

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----x

In the Matter of the Application of
HYMAN RAFFE, individually and on
behalf of PUCCINI CLOTHES, LTD.

Petitioner,

-against-

Hon. XAVIER C. RICCOBONO, as Administrative
Judge of the Supreme Court of the State
of New York, County of New York, and Hon. ETHEL
B. DANZIG and Hon. THOMAS V. SINCLAIR, JR.,
Acting Justices of the Supreme Court of the
State of New York, County of New York,

Respondents.

Pursuant to Article 78 of the CPLR.

-----x

S I R S:

PLEASE TAKE NOTICE that upon the annexed
petition of HYMAN RAFFE, dated and verified the 11th day
of July, 1984, the undersigned will move this Court at a
Stated Term of the Supreme Court of the State of New
York, Appellate Division, First Department, held at the
Courthouse thereof, 25th Street and Madison Avenue, in
the Borough of Manhattan, City and State of New York, on
the 23rd day of July, 1984, at 9:30 o'clock in the
forenoon of that day or as soon thereafter as petitioner
can be heard for an Order (a) mandating that

respondents, be directed to obey the mandate of 22 NYCRR §660.24 in all its terms; (b) directing that all of Puccini's financial books and records be deposited with the Supreme Court, New York County and that respondent, Hon. XAVIER C. RICCOBONO, be mandated to take such steps as may be necessary to account for any financial book or record not delivered to the Court; (c) compelling the respondent, Hon. XAVIER C. RICCOBONO, as Administrative Judge, of the Supreme Court, New York County, as "trustee, to render an "intermediate account" on behalf of Puccini Clothes, Ltd., the court's trust; (d) directing Hon. XAVIER C. RICCOBONO, as Administrative Judge of the Supreme Court, New York County to exhibit the financial books and records of Puccini Clothes, Ltd., to the District Attorney, New York County to determine if there has been any criminal activity since June 4, 1980, with respect to the "trust", Puccini Clothes, Ltd.; (e) directing that any and all motions submitted to Hon. XAVIER C. RICCOBONO enter formal orders, in appealable form on all motions submitted to His Honor; (f) directing Hon. XAVIER C. RICCOBONO, as Administrative Judge to insure that petitioner's right to access to his court not to be unreasonably obstructed, particularly on motions based

on newly discovered evidence, made as of right; (g) directing that all any special rule or regulation regarding Puccini Clothes, Ltd., be in writing and approved by Hon. XAVIER C. RICCOBONO; (h) mandating that a Chinese Wall be placed between the administrative trust obligations of the Supreme Court, New York County and its judicial functions; (i) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

PLEASE TAKE FURTHER NOTICE, that opposing papers, if any, are to be served upon the undersigned at least five days before the return date of this motion with an additional five days if such service is by mail.

Dated: July 11, 1984

Yours, etc.

GEORGE SASSOWER, Esq.
Attorney for petitioner
2125 Mill Avenue,
Brooklyn, New York, 11234
212-444-3403

To: Hon. Xavier C. Riccobono
Hon. Robert Abrams
Att: David S. Cook, Esq.
Hon. Ethel B. Danzig
Hon. Thomas V. Sinclair, Jr.
HON. Donald Diamond
Kreindler & Relkin, P.C.
Feltman, Karesh, & Major, Esqs.
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

-----x
In the Matter of the Application of
HYMAN RAFFE, individually and on
behalf of PUCCINI CLOTHES, LTD.

Petitioner,

-against-

Hon. XAVIER C. RICCOBONO, as Administrative
Judge of the Supreme Court of the State
of New York, County of New York, Hon. ETHEL
B. DANZIG and Hon. THOMAS V. SINCLAIR, JR.,
Acting Justices of the Supreme Court of the
State of New York, County of New York,

Respondents.

Pursuant to Article 78 of the CPLR.

-----x
TO THE HONORABLE JUSTICES OF THE SUPREME COURT
OF THE STATE OF NEW YORK : APPELLATE DIVISION :
FIRST JUDICIAL DEPARTMENT.

The Petitioner, HYMAN RAFFE, individually
and on behalf of PUCCINI CLOTHES, LTD., respectfully
shows and alleges:

1a. Petitioner, HYMAN RAFFE, was and still is
a 25% shareholder of PUCCINI CLOTHES, LTD. ["Puccini"].

b. Additionally, the interest of the
petitioner lies in the fact that he has an unsatisfied
judgment over against Puccini, as a third party
defendant, which, with interest, is about \$500,000.

Puccini is also liable over to petitioner, for other monies expended or which may have to be expended by petitioner under various guarantees (Barr v. Raffe, 97 A.D.2d 696, 468 N.Y.S.2d 332 [1st Dept.]).

2. This petition is made without prejudice to petitioner's simultaneous and/or concurrent application for substantially similar relief, in the federal forum, with the additional assertion that transactional administrative involvements of this Court, actual or constructive, past and present, renders this Court an inappropriate forum for the adjudication of the issues presented herein.

3a. Puccini, a then solvent domestic corporation, was declared involuntarily dissolved by Order of the Supreme Court of the State of New York, County of New York, on June 4, 1980 on the petition of Jerome H. Barr, Esq. ["Barr"] and Citibank, N.A. ["Citibank"], as the executors of the last will and testament of Milton Kaufman ["Kaufman"], as owners of a 25% stock interest in Puccini, represented by Kreindler & Relkin, P.C. ["K&R"], an "associate" of Barr.

b. On information and belief, the only rational purpose for the aforementioned dissolution proceeding was to legitimize a "pay off" by Citibank for Barr's assistance in placing the Kaufman's estate in the portfolio of Citibank, as is its unlawful "estate chasing" custom and practice.

4a. The assets and affairs of Puccini by virtue of the aforementioned Order of June 4, 1980, became custodia legis, the Supreme Court of the State of New York, County of New York ["SC"], itself, becoming the trustee of same, in an administrative capacity, with all the moral and ethical, if not legal, fiduciary obligations of a trustee.

b. In recognition of SC's title and right of possession to Puccini's property, as a result of the Order of June 4, 1980, there were specific provisions contained therein prohibiting everyone, but the court appointed agent or receiver, from dealing with or dissipating Puccini assets, which would be true even if there were no such provisions.

c. The aforementioned Order further provided that Hon. John V. Lindsay ["JVL"] was to be the agent and receiver on behalf of SC in managing the affairs Puccini. The said JVL having been designated in accordance with the provisions of 22 NYCRR §660.24.

For the protection of itself and those beneficially interested in the assets and affairs of Puccini, the SC conditioned the assumption of authority by JVL, on behalf of the SC, on the filing of an oath of office and a bond.

5a. On information and belief, the SC assumption of trusteeship of Puccini's assets and affairs was legally in an administrative, non-immune, capacity, and thus responsible for all administrative losses sustained by Puccini, whether through its own actions or neglect, or by its appointed agents and receivers, or so petitioner claims.

b. Petitioner further claims that albeit any legal responsibility, the SC, of which respondent, Hon. XAVIER C. RICCOBONO, is the Administrative Judge, bears, at least, a substantial moral and ethical responsibility for the manner by which Puccini's assets and affairs were and are managed, whether it be by its own conduct or the conduct of its appointees.

6a. On information and belief, it would be improper, illegal, and unconstitutional for the SC or any court to employ its judicial power and authority to conceal or approve of its own, or of its appointees, administrative misconduct or deficiencies, actual or reasonably perceived.

b. On information and belief, there is a legal, if not constitutional, obligation to distinguish and separate, where reasonable alternatives exists, the administrative, non-immune, obligation to administer from the judicial obligation to decide conflicting claims or judiciable issues.

c. On information and belief, the respondent, Hon. XAVIER C. RICCOBONO, as well as this Court, knows or should know, that despite the mandate of statute, the Attorney General, refuses to employ discretion, in any case, on behalf of "shareholders, creditors or other persons interested in the assets of any corporation for which a receiver has been appointed" (Business Corporation Law §1214) except where the Department of Taxation and Finance may be prejudiced.

d. On information and belief, the respondent, Hon. XAVIER C. RICCOBONO, as well as this Court, knows that no one has taken any legal action, except petitioner (Sup. N.Y. Index No. 11595-1984), to compel the Attorney General to obey the mandate of the statute and employ his "discretion".

7a. On information and belief, upon designation of JVL, who was prepared to accept the designation, an ex parte conversation took place by and between K&R and JVL, or his law firm, wherein the said JVL was "duped" into "delaying qualification".

b. This ex parte conversation and "delay" in qualification occurred without the knowledge of petitioner, his attorney, or the Attorney General, and they had no reason to believe that anything but an exemplary conducted receivership was or would take place under the stewardship of JVL.

c. Although this "delay in qualification" without notification to all interested parties, was a blunder of the first magnitude, it has no moral or ethical implications.

d. The "delay in qualification" by JVL, who was an agent of SC, was without filing of either bond or oath.

8a. Taking advantage of the their own improperly caused absence of the "judicial constable", K&R, their clients, the firm of Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. ["ANBL&K], their clients, and some others descended like vultures and "raped" each and every category of Puccini's assets, including its bank cash account, in such a manner so that presently nothing can be accounted for. Such conduct was criminal larceny of court entrusted assets in every respect.

b. In very late December of 1980, petitioner was informed that K&R and their clients intended to take for themselves all remaining assets of Puccini, under a vote of authority by the old Board of Directors of Puccini.

c. On petitioner's application to SC such purported action by the K&R entourage was held, on January 5, 1981, to be "without effect" by Hon. Edward J. Greenfield.

d. Even this second judicial order did little to prevent the culprits from their course of continuing larceny of judicially entrusted assets.

e. When the appointed Receiver, JVL, recognized that he was victim of a ploy, and the probability of misconduct in his absence, he, more than seven (7) months after appointment, requested that his designation be cancelled.

f. It was not until February 1982 that a new receiver was designated to replace JVL, again employing the procedures mandated by 22 NYCRR §660.24.

9a. To help conceal their misconduct, the K&R entourage, wilfully disobeyed the Order of June 4, 1980, which required that the operating officers, Eugene Dann ["Dann"] and Robert Sorrentino ["Sorrentino"], file an extensive Schedule of Information regarding the financial affairs of Puccini. The petitioner was at all times a non-operating officer of Puccini, never in possession of its books and records, and assumed that JVL was properly taking care of this informational matter also.

b. To further conceal their misconduct, K&R retained the accounting firm of Rashba & Pokart ["R&P"], with whom the culprits had a disqualifying relationship, to prepare for them and/or their clients, Barr and Citibank, a deceptive financial statement of Puccini, which they did.

c. On information and belief, K&R, ANBL&K, and their clients, having reason to believe that R&P would not take funds directly from the Puccini account for their services, since they knew that such monies would have been unlawfully taken, instead unlawfully took \$10,000 from the Puccini account and placed it in the account of ANBL&K.

d. For their services, R&P billed K&R and/or their clients the sum of \$6,200, which was paid out of the "laundered" monies by ANBL&K.

10a. During the active existence of Puccini, the four (4) aforementioned stockholders had executed joint and several cross-guarantees with the financing arranged by Kaufman and petitioner at their respective banking institutions.

b. Kaufman's financing was primarily at Citibank and at his death, Citibank found itself in a conflicting creditor's and fiduciary position.

c. An internecine war broke out between the commercial and fiduciary departments at Citibank, with the commercial department seizing Kaufman's assets.

d. The fiduciary department subordinated itself to the commercial department in its initial action against Puccini and the remaining stockholders.

11a. In August of 1980, instead of suing Puccini for 100% indemnification for the monies seized by Citibank, and jointly and severally against the other three (3) stockholders for 75% contribution, as would be proper, normal, and proper practice, K&R instead sued petitioner alone for 75%, or for approximately \$120,000 less than could be collected from suing Puccini, the 100% guarantor.

b. Petitioner and his attorney suspecting a conspiratorial arrangement between K&R and ANBL&K, brought in Puccini, Dann, and Sorrentino as third party defendants.

c. Thus, by this pincer movement by petitioner, his legitimate interests were similarly aligned with that of Puccini, Dann, and Sorrentino, in this guaranty lawsuit, since any judgment against petitioner resulted in a judgment over against the third party defendants.

d. By a similar pincer movement, in the dissolution proceeding, the petitioner always placed the legitimate interests of Puccini in conflict with the legitimate interests of K&R's clients, Dann, and Sorrentino.

e. Until the recent disclosure of documentary evidence, this consistent and overt betrayal of trust and client's interests became the "smoking guns" of an unlawful conspiracy.

f. Unintentionally, also it became the "smoking guns" of the lack of integrity, if not outright corruption, of the SC.

12a. K&R back-dated their motion for summary judgment on the guaranty action against petitioner, staying petitioner's motion for sanctions for K&R's failure to respond to his interrogatories.

Petitioner's attorney opposed claiming, inter alia, that he suspected K&R and their clients had unlawfully dissipated Puccini's assets and thus prejudiced petitioner's right of indemnification from Puccini. He also cross-moved against the third party defendants.

The legitimate interests of ANBL&K, as the attorney for the third party defendants, was to support petitioner in defeating K&R's motion, and thus defeating petitioner's cross-motion over. ANBL&K had the testimonial knowledge to prove petitioner's attorney's suspicions.

Instead ANBL&K, who was in default and had no standing, in Lazarus fashion arose from the dead, and cross-move to disqualify petitioner's attorney. Petitioner's attorney responded to such cross-motion which mandated the defeat of such cross-motion.

K&R and ANBL&K, receiving petitioner's attorney's opposing papers to such cross-motion, sensing the obvious merit to the opposition, "switched" and made "substitutions" in the court submitted papers, so that petitioner's attorney's papers which made "sense", now read as "nonsense".

Petitioner's attorney was disqualified as a result thereof, resulting also in the denial of K&R's motion, without prejudice to renewal.

The "switch" in papers were thereafter discovered on inspection of the court submitted papers at the County Clerk, but SC refused to change its determination because of same.

This Court affirmed.

To petitioner and his [former] attorney, this disqualification motion which were contrary to the legitimate interests of the ANBL&K's clients, gave great support to their conspiracy theory, particularly since it indicated the extreme lengths the culprits were willing to go.

The culprits had calculated that with the disqualification, petitioner would collapse! -- They were wrong -- It proved that petitioner and his attorney were "right on target" in their suspicions!

b. K&R renewed its motion for summary judgment.

Petitioner followed the same procedure as previously, but now with greater assurance of his prior accusation of an unlawful dissipation of assets.

In response to petitioner's opposition, K&R submitted the perjured affidavit from Charles Zangara, Vice President of Citibank, one of the executors, which stated:

"... Raffe claims that the plaintiffs and the third-party defendants have entered into some unspecified agreement, ... pursuant to which the 'assets [of Puccini] have been dissipated for the benefit of plaintiffs'. Once again, no documentary evidence is offered in support of this groundless assertion. ...

The unsupported and baseless charge that the Estate has dissipated the assets of Puccini Clothes, Ltd. is totally false. The Estate has received no monies whatsoever from Puccini Clothes, Ltd. [emphasis supplied]

Clearly, K&R would not have submitted such perjurious affidavit had it not known beforehand that the new receiver, Lee Feltman, Esq. ["LF"], his law firm, Feltman, Karesh & Major, Esqs. ["FK&M"], and ANBL&K would not expose its perjurious nature.

Not to expose such perjury by K&R and its client, would mean that petitioner would obtain a judgment over against Puccini for about \$500,000.

The Receiver, LF, and his law firm, FK&M, deliberately chose to betray LF's court appointed trust, and remain silent!

ANBL&K also deliberately decided not to expose the K&R's perjurious submitted statement, and as a consequence thereof, a judgment over against their clients in the sum of two-thirds the amount was recovered!

The Court, per Hon. Thomas V. Sinclair, Jr., relying on such perjurious affidavit by Citibank, as well as the silent betrayal of trust and clients, by LF, FK&M, and ANBL&K, and without affording petitioner pre-trial disclosure, which he requested even before K&R moved for summary judgment, stated:

"Defendant's papers herein, other than the vague allusion to a 'secret agreement' between Dann, Sorrentino, and Puccini Clothes, Ltd., contain nothing to substantiate its claim of wrongdoing on the part of plaintiffs."

Given the fact that it was Citibank which executed the aforementioned perjurious affidavit submitted by K&R, and the silence of the K&R co-conspirators, who had knowledge of the true facts and whose clients were adversely affected by non-disclosure, Hon. Thomas V. Sinclair, Jr., could hardly be blamed for relying on the veracity of the K&R submission.

c. Hon. Thomas V. Sinclair, Jr. was now to join the ranks of JVL in being duped by K&R!

13. This fraud probably would have not occurred had LF not evaded the mandated procedures of 22 NYCRR §660.24, in the appointment of his attorneys, who were thereafter to seek and receive substantial monies for betraying Puccini!

14a. Petitioner, still convinced the accuracy of his suspicions, now concentrated on LF and FK&M for an accounting!

b. When they no longer could resist petitioner's demands for an accounting, as a clear dilatory tactic, LF made application for the appointment of investigatory accountants to respond to the following questions:

1. "Are there any assets of Puccini Clothes, Ltd, that you [the receiver] do not have in your possession?"

2. Was the inventory of Puccini disposed of in a commercial reasonable manner?

3. Were any assets of Puccini disposed of between June 4, 1980 and February 4, 1982?

4. Do you [the receiver] have all of the books and records of original entry that a company such as Puccini would normally maintain in the regular course of business?"

c. Were the investigatory accountants to respond to the above questions to be appointed in accordance with the mandatory provisions of 22 NYCRR §660.24? -- Of course not!

The purpose of the conspirators was to delay and conceal, not disclose!

The investigatory accountants desired by LF, the court appointed receiver, to have the imprimatur of the SC was -- R&P -- whose clients include K&R and/or the Estate of Kaufman, and the firm to whom ANBL&K paid \$6,200 in "laundered" funds unlawfully taken from Puccini!

The only accused parties at the time, were K&R, ANBL&K, and their clients -- so to investigate such accusation, LF, the court appointed receiver operating under "color of law", to respond to these questions was to be the accountants for the accused, and those who "laundered" monies to it! --- How obscene!

Did LF or his law firm, FK&M, disclose these relationships to the Court? --- No!

Did K&R or their clients disclose such relationship to R&P to the Court? --- No!

Did ANBL&K disclose such relationship to R&P to the Court? --- No!

Did R&P disclose such relationships to K&R and ANBL&K to the Court? --- No!

Did the Court request that the relationship be disclosed when petitioner made his strong accusation? --- No!

That there was a pre-existing relationship was as conspicuous as large as a herd of elephants in this Court's courtroom!

The Court, per Hon. Martin H. Rettinger, ignored 22 NYCRR §660.24 and approved R&P to do the investigation!

The application delayed disclosure and/or an accounting for eight months.

d. But the defalcations were so huge that the Receiver and his law firm realized that even R&P could not conceal the larceny that had taken place, so they never requested R&P to make the investigation and report regarding the above four (4) questions!

To all demands for such report, the perjurious response from the Receiver and his law firm was that it was forthcoming!

15a. The tardy and evasive responses given by K&R to the August 18th, 1983 order of this Court, further confirmed petitioner's theory of wrongdoing (Barr v. Raffe, 96 A.D.2d 800, 466 N.Y.S.2d 340 [1st Dept.]), more by the concealment than the disclosures made.

b. On November 7, 1983, four (4) days after Barr v. Raffe (97 A.D.2d 696, 468 N.Y.S.2d 332 [1st Dept.]), petitioner's agent and former attorney, inspected a few of Puccini's financial books and records and in five (5) minutes enough had been seen to answer the above four (4) questions and to have shocked even Harding's "Ohio gang" -- it was gang rape -- "Fall River style" -- open and arrogant!

c. Now, the demands for the R&P report, eight (8) months after the authorization by the Court for R&P to report on their client(s) and those who "laundered" monies to them, became very loud and clear.

d. It is forthcoming were the perjurious responses from the receiver and his law firm!

e. In fact it was only after petitioner's inspection of November 7, 1983 and after the reverberating demands for the court authorized report -- did the receiver and his law firm back-date a letter requesting R&P to investigate and report!

16a. Petitioner recognizing the weak link in this corrupt conspiracy was the accounting firm, R&P, and now he focused in on such accounting firm.

b. It took the combined pressure of judicially made demands to produce (ignored), judicial subpoena's (ignored), complaints to the District Attorney (ignored), the Disciplinary tribunal, and finally a Federal action against R&P, in order to produce a report of March 5, 1984, filed in Federal Court.

c. Despite an effort to conceal -- the Report was not a "smoking gun", but a "thermonuclear bomb" of criminal larceny, perjury, betrayal of trust and clients, and criminal concealment!

17a. During the partial disclosure period between November 7, 1983 and March 5, 1984, petitioner made many applications for further disclosures and for the undoing of prior order of SC based upon fraud, concealment, and outright perjury, which included accusations against the court appointed receiver and his law firm.

b. "Court appointed receiver", the manner in which LF, and his conspirators always describes him is a euphemistic phrase in judicial circles, as this Court must be aware, meaning that he is a close friend of a colleague on the court and entitled to favored treatment.

c. In the Puccini matter, such "friend" status was and is not only important, it was and is decisive!

d. Was the receiver and his law firm condemned and/or removed for taking consistent positions adverse to the interests of Puccini -- of which the SC was trustee -- or for perjury, concealment, misrepresentations, and other egregious conduct?

--- No!

Was K&R, ANBL&K, or their clients condemned for their larceny, perjury, concealment, fraud, betrayal of clients and other egregious conduct?

--- No!

Was or is there the slightest sense of legal, ethical, or moral responsibility of the SC towards its trust -- Puccini? --- No!

In the SC the one that is condemned, with at times, draconian penalties, is the exposor of this judicial corruption, as a variety of opinions reveal -- without exception!

18a. Unavoidably, the R&P report, filed in Federal Court, states that every category of assets have been unlawfully dissipated or cannot be accounted for because most of Puccini's financial books and records which R&P saw after June 4, 1980, are now unavailable, and during this entire period exclusive care and custody of Puccini's books and records were with the "hard core" co-conspirators!

b. Clearly, perjurious are the sworn affidavits by the Receiver in SC and in Federal Court that he has all of Puccini's financial books and records and that R&P confirmed to him and his law firm such fact!

c. With ANBL&K swearing they turned over all of Puccini's financial books and records to the Receiver, LF, confirmed by LF and his law firm, it is apparent that either the Receiver jettisoned or is secreting such books and records from petitioner, R&P, and the SC.

19a. Knowing that the R&P Report would produce a massive stream of applications by petitioner based upon documented fraud and perjury, and knowing one jurist can more easily be controlled than a number of them, the Receiver proceeded to make informal application to the respondent, Hon. XAVIER C. RICCOBONO, for a single jurist.

b. Again, informally, over procedural objection that the application be made by formal motion resulting in an appealable order, the administrative judge, appointed Hon. DONALD DIAMOND, Official Referee to "hear and report" or "hear and determine" all Puccini related motions.

c. However initially intended, the message is clear that the constitutional right to "access to the court" is to be denied to petitioner. Applications for renewal, made as of right, will not be entertained.

The Constitution of the United States, the Civil Practice Law and Rules, the directives of this Court are all to be ignored or disregarded in the process!

Every and any procedural obstacle was to be interposed between petitioner or anyone having an interest in Puccini and the SC, even protests, appeals, and Article 78 proceedings!

As for the trust obligation of the SC for Puccini -- one does not even hear the "voice of a turtle"!

20. Some of the relief requested of this Court on this application, is as follows, with brief explanation:

a. A directive that 22 NYCRR §660.24 be obeyed in all its terms.

This directive, in the Puccini matter, is continually -- every day -- being ignored by every jurist at nisi prius, to the extent that any and all compensation requested for by the Receiver is granted, petitioner and all those having an interest in Puccini, who protest such "judicial rape", are unbelievably declared to have no standing!

b. All of Puccini's financial books and records are to be physically deposited with its "trustee" -- the SC -- and made available for inspection by interested parties. The respondent, Hon. XAVIER C. RICCOBONO, be mandated to take such steps as may be necessary to account for any financial book or record not delivered to His Honor.

Each judicial request made by petitioner for the production of such books and records have been incredibly denied by SC, sometimes with penalties imposed for making such application!

c. Compelling the SC, through the Administrative Judge to render an "intermediate accounting" of Puccini's financial condition. No accounting has been rendered since June 4, 1980, when the SC made itself the trustee of Puccini's assets and affairs.

If the SC desires to appoint and maintain in office its "friends", those who have been accused of the most infamous conduct possible for the position appointed, and desires to retain its prerogative in that respect -- the SC must also accept the financial responsibility therefore!

The SC has given the Receiver until February 1, 1985 to file such accounting -- this is no longer petitioner's concern for he is now looking to the SC for an accounting, not its appointed receiver!

d. Upon petitioner's representation that the books and records of Puccini reveal criminal larceny of judicial entrusted funds, the respondent, Hon. XAVIER C. RICCOBONO, be directed to exhibit such books and records to the District Attorney for whatever criminal action the District Attorney may desire to undertake.

Petitioner's application to SC for such (and other) relief against the Receiver resulted in denial thereof with \$500 costs!.

Presently the record reveals the concealment of criminal activity by representatives of the SC.

e. Mandating Hon. XAVIER C. RICCOBONO to enter formal orders on any motion submitted for His Honor's consideration, in appealable form.

Letter responses or having them stonewalled by Hon. DONALD DIAMOND is not acceptable to petitioner. The question is not whether the application has merit in the view of Hon. XAVIER C. RICCOBONO or Hon. DONALD DIAMOND, but whether petitioner should be denied his right to appeal therefrom.

f. Directing that petitioner's right to access to the courts not be obstructed by ad hoc, unwritten, rules and regulations by Hon. XAVIER C. RICCOBONO (under whose jurisdiction Hon. DONALD DIAMOND operates), Hon. ETHEL B. DANZIG and Hon. THOMAS V. SINCLAIR, JR.

Specific direction should be made regarding petitioner's application to vacate and/or modify the Order based upon the perjurious affidavit submitted to Hon. THOMAS V. SINCLAIR, JR., the falsity thereof having been concealed by the Receiver, his law firm, and ANBL&K, based upon the newly disclosed documented evidence obtained since November 7, 1983, and particularly the R&P accounting report of March 5, 1984, filed in Federal Court.

The herculian attempts made by Hon. DONALD DIAMOND, Hon. ETHEL B. DANZIG, and Hon. THOMAS V. SINCLAIR, JR, not to determine such motion, or have such motion determined, on the merits, by Hon. THOMAS V. SINCLAIR, JR. is to petitioner, unbelievable and clearly unconstitutional.

How Hon. THOMAS V. SINCLAIR, JR., determines such motion, is completely with His Honor, provided insofar as it is based on newly disclosed evidence, any order issued be in appealable form.

g. Any rule or regulation by anyone in SC regarding a Puccini matter be in writing and approved by the respondent, Hon. XAVIER C. RICCOBONO, particularly those of Hon. DONALD DIAMOND.

Petitioner's motion to direct the Receiver to recover all monies and property taken unlawfully from Puccini since June 4, 1980. Denied by Hon. Donald Diamond, with factual issues decided adversely against petitioner because petitioner did not "comply with pre-motion conference rule established in this case" by Hon. Donald Diamond.

Significant, is the fact that there is no concern by Hon. Donald Diamond (or any other jurist) for the SC's obligation, as a trustee, to recover Puccini's assets!

The same result was made with respect to a motion for an Order "vacating and/or modifying the Order of Hon. XAVIER C. RICCOBONO".

Hon. DONALD DIAMOND has not only imposed rules for himself, but for other judges in the Puccini matter. Thus, for many weeks the argument prevailed that whether permission for reargument was to be given was for Hon. RICHARD S. LANE, who decided the motion, not Hon. DONALD DIAMOND. In petitioner's view, on reargument it was within the provence of Hon. RICHARD S. LANE alone to determine if the motion had merit, not Hon. DONALD DIAMOND.

Finally Hon. RICHARD S. LANE determined the application had merit warranting reargument and granted such permission.

An Article 78 proceeding against Hon. DONALD DIAMOND in Supreme Court, New York County has been adjourned three (3) times, at the instance and request of the Attorney General.

h. Mandating that the respondent, XAVIER C. RICCOBONO, take such measures as may be reasonably necessary to place a Chinese Wall between the administrative trust obligations of the SC, in the Puccini matter, and the judicial functions of that Court, and if not feasible, to entertain an application to transfer the judicial functions to another tribunal.

22. No previous application has been made to this Court for the relief sought herein, except for the related motion returnable June 16, 1984 in this Court.

WHEREFORE, it is respectfully prayed that and Order be entered directing the respondents to comply with the administrative, ministerial, and non-discretionary demands made herein, that the adjudicative functions in matters relating to Puccini be removed to another forum, separate and apart from the non-adjudicative functions, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises, including interim relief.

Respectfully,


HYMAN RAFFE - Petitioner

GEORGE SASSOWER, Esq.
Attorneys for petitioners
2125 Mill Avenue,
Brooklyn, New York, 11234
(212) 444-3403

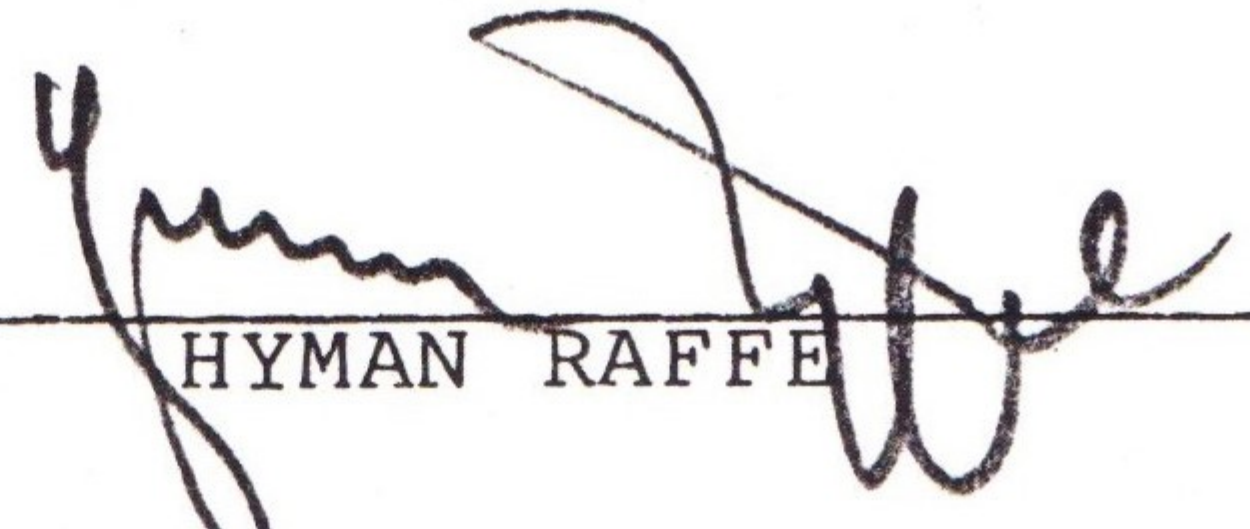


KENNETH SILVERMAN
Notary Public, State of New York
No. 24-4608988
Qualified in Kings County
Commission Expires March 30, 1985

STATE OF NEW YORK)
CITY OF NEW YORK) ss.:
COUNTY OF KINGS)

HYMAN RAFFE, first being duly sworn, depose,
and say:

He is the petitioner herein and has read the foregoing Petition and the same is true of their own knowledge except as to matters stated therein to be on information and belief, and as to those matters deponent believe it to be true.



HYMAN RAFFE

Sworn to before me this
11th day of July, 1984

Kenneth Silverman

KENNETH SILVERMAN
Notary Public, State of New York
No. 24-4608988
Qualified in Kings County
Commission Expires March 30, 1985