

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

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In the Matter of the Application of
HYMAN RAFFE

Petitioner,

-against-

Hon. DAVID B. SAXE, Acting Justice of the
Supreme Court, of the State of New York,

Respondent.

Pursuant to Article 78 of the CPLR.

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S I R S:

PLEASE TAKE NOTICE that upon the annexed petition of HYMAN RAFFE, dated the 18th 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 13th day of August, 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) vacating respondent's Order of June 29, 1984; (b) vacating all respondent's intermediate orders related to the award of fees to

Feltman, Karesh & Major, Esqs., and/or Rashba & Pokart; (c) restraining respondent from recognizing Feltman, Karesh & Major, Esqs., as the authorized legal representatives of Lee Feltman, Esq., the Receiver of Puccini Clothes, Ltd. or issuing further Orders granting compensation to Feltman, Karesh & Major, Esqs., and/or Rashba & Pokart; (d) restraining respondent from imposing penalties or damages in the form of adversary legal fees against petitioner in any motion or proceeding wherein he raises the issue of 22 NYCRR §660.24 or makes argument reflecting adversely to the judicial system or its appointees; (e) 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 18, 1984

Yours, etc.

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

To: Hon. David B. Saxe
Hon. Robert Abrams
Att: David S. Cook, Esq.
Feltman, Karesh & Major, Esqs.
Lee Feltman, Esq.
Kreindler & Relkin, P.C.
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.
Schneck, Weltman & Ives, Esqs.

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

The Petitioner, HYMAN RAFFE, by his
attorney, respectfully shows and alleges:

1. This petition seeks to (a) vacate
respondent's Order of June 29, 1984; (b) vacating all
respondent's intermediate orders related to the award of
fees to Feltman, Karesh & Major, Esqs. ["FK&M"] and/or
Rashba & Pokart ["R&P"]; (c) restraining respondent from
recognizing FK&M as the authorized legal representatives
of Lee Feltman, Esq. ["LF"], the Receiver of Puccini
Clothes, Ltd. ["Puccini"] or issuing further Orders
granting compensation to FK&M and/or R&P; (d)

restraining respondent from imposing penalties or damages in the form of adversary legal fees against petitioner in any motion or proceeding wherein he raises the issue of 22 NYCRR §660.24 or makes argument reflecting adversely to the judicial system or its appointees; (e) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

b. The within application is made without prejudice to relief that may be sought in the federal forum.

Pending in the federal forum is petitioner's motion, dated May 31, 1984:

"relegating to an impartial tribunal the question of the receiver's fees, if any, and those of his appointees and designees, presently pending before Hon. DAVID B. SAXE ..."

2. The respondent was and still is an acting Justice of the Supreme Court of the State of New York.

3. Respondent was and is legally represented by the Office of Robert Abrams, Attorney General of the State of New York ["AG"], and AG was authorized and empowered to make commitments on his behalf.

4a. On June 4, 1980, Puccini, a domestic corporation, was involuntarily dissolved by Order of the Supreme Court of the State of New York, County of New York.

b. The assets and affairs of Puccini became custodia legis, as a result of the aforementioned Order of Dissolution, with specific provisions contained therein prohibiting everyone, but the appointed Receiver, from dealing with or dissipating Puccini assets.

c. Without knowledge by the petitioner, or anyone else not part of a corrupt scheme, through the misconduct of the attorneys for one of the parties, the Receiver "delayed" qualification for about seven months, during which time the assets of Puccini were substantially and unlawfully dissipated.

d. When the appointed Receiver recognized that he was victim of a ploy, he requested that his appointment be cancelled -- he never having filed a bond as required by the Order of Appointment or statute.

e. Until the time of the appointment of a new receiver, Puccini's assets were unlawfully dissipated still further.

5. After the appointment of LF, as the new Receiver, LF, retained his law firm, FK&M, without employing the procedures provided in 22 NYCRR §660.24.

6a. Thereafter, Kreindler & Relkin, P.C. ["K&R"], on behalf of their clients, moved for summary judgment against the petitioner, for a very substantial amount of money, with knowledge that petitioner would oppose such motion based on an allegation that Puccini's assets had been unlawfully dissipated after June 4, 1980.

b. Petitioner, as anticipated by K&R, also cross-moved for summary judgment against Puccini for full indemnification and also as the clients of Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. ["ANBL&K"] for two-thirds the amount thereof.

c. To rebut petitioner's assertion of an unlawful dissipation of Puccini's funds, K&R submitted to the Court, a perjurious affidavit of one of their clients, CITIBANK, N.A. ["Citibank"], denying, unequivocally, that such dissipation had taken place.

d. LF, FK&M, and ANBL&K, knew that such affidavit was false and perjurious, and it served the legitimate interests of their "trust", Puccini, and/or their clients to expose same for its true nature.

e. K&R submitted such perjurious affidavit with knowledge beforehand that its true nature would not be exposed by LF, FK&M, and ANBL&K, and that instead they would betray their trust and/or clients thereby.

f. Relying on the veracity of such perjurious affidavit submitted by K&R, and the silence and perfidity of LF, K&R, and ANBL&K on the subject, the Court granted summary judgment in favor of the clients of K&R against petitioner, and judgment over as against Puccini for the full amount, and for two-thirds the amount as against the clients of ANBL&K.

7. To exacerbate the misconduct LF, FK&M, and ANBL&K refuse to cooperate, in fact, oppose such actions as petitioner has undertaken which would cancel petitioner's judgment against their trust and clients, even when such relief is irresistible.

8a. Thereafter, to help conceal the larceny that had taken place by the co-conspirators of FK&M, LF petitioned the Court for the appointment of Rashba & Pokart, as the investigative accountants for Puccini, evading the mandatory requirements of 22 NYCRR §660.24.

b. FK&M, in applying for such appointment of R&P, wilfully failed to disclose to the Court that K&R was a client of R&P and that ANBL&K had "laundered" monies unlawfully taken from Puccini in payment of a bill due by K&R and/or their clients.

c. Once R&P was given approval by the Court, FK&M knowing that any accounting would reveal the vast larceny that taken place, deliberately failed to notify R&P of its duties for which the petition had been based.

d. On November 7, 1983, four days after Barr v. Raffe (97 A.D.2d 696, 468 N.Y.S.2d 332 [1st Dept.]), petitioner was given his first opportunity to inspect some of Puccini's books and records since June 4, 1980, and obtained thereby, the first hard evidence of the financial "rape" that took place with respect to Puccini assets after June 4, 1980.

e. It was only because of such disclosure, six months later that FK&M advised R&P to go forward with its accounting, still not advising the Court of any conflicting interests.

f. Since such date of November 7, 1983, the evidence of the this unlawfully conspiracy and massive unlawful dissipation of Puccini's assets has cascaded almost on a daily basis.

9. The respondent, in its dealings with FK&M, is clearly acting beyond its jurisdictional orbit, if not in fact travelling in some distant galaxy.

a. The respondent, despite the non-discretionary mandate of 22 NYCRR §660.24, he deliberately refuses to obey same and recognizes the legal status of FK&M and R&P.

b. The respondent, despite the non-discretionary mandate of 22 NYCRR §660.24, he deliberately refuses to obey same and has awarded fees to FK&M from Puccini for the full amount requested (\$109,258.93).

c. The respondent, despite the non-discretionary mandate of 22 NYCRR §660.24, he deliberately refuses to obey same and has authorized fees to R&P from Puccini.

d. Despite the representation of his attorney, the AG, to the Appellate Division, on his behalf and all other jurists of the Supreme Court, that they will obey §660.24, on information and belief, the respondent intends to continue his charted course of disobedience, although he should know that he is judicially estopped.

e. Despite the large financial interest of petitioner in Puccini, larger than anyone else, including a judgment of about \$500,000, substantial claims for indemnification, and a 25% equity interest in Puccini, the respondent has refused to permit petitioner to intervene on claims made upon Puccini by FK&M, thus depriving petitioner of his constitutional right of due process.

f. The respondent placed his imprimatur of approval on the charade wherein Puccini was defended by Lee Feltman, Esq. on his law firm's claims against Puccini!

In this proceeding, Feltman, Karesh, & Major, Esqs., appeared for the petitioners and Lee Feltman, appeared for respondent.

Obviously, asserted no defense to the claims of his law firm!

Obviously also, K&R who was permitted to participate this sham, consented to anything FK&M desired as a "pay-off" for their previous betrayal in not exposing the K&R perjury and the larcenous conduct that took place for eighteen (18) months after June 4, 1980.

g. Disregarded the American Rule with an award of counsel fees for exposing the corrupt and unlawful conduct herein and the judicial attitude towards same.

WHEREFORE, it is respectfully prayed that the relief requested herein be granted in all respects.

Respectfully,

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

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

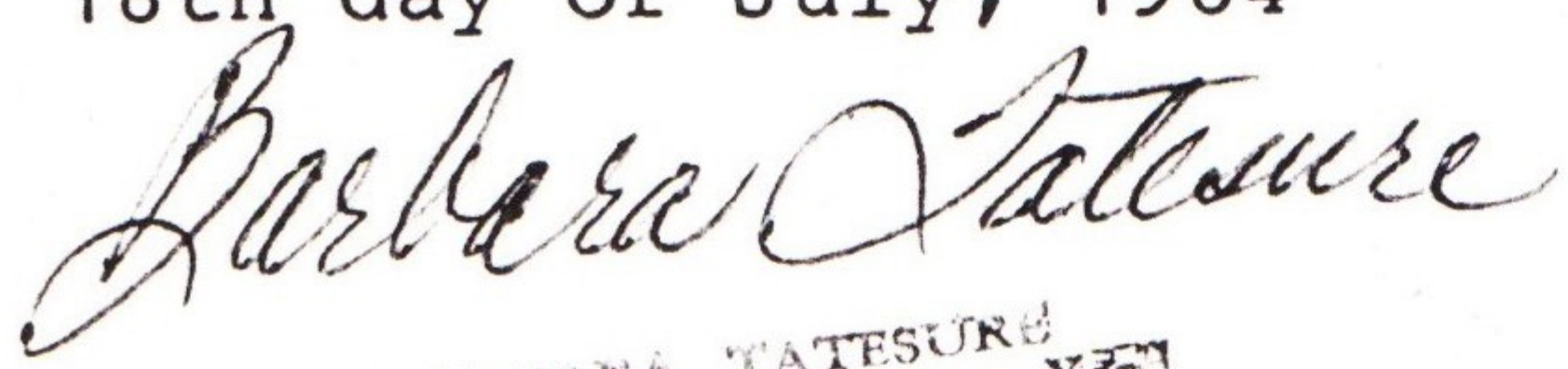
HYMAN RAFFE, first being duly sworn, depose,
and say:

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
18th day of July, 1984



BARBARA TATESURE
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1986