designation as the Temporary Administrator of the ***Kelly Estate***, ***Anthony Mastroianni*** appointed ***Vincent Berger***, Esq., who was the political campaign manager of Surrogate-Judge ***Ernest L. Signorelli,*** as his attorney for that Estate when, by statute, the County Attorney, was his attorney.

3. Initially, Surrogate-Judge ***Ernest L. Signorelli*** intended to employ his patronage powers in order to dissipate "estate assets" in his Court, including those in the ***Kelly Estate***, to underwrite his candidacy for Congress. However, his potential adversaries complained, and he was enjoined from sitting as a Surrogate-Judge while being a candidate for Congress (***Signorelli v. Evans, Chief Administrative Judge***, 637 F.2d 853 [2nd Cir.-1980]).

Therefore, Signorelli altered his intentions by having his designee, Public Administrator ***Anthony Mastroianni*** dissipate estate assets in order to satisfy his *personal* obligations resulting from his extra-marital affair, which took place in his judicial chambers. (***NY Post***, June 2, 1981).

Contemporaneously, Public Administrator ***Anthony Mastroianni*** dissipated ***Kelly Estate*** assets to satisfy his own *personal* desires. <u>For example</u>: Instead of mailing a citation to the Sheriff for service, at a statutory cost of less than $25, he gave it to one of his "cronies" who billed the Kelly Estate $1,495.

4. The NY State Attorney General, on behalf of ***The State of New York***, is the *parens patriae* of <u>*all*</u> New York State children, including the three (3) Kelly motherless infants, the children of the predeceased daughter of the testator-settlor in ***Kelly Estate*** and ***Kelly Trusts***.

However, in the ***Kelly Estate*** and ***Kelly Trusts*** the NYSAG chose to defend ***Ernest L. Signorelli***, even when they were adverse to the interests of these motherless infants.

While neither the ***State of Arkansas*** nor ***United States*** satisfied the financial obligations of ***William J. Clinton*** arising out of the philandering activities(*e.g.*, [***Paula***] ***Jones*** v. [***William J.***] ***Clinton***, 206 F.3d 811, 812 [8th Cir.-2000]), the NYSAG, at *unauthorized* NY State cost and expense, defended ***Ernest L. Signorelli***, when sued in his "*personal capacity*, although he had fiduciary obligations to the three (3) motherless infants.

The moral could be that if you desire to engage yourself in extra-marital activities, chose to be a New York judge, rather than President of the United States or Governor of the State of Arkansas!

5A. During this period of time, ***Robert Cimino***, was the Clerk of the Surrogate's Court of Suffolk County, and although the County of Suffolk was being defrauded by this operation, he thereafter became the Suffolk County Attorney and, at County cost and expense continued such fraud by defending ***Anthony Mastroianni*** and his activities, even those which were contrary to County legitimate interests!

B. ***A. Gail Prudenti***, was a clerk in the Office of the Surrogate of Suffolk County, and thereafter she and ***Robert Cimino*** married.

Thereafter, ***A. Gail Prudenti***, became the Suffolk County Surrogate and inherited the ***Kelly Estate***, as an unfinished matter.

While, ***A. Gail Prudenti***, was Suffolk County Surrogate, she was simultaneously appointed to be ***Suffolk County, Supreme Court, Administrative Judge***, by Chief Administrator ***Jonathan Lippman.***

Still thereafter, ***A. Gail Prudenti***, became ***NY State, Appellate Division, Presiding Justice*** of the ***Second Judicial Department***.

C. Despite their successive positions, neither ***Robert Cimino***, Esq., nor ***A. Gail Prudenti***, did anything to finalize the ***Kelly Estate*** or rectify the fraud upon either the ***Kelly Estate***, ***The State of New York*** or ***The County of Suffolk.***

Indeed they have continued and compounded such fraud.

Needless, to say, ***Jonathan Lippman***, as Chief Administrator of the ***Office of Court Administration,*** has done <u>*nothing*</u> to compel the filing of the mandatory ***NY Judiciary Law*** 35-a Statements, since the activities of ***Cinimo-Prudenti*** and others would surface and "*restitution*" would be compelled.

6. Hundreds of thousands of governmental dollars from the treasuries of the ***United States***, the ***State of New York***, the ***Counties of Suffolk, Nassau & Westchester*** were dissipated to advance and conceal the ***Signorelli-Mastroianni*** *personally* motivated adventure, but not one dollar ($1.00) of government monies was spent for the protection of the legitimate interests of the three (3) Kelly motherless infants!

7. Despite the monumental governmental expenditures, *none* of which were for the motherless Kelly infants, today there: (i) is *no* valid "final order" or "judgment" terminating the ***Estate of Eugene Paul Kelly, deceased***; (ii) *no* valid order discharging ***Anthony Mastroianni***; (iii) no valid order discharging F&D, the surety of Mastroianni, and (iv) *none* of the mandatory ***NY Judiciary Law*** §35-a Statements.

8. "Part D 1" of the "Notice to Admit" of July 7, 2004, is the same for ***Jonathan Lippman*** and ***Eliot Spitzer***, with "2-3" appearing only in the "Notice to Admit" for ***Eliot Spitzer***" – *all* of which was *undenied* and *uncontroverted.*

"Part D:

1. There are none of the mandatory ***Judiciary Law*** §35-a Statements by Acting Surrogate, now Supreme Court Justice, ***Burton Joseph*** for awards made from the ***Estate of Eugene Paul Kelly, deceased*** whose almost exclusive beneficiaries were three (3) motherless infants.

2. The State of New York is the ***parens patriae*** for these three (3) motherless infants and the NYSAG is legally obligated to protect their interests on behalf of the state.

3. Instead, the NYSAG has defended those such as Suffolk County Surrogate ***Ernest L. Signorelli*** who dissipated Kelly Estate and other estate assets to satisfy his personal obligations and desires." . . . . . The Worst Is Still To Come

"*Smoking Guns* III"

1. A proposed Order with Notice of Settlement (***Geo. Sassower v. Riley***, *supra)*, returnable February 9, 2004 was served which, in every respect, comported with the legitimate fiduciary obligations of ***Jonathan Lippman*** and ***Eliot Spitzer***.

As a matter of law and ethics, in every respect, such proposed Order should have been supported with "zeal" by ***Jonathan Lippman*** and ***Eliot Spitzer***.

Included in such proposed Order were the following:

"ORDERED, ADJUDGED and DECREED that the respondent, ***Eliot L. Spitzer*** shall, with immediate dispatch take such action as would cause the filing of a final accounting for the judicial trust assets of ***Puccini Clothes, Ltd.***, and distribution of its assets, as provided in ***NY Bus. Corp. Law*** §1216, and it is further

ORDERED, ADJUDGED and DECREED that with immediate dispatch the respondents, ***Eliot L. Spitzer*** and ***Jonathan Lippman*** shall take such action as would cause the filing of ***NY Judiciary Law*** §35-a Statements for ***Puccini Clothes, Ltd.*** and the ***Estate of Eugene Paul Kelly, deceased***, and it is further

ORDERED that until the aforementioned obligations pursuant to ***NY Bus. Corp. Law*** §1216 and ***NY Judiciary Law*** §35-a are fully satisfied, ***Eliot L. Spitzer*** and ***Jonathan Lippman*** shall file with this Court the status of their efforts, with details, and with notice to petitioner ..."

2. ***NY Judiciary Law*** §35-a provides [with emphasis supplied]:

"Statements to be filed by judges or justices fixing or approving fees, commissions, or other compensation for persons appointed by courts to perform services in actions and proceedings.

On the first business day of each week any judge or justice who has during the preceding week fixed or approved one or more fees or allowances of more than five hundred dollars for services performed by any person appointed by the court in any capacity .... shall file a statement with the *office of court administration*....

The statement shall show ..."

Albeit mandatory, there were no such filings during the "***Reign of Jonathan Lippman***" with respect to ***Puccini Clothes, Ltd.*** or ***The Estate of Eugene Paul Kelly***, because it shows the manner "monies" are "*laundered*" by and to members of the judiciary and others, and would compel "*restitution*"!

3. Since neither ***Jonathan Lippman, Eliot Spitzer***, nor anyone else could articulate any opposition to such Proposed Order, including the above provisions, it should have been granted by default.

Instead, employing the "clout" of their high-echelon offices, with the cooperation of NY State, Appellate Division, Presiding Justice ***A. Gail Prudenti*** and NY State, Supreme Court Administrator ***Francis A. Nicolai*** of Westchester County, in order to abort the relief requested in such proposed Order.

4. On September 3, 2004, I published and distributed::

"The Corruption of Chief Administrator *Francis A. Nicolai* & the Justices of the Westchester County Supreme Court"

Not a single word in this and the other publications issued, has ever been denied or controverted.

4. The open corruption involved in aborting the compelling relief request, will be the subject of another publication! . . . . . The Worst Is Still To Come

"*Smoking Guns* IV"

1. As reported by ***United Press, International***, and published, *inter alia*, in the ***NY Village Voice*** on June 6, 1989:

> "By signing three extraordinary agreements Raffe agreed to ... . In exchange, the court agreed to let him go free. The tab so far has come to more than $2.5 million, paid to both the Feltman (***Feltman, Karesh, Major & Farbman***, Esqs. ["FKM&F"]) and Kreindler (***Kreindler & Relkin, P.C.*** ["K&R"]) firms. Raffe continues to pay with checks from his ***A.R. Fuels Co.*** business. `That's outrageous. It's unbelievable. It's disturbing. ... .' Said [NYS] Attorney General [***Robert***] ***Abrams*** when he saw copies of the checks."

These three (3), actually five (5), "extraordinary agreements" are in the possession of the NY State Attorney General, and are available to anyone under the ***Freedom of Information Law*** (FOIL #03-540-169; #03-540-186; #03-540-212; #03-540-223, #03-540-239), and must be seen to be believed.

As long as Raffe keeps paying, and so the written agreements read, he will not be incarcerated. So Raffe pays, pays and pays, to these `judicial indulgence peddlers', under continuous threats that he will be incarcerated, as was ***Geo. Sassower***, Esq. and ***Sam Polur***, Esq., if he refuses."

2. Since these "extortion" payments were being made as a result of non-summary criminal contempt proceedings, these monies are the properties of the ***United States*** and State of New York, *not* ***Citibank, N.A.***, ***K&R*** or ***FKM&F***, which no one, at any time or place, has ever denied (***Gompers v. Bucks Stove***, 221 U.S. 418, 447 [1911]; 17 ***C.J.S.*** *Contempt* §92, at p. 268).

Even before ***Bloom v. Illinois*** (391 U.S. 194 [1968]), which brought non-federal, non-summary criminal contempt under the protective umbrella of the ***Constitution of the United States***, fines and penalties were payable to the State and/or local governments, not to private parties (***Wilwerth v. Levitt***, 262 App. Div. 112; 28 N.Y.S.2d 257 [1st Dept. - 1941]; ***Mutual v. Tietjen***, 73 App. Div. 532, 77 NY Supp. 287 [1st Dept. - 1902]; ***Englander v. Tishler***, *285 App. Div. 1070; 139 N.Y.S.2d 707* [2nd Dept - 1955]).

As stated in 21 ***NY Jur 2d Contempt***, §185, p.568-569:

> "The fine imposed and collected for a criminal contempt in a civil action goes into the public treasury, since it is imposed to punish the person guilty of the contempt, and not to indemnify the moving party (citing numerous cases). .... Accordingly, an order adjudging a party in criminal contempt is improper in so far as it imposes a fine to be paid

to the plaintiff in the action, since any fine for criminal contempt must be paid into the public treasury, not to the opposing party (citing case). Nor can an order punishing a criminal contempt direct payment of the fine to the plaintiff attorney (citing case)."

3. "*Bribery*", is a crime by consenting parties, and usually the payor cannot recover the monies paid since he/she is considered in *pari delicto*!

"*Extortion*", is a crime quantum leaps more egregious, with the parties not considered to be in *pari delicto*.

4. Since the $2,500,000 "*extorted*" from ***Hyman Rafffe***, belongs to the ***United States*** and ***State of New York***, and the amount is "keyed" to my activities in exposing and resisting this criminal racketeering enterprise, and these monies include my monies, I have "standing" on the issue:

However, whenever I move to "*divest*" the ***Citibank*** entourage of any of their Federal and/or NY State "loot" in favor of the ***United States*** and/or ***State of New York***, these motions have never been supported by NYSAG ***Andrew M. Cuomo***, his predecessors in office, ***Jonathan Lippman***, or his predecessors in office, and they have never articulated any justification for their treasonous, perfidious and/or treacherous behavior.

Consequently, <u>today</u>, the ***Citibank entourage*** and their cadre of judges and officials, have <u>*all*</u> their illicit "loot", although entitled to <u>*none*</u> of it, while the ***United States*** and ***State of New York*** , as against ***Citibank entourage*** and their cadre of judges and officials, although entitled to <u>*all*</u> such monies, have <u>*none*</u> if it! . . . . . <u>The Worst Is Still To Come</u>

"<u>*Smoking Guns* V</u>"

1. ***New York Penal Law*** §195.00 ("***Official Misconduct***") provides:

"A public servant is guilty of official misconduct when, with intent to obtain a benefit or deprive another person of a benefit:

1. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or

2. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office."

Dated: White Plains, NY
February 18, 2009

GEORGE SASSOWER

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