SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : THIRD JUDICIAL DEPT.

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GEORGE SASSOWER, SAM POLUR, and HYMAN RAFFE,

Petitioners,

-against-

Hon. DAVID B. SAXE; Hon. MICHAEL J. DONTZIN; Hon. RICHARD W. WALLACH; Hon. MARTIN H. RETTINGER; Hon. ALVIN F. KLEIN; Hon. IRA GAMMERMAN, and Hon. MARTIN EVANS,

Respondents.

----------x

S I R:

PLEASE TAKE NOTICE that upon the annexed petition of June 22, 1985, and all proceedings had herein, the undersigned will move this Court at a Stated Term of the Appellate Division of the Supreme Court, Third Judicial Department, held at the Courthouse thereof, Justice Building, South Mall, in the City of Albany, on 22nd day of July, 1985, at 9:30 o'clock in the forenoon of that day or as soon thereafter as the undersigned can be heard for an Order (a) disqualifying Hon. David B. Saxe, and rendering null and void any contempt proceedings referred to His Honor; (b) disqualifying Hon. Michael J. Dontzin, and rendering null and void any and all ex parte changes made in judicial records and the reference made to Referee Donald Diamond on or about June 19, 1985; (c) mandating

Hon. Richard W. Wallach make a determination on the motion submitted to His Honor or or about October 12, 1984; (d) mandating Hon. Martin H. Rettinger make an appealable determination, on the merits, with respect to the renewal motion regarding the order dated April 6, 1983; (e) rendering null and void the criminal contempt decision and/or order of Hon. David B. Saxe and Hon. Alvin F. Klein, made in violation of the confrontation provisions of the federal and state constitution, and other basic constitutional rights; (f) prohibiting enforcement by contempt proceedings the orders of Hon. Ira Gammerman, dated January 23, 1985, in such cases wherein the parties legal representative have agreed that said orders are of "no legal effect"; (g) mandating that Hon. Martin Evans disregard all communication and correspondence from everyone, including Referee Donald Diamond, in the contempt proceedings presently sub judice; (h) 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 answering papers, if any, are to be served upon the undersigned at least seven (7) days before the return date of this motion, with an additional five (5) days if service is by mail.

Dated: June 22, 1985

Yours, etc.

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

To: Hon. Francis T. Murphy, Presiding Justice
Hon. Theo.R. Kupferman, Senior Associate Justice
Hon. David B. Saxe
Hon. Michael J. Dontzin
Hon. Richard W. Wallach
Hon. Martin H. Rettinger
Hon. Alvin F. Klein
Hon. Ira Gammerman
Hon. Martin Evans
Hon. Robert Abrams
Kreindler & Relkin, P.C.
Feltman, Karesh & Major, Esqs.
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.
Appellate Division, First Dept.

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TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, THIRD JUDICIAL DEPARTMENT:

THE petitioners complaining of the respondents respectfully set forth and allege:

BEIRUT ON THE LOWER HUDSON

1a. At all of the times hereinafter mentioned Puccini Clothes, Ltd. ["Puccini"], was an active New York Corporation until involuntarily dissolved on June 4, 1980, by Supreme Court of the State of New York, County of New York ["SCNY"], its assets and affairs becoming custodia legis.

b. As a result of ex parte interference by the firm of Kreindler & Relkin, P.C. ["K&R"] there was no bonded receiver in actual possession of Puccini's assets until about February 1, 1982.

c. During an initial period of judicial custody, about 20 months, Puccini's judicially entrusted assets were extensively, unlawfully, and covertly dissipated by the K&R entourage.

d. On February 1, 1982, Lee Feltman, Esq. ["Feltman"], was appointed Puccini's judicially appointed receiver. Although directly contrary to Puccini's interests, both Feltman and his law firm, Feltman, Karesh & Major, Esqs. ["FK&M"], have from that date to the present time, made every effort to conceal such larceny of judicially entrusted assets under a corrupt monetary arrangement with K&R.

e. There has been no accounting on behalf of Puccini, final or interim, since June 4, 1980, although the extent of the larceny is massive.

f. Furthermore, the losses sustained by Puccini by reason of the direct misconduct of Feltman and FK&M alone exceeds the amount of the posted bond of $500,000.

g. From June 4, 1980 to date, in addition to the larceny of judicially entrusted assets, there has been a substantial amount of perjury and corruption, in and out of the judicial forum by K&R, its clients, Feltman, and/or FK&M, primarily to conceal from the courts and petitioners the fact that such larceny had taken place.

2a. At no time from June 4, 1980 has the SCNY, the Appellate Division of the Supreme Court of the State of New York, First Judicial Department ["AD-1"], or any of its justices, evidenced any overt recognition of any legal, moral, or ethical responsibility for Puccini, the helpless ward of the court, in or out of the judicial forum (Evitts v. Lucey, U.S. , 105 S.Ct. 830, 83 L.Ed.2d 821).

b. On many occasions the various members of the judiciary, for one reason or another, have given great aid, comfort and succor to those who have unlawfully dissipated judicially entrusted assets, perjured themselves, and engaged in extensive corruption.

3a. At no time since June 4, 1980 have the petitioners been in possession or control of Puccini's assets, nor have they been accused of any serious ethical or moral misconduct.

b. The petitioners, nonetheless, have been the subject of extensive fines and penalties [including orders of incarceration] for, in essence, nothing more than exposing the aforementioned larceny, perjury and corruption, and attempting to restore the status quo ante as of June 4, 1980.

4a. At all of the times hereinafter mentioned, Hon. David B. Saxe ["Saxe"], was and is an Acting Justice of SCNY.

b. There was a period of time in 1983-1984 when Saxe was judicially involved in the Puccini litigation and exhibited an unnatural solicitude towards those who stood accused. Saxe viewed Puccini as nothing less than a "judicial fortune cookie".

Thus in a claim for legal fees, although entitled to nothing, as a matter of law (e.g., 22 NYCRR §660.24[f]), Feltman, Karesh & Major, Esqs., was to present its claim and Lee Feltman, Esq., was to be Puccini's sole defender. There was not to be any intervention by anyone opposed to such claim, according to the Saxe holdings, especially by petitioners, Hyman Raffe ["Raffe"] or George Sassower, Esq. ["Sassower"], although they both had vested interests in Puccini.

c. Consequently, since only the Attorney General had standing to oppose (Business Corporation Law §1214), Raffe and Sassower solicited that office, and were referred to Senior Assistant Attorney General David S. Cook, Esq., who was an essentially one-man unit within the litigation bureau.

As part of such official solicitation, a great deal of confidential information was given to Cook at that time and periodically thereafter.

d. Additionally, an Article 78 proceeding was brought against the Justices of SCNY wherein Cook was authorized to represent to the Appellate Division that his judicial clients, which included Saxe, would give obedience to the mandatory, non-discretionary, and ministerial provisions of 22 NYCRR §660.24[f].

e. Saxe, having actual knowledge of the rule and the judicial representation by Cook, chose to ignore same, awarding FK&M everything they requested, down to the last penny, for a charted course contrary to their and the court's trust interests.

f. Consequently, on behalf of Puccini, Sassower and Raffe brought a damage action against Saxe, based on indemnification, contending that even a judicial officer may not violate a mandatory, non-discretionary, and ministerial directive (Tango v. Tulevech, 61 N.Y.2d 34, 40-41, 471 N.Y.S.2d 73, 76-77), which action still pends.

g. Of the seventy men assigned to the litigation bureau, Cook, having the confidential information given to him by Sassower, on behalf of Puccini, was specifically commandeered to represent Saxe against Puccini, Sassower and Raffe.

Thus Cook, then and now, represents Puccini and those adverse members of the judiciary, who it is claimed, raped this helpless ward of the court!

h. Although petitioners claim Saxe, by reason of the aforesaid, is constitutionally and by statute disqualified to further act judicially (Judiciary Law §14), Saxe, by motion referred to him, dismissed a claim by Raffe, and without a hearing or trial, held Sassower in criminal contempt in absentia, sentenced Sassower to be incarcerated for 30 days, imposed a monetary fine, and imposed other sanctions clearly beyond his jurisdictional bailiwick (Judiciary Law §90[10]; Erie v. Western, 304 N.Y. 342, 346, cert. den. 344 U.S. 892).

i. Such "out of court" criminal contempt, without trial or hearing, clearly violates the confrontation provisions in the United States and New York State Constitutions and, as hereafter shown, violates Sassower's "double jeopardy" rights.

j. Although the nullity of Saxe's conviction is irrelevant to the underlying merits, they are at bar, significant.

FK&M and Saxe claim that Sassower was in criminal contempt for bringing a legal proceeding to declare:

> "(a) unconstitutional and void CPLR §5522[b] insofar as it permits restraint 'equal to twice the amount due'; (b) declaring null and void FK&M's restraint against Bank Leumi and National Westminster Bank insofar as the restraint exceeds the sum of $5,575, plus interest and reasonable execution costs; (c) declaring null and void the Subpoena Duces Tecum dated March 21st, 1985 [against Sam Polur, Esq.], (d) and, any and all other judgment enforcement proceedings by FK&M; (e) all without prejudice to Raffe's claim for damages, compensatory and punitive ..."

k. FK&M claim was that the Gammerman, patently and procedurally void ukase of January 23, 1985 [hereinafter discussed], prohibited law suits arising out of post-January 23, 1985 transactions.

l. Not only is there extant litigation between Sassower, Raffe, and Puccini against Saxe for his ministerial misconduct (Index No. 25337-1984), but pending in the Appellate Division are appeals against Saxe's holdings (Raffe v. Abrams [Puccini], AD-1 Sept. 1985 Term), wherein a portion of appellant's brief, reads as follows:

> "These proceedings, legally and ethically, represent 'the rankest compound of villainous smell that ever offended nostril' (Shakespear's, Falstaff, Merry Wives of Windsor, III:v).

QUESTIONS PRESENTED

1Q. Could nisi prius award very substantial fees to those whose appointment were in violation of the mandatory, ministerial, non-discretionary provisions contained in 22 NYCRR §660.24, despite the in haec verba prohibition contained therein [subd. 'f']?

A. Mr. Justice Saxe, replied in the affirmative by simply ignoring the rule's existence.

2Q. Where the Attorney General, as the legal representative of the 'Justices of the Supreme Court, New York County', represented to this Court, in an Article 78 proceeding, that this Court should presume that his judicial clients give obedience to 22 NYCRR §660.24, did Mr. Justice Saxe have the lawful authority to wilfully disobey same?

A. Mr. Justice Saxe, replied in the affirmative again simply disregarding the representations of his attorney to this Court.

3Q. Where the firm of Feltman, Karesh & Major, Esqs. ['FK&M'], followed a deliberate charted course of corruption and betrayal of the interests of Puccini Clothes, Ltd. ['Puccini'], to its substantial damage, is that firm precluded from recovering monies from the carcass of the court's helpless judicial trust?

A. Mr. Justice Saxe, replied in the negative.

4Q. Where the firm of FK&M has not, and cannot, show any substantial services intended to, or which benefited Puccini, can they recover substantial fees for legal services?

A. Mr. Justice Saxe awarded FK&M everything they requested -- down to the very last half-penny!

5Q. Where the firm of Rashba & Pokart ['R&P'], as investigatory accountants, accepted a judicial assignment, are they entitled to substantial compensation where they did not disclose that they represented Kreindler & Relkin, P.C. ['K&R'], and/or its clients in the matter, all of whom were the subjects of appellants' accusations?

A. Mr. Justice Saxe, replied in the affirmative, giving the receiver a blank check to give to these accountants anything they desired from Puccini.

6Q. Where the firm of Rashba & Pokart, as investigatory accountants, accepted a judicial assignment, are they entitled to any compensation where they did not disclose that they previously received substantial 'laundered' funds from Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. ['ANBL&K'], also the subject of appellants' accusations, in payment of an invoice rendered to K&R, the funds unlawfully taken from Puccini, the judicial trust, and entered as a 'legal' disbursement on Puccini's books?

A. Mr. Justice Saxe, replied in the affirmative, giving the Rashba firm a blank check from the judicial trust.

7Q. Where there is an overall agreement to commit larceny, perjury, and corrupt justice by K&R, ANBL&K, FK&M, and R&P, may the court financially underwrite same from the judicial trust?

A. Mr. Justice Saxe, replied in the affirmative.

8Q. Is a claim for fees by Feltman, Karesh & Major, Esqs., from Puccini, a farce and mockery of justice, when Lee Feltman, Esq., their senior partner, is supposed to represent Puccini, and then never bothers to appear or oppose such application?

A. Mr. Justice Saxe, saw nothing improper in such a legal proceeding or the conduct of the receiver in not opposing the application.

9Q. Could appellants', who independently had substantial financial interests in Puccini, be constitutionally and legally precluded from defending the claims against Puccini by FK&M and R&P, under the circumstances at bar?

A. Mr. Justice Saxe answered in the affirmative.

10Q. Where Senior Assistant Attorney General David S. Cook, Esq., who, except for titular superiors, is a one man unit in the Attorney General's Office assigned to vouchsafe Puccini's assets and affairs, and who received confidential information from appellants regarding the 'judicial rape of Puccini', could he thereafter be commandeered and embraced by some of the members of the judiciary to represent them for their transgressions upon Puccini, the judicial trust?

A. Impliedly, Mr. Justice Saxe, saw nothing improper.

11Q. Since an accounting has not been filed, final or interim, since Puccini was involuntarily dissolved on June 4, 1980, should have Mr. Justice Saxe directed Lee Feltman, Esq., the court appointed receiver, to file same, as appellant demanded, particularly where the documentary evidence reveals a massive larceny of judicially entrusted assets?

A. Mr. Justice Saxe responded in the negative.

12Q. Should have Mr. Justice Saxe directed Lee Feltman, Esq., the court appointed receiver to collect twice the amount unlawfully taken from Puccini, in accordance with statutory mandate?

A. Mr. Justice Saxe responded in the negative.

13Q. Should have Mr. Justice Saxe disinfected the 'temple of justice' in the Puccini matter, by orders of removal and disqualification, as demanded by appellants?

A. Mr. Justice Saxe rewarded these judicial scoundrels by granting them everything they desired!

14Q. Are draconian costs unconstitutional as violating free speech and access to the courts, where, as here, judicial improprieties and corruption are asserted, shown, and not even controverted?

A. Impliedly, Mr. Justice Saxe, asserted them to be appropriate."

m. Every judge knows that there is a pre-requisite constitutional right of confrontation to every valid criminal conviction. Absent constitutional waiver, in absentia convictions were themselves outlawed in Carpenter's Hall more than 200 years ago.

n. The in absentia contempt proceedings are clearly null and void, by statute and basic constitutional precepts of due process (Mayberry v. Pennsylvania, 400 U.S. 455). Where alternatives are easily available there is "no duty to sit" (Laird v. Tatum, 409 U.S. 824).

5a. Hon. Michael J. Dontzin (Dontzin), is the "appointing justice" in the Puccini litigation (22 NYCRR §660.24). Had His Honor been guided by the precept that judicial appointments are not made to the corrupt, or having thereafter learned of their designee's corruption, are removed with alacrity, this litigation would have long been properly terminated.

b. On June 14, 1985, a motion charging Raffe ["Mr. Clean"] with 72 counts of criminal contempt, was adjourned to June 21, 1985 by consent (Exhibit "A-1").

c. Thereafter, unknown to petitioners, the judicial records were unilaterally altered ["coins of the realm" in the Puccini litigation], so that the return date was secretly accelerated to June 19, 1985 (Exhibit "A-1"), a date when Dontzin was to preside.

d. Dontzin, as Puccini's trustee (48A CJS, Judges, §92, p. 700), is also the subject of law suits in the federal and state courts, and thus disabled by statutory and constitutional standards from acts of judicial discretion.

e. Dontzin, presiding in Special Term Part I on June 19, referred said criminal contempt proceeding to the clearly disqualified Referee Donald Diamond ["Diamond" or "Judicial Caesar I" - Exhibit "A-2"].

Diamond, has a sufficiently number of lawsuits and claims against him by the petitioners for his egregious misconduct in the Puccini litigation, to support a separate and distinct courthouse facility, as Dontzin is actually aware.

f. Constitutional sanity is clearly transgressed when the most disqualified judicial officer is selected to try a criminal proceeding!

6a. Hon. RICHARD W. WALLACH ["Wallach"], is a learned and respected member of SCNY.

b. The administration of SCNY believing that a Harvard education is insufficient to interpret the esoteric language contained in §660.24[f], or that Wallach might not fully comprehend the doctrine of "judicial estoppel" [Cook's representation to the Appellate Division], had Wallach, on or about November 13, 1984, refer a motion giving force and effect to §660.24 to Diamond for determination.

c. Diamond, has his own private paper crematorium where he disposes of filed legal papers that do not suit his fancy.

d. Wallach should be mandated to determine the motion duly submitted to His Honor on October 12, 1984 in Special Term Part I, based on duplicate papers.

7a. By any minimum standard of rational conduct, there can not possibly be a judicial appointment as invalid as that made by Hon. MARTIN H. RETTINGER ["Rettinger"] on April 6, 1983! The appointment is an anathema, par excellance.

b. To answer four (4) simple questions, purportedly responsive to Raffe and Sassower's accusations that K&R, its clients, and Arutt, Nachamie, Benjamin, Lipkin & Kirschner ["ANBL&K"], engineered the unlawful dissipation of Puccini's judicially entrusted assets, Feltman petitioned the Court to appoint Rashba & Pokart ["R&P"], as investigatory accountants.

c. K&R and/or its clients, were and/or are the clients of R&P!

d. Previously, ANBL&K took $10,000 from Puccini's judicially entrusted funds, "laundered" $6,200 and gave it to R&P [Exhibit "B"] in payment of an invoice to K&R. $3,800 was the "laundering fee" by ANBL&K, until ANBL&K was compelled by Sassower to return same to Puccini in June of 1984.

To date it is the only recovery made by Puccini, wherein the cash disbursements alone after June 4, 1980 reveal debits of over $4,000,000!

Indeed Feltman and FK&M have not even made an attempt to collect any part of such unlawfully dissipated assets, since it would pit them against their co-conspirators!

Can anyone believe that during the seven months of unlawfully operating Puccini after June 4, 1980, with about 12 employees, Puccini's entire inventory was disposed of at a gross income of $512!

e. This appointment of R&P was also made without compliance with the mandatory provisions of §660.24.

f. The aforementioned pre-existing disqualifying relationships with R&P was not openly revealed before the appointment was made either by K&R, ANBL&K, Feltman, FK&M, or R&P!

g. Give R&P whatever you want, held Saxe, on the Feltman application (supra), although the answers to the four simple questions were known to the co-conspirators at the time the application was made, and a half-blind bookkeeping high-school student could have answered the questions in no more than ten minutes.

h. In the fifteen (15) months since the relationships between R&P and the other co-conspirators has been openly disclosed, by virtue of the "phantom" rules of Diamond and the corruptly secured, out-of-orbit ukase of Gammerman (Judicial Caesar III), any and all applications to Rettinger to have His Honor adjudicate, by an appealable order, the legality of the R&P appointment has been aborted!

i. The judicial blockade denying petitioners "access to to the courts [Rettinger]", must be lifted!

Clearly, neither The Administrative Judge of SCNY, Xavier C. Riccobono ["Riccobono"], nor Diamond, nor Gammerman may crown themselves with the authority, to determine what motion another coordinate jurist or the AD-1 may hear and/or review (Eskridge v. Washington State, 357 U.S. 214; Balogh v. H.R.B., 88 A.D.2d 136, 452 N.Y.S.2d 220 [2d Dept.]) -- which is precisely what they are doing!

8a. Hon. ALVIN F. KLEIN ["Klein"], a veteran jurist of SCNY, without hearing or trial, held Sassower, Raffe, and Polur in criminal contempt of court, in absentia.

b. The proposed order is that each petitioner be incarcerated for 30 days and fined, allegedly because they violated the Gammerman ukase.

Ironically, Cook has agreed that the Gammerman ukase "has no legal effect on him, his office [the Attorney General], or their clients", without the necessity of a formal proceeding to establish that fact.

c. It takes a truly remarkable imagination to understand how any jurist, let alone a veteran, can possibly hold "Messrs. Clean" for an out-of-court criminal contempt, without a hearing or trial, when it is conceded that the Order purportedly violated, has "no legal effect"!

d. The Sassower demand that the robed priests in the judicial temples be independent of all directions and "marching orders", except for the most ministerial, is apparently unacceptable to the administrative judicial powers!

e. Jail and fines, upon mere application by those accused of criminal activity seems to be the preferred remedy in SCNY!

9a. Hon. IRA GAMMERMAN ["Gammerman"] and Referee Donald Diamond [over whom the Appellate Division has no direct jurisdiction] have demonstrated how an entire judicial system [nisi prius and appellate], may, by an audacious wresting of the judicial machinery, be held hostage. The SCNY has trully become "Beirut on the Hudson"!

Diamond by "phantom" rules and Gammerman by crowning himself, Napoleon I style, have made themselves "Judge of Judges".

b. Diamond, by self-proclamation, initially authorized himself the power to make rules.

Conveniently, these rules always met the result desired, made feasible since these rules provided that they could be enacted ex post facto and ad hoc.

Referee Donald Diamond strictly enforced his Judge Crater rule, while Hon. Thomas V. Sinclair, Jr., was on sick leave from Labor Day 1984 to May 1985. Now that Judge Sinclair has returned to active service, Referee Diamond will probably proclaim that petitioners need the written consent of Amelia Earhardt in order to make any motion!

The second rule required his consent before it could be made (cf. Eskridge v. Washington State, supra).

Thus, Sassower's application to, on a "no risk, no fee" basis, increase Puccini's net worth by a minimum of $300,000 in 45 days, was denied with $5,000 fine imposed on Raffe because he consented to same. Additionally, FK&M was directed by Diamond to submit an affidavit in order that they might enter a judgment against Raffe and Sassower for more than $190,000!

There are no trials nor hearings nor any civilized rights in the Diamond "non-public" office-courtroom. There is generally no notice nor warning as he strikes, "Pearl Harbor style", with his non-appealable decrees and his "directions" to justices of SCNY how they should dispose of matters before them.

c. When the Justices of SCNY began to resist the Diamond "directions", Gammerman was enlisted to stonewall petitioners right to access to the courts.

d. There are two orders dated January 23, 1985, each worse than the other.

The first, dated January 23, 1985 (purportedly with Notice of Settlement), had no notations on it that it ever passed through the Clerk's Office of Special Term Part I (in or out), nor that it had ever been entered by the County Clerk, and its recitation clause [without opposition] makes it non-appealable.

Instructively, the several books in Special I and in the County Clerk's Office contain no record of this "phantom" order.

This Order "directed" other coordinate jurists to "dismiss" pending motions, even those sub judice before them. Included therein was the mandated dismissal of a motion intended for Rettinger to nullify His Honor's Order of April 6, 1983 based upon fraud and other misconduct!

There were other motions for the Court to investigate the conduct of Feltman and FK&M in their handling of the judicial trust.

Thus, aided and abetted by Gammerman, Feltman and FK&M were able to abort and terminate an investigation into their own activities in the Puccini matter.

e. The second January 23, 1985 order, intended to insure a total Gammerman reign, Richard III style, by self-proclamation, states that any motion for any reason, irrespective of the relief requested [including a motion to vacate the instant order based upon fraud and corruption, or lack of jurisdiction, personal or subject matter], requires Gammerman's consent.

Various actions and proceedings by petitioners were also permanently stayed; and they could not bring further actions or proceedings except with the consent of Gammerman.

Petitioners were prohibited from communicating with the Grievance Committee or any other Professional Disciplinary Organization.

While Richard III needed a horse, Gammerman, according to Gammerman and the Justices of SCNY does not need either personal or subject matter jurisdiction.

Thus, one can and is held in criminal contempt (per Klein, J.) for bringing a proceeding arising out of transactional events after January 23, 1985, against persons whose attorney agrees the order is of "no legal effect" against him or his clients!

Thus when petitioners brought an action against the K&R and FK&M for entering into a corrupt and illegal agreement with Gammerman, the action was dismissed by Gammerman because Gammerman's permission was not obtained for such action!

10a. Hon. MARTIN EVANS ["Evans"], a veteran and respected justice of SCNY; is literally under a state of deliberate, calculated, and unremitting siege depriving petitioners of due process (Sheppard v. Maxwell, 384 U.S. 333, 350-351).

b. Previously, Evans, after a lengthy proceeding, by a "general verdict" failed to convict Raffe or Sassower of criminal contempt.

c. All subsequent criminal contempt proceedings, including the Saxe and Klein convictions, are prohibited by federal constitutional "double jeopardy" standards (Ashe v. Swenson, 397 U.S. 436), and certainly under the statutory "transactional" standards of CPL §40.20.

d. Legally erroneous, was Evans action in, without prior notice or warning, holding Sassower in civil contempt, fining him $250 when his alleged conduct increased Puccini's assets!

e. Petitioners understand that Diamond practically compelled Evans to refer Sassower's motion for reargument, as well as a new criminal contempt proceeding to him.

Here again, without any hearing or trial, Diamond issued a lengthy report recommending that Sassower, after trial, be held in criminal contempt!

Additionally, FK&M, K&R, and others have made various attempts to improperly influence Evans by a barrage of inflamatory and prejudicial correspondence (Taylor v. Kavanagh, 640 F.2d 450, 452 [2d Cir.]; Martin v. Merola, 532 F.2d 191, 198 [2d Cir.]).

While, petitioners have full confidence in Evans, no jurist should be confronted by such improper pressures.

To suggest a remedy would merely invite a change in the form of the pressure being applied, except for dismissal on "double jeopardy" grounds.

11. By reason of federal litigation involving the Appellate Division, First Department, and assertions contained therein, petitioners contend that such department is disqualified by statute and constitution to act on this application.

WHEREFORE, it is respectfully prayed that this petition be granted in all respects, with costs.

Dated: June 22, 1985

GEORGE SASSOWER, Esq.
Attorney for petitioners

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

GEORGE SASSOWER, Esq., first being duly sworn, deposes, and says:

I am one of the petitioners herein and have read the foregoing petition and the same is true of my own knowledge except as to matters stated therein to be on information and belief, and as to those matters deponent believes them to be true.

GEORGE SASSOWER

Sworn to before me this
22nd day of June, 1985

Kenneth Silverman

KENNETH SILVERMAN
Notary Public, State of New York
No. 24-4608988
Qualified in Kings County
Commission Expires March 30, 19 87

7-1 (6-21)	119	ROSENBLUTH PACE	TARNOW CMPL.ACCPT. R 98-7
DL	120	RIVERA CNY	BEANCHI DFLT.JDGM. R 98-8
6-25	121	ROSEN PFAHL	APUZZO ENT.JDGM. R 98-9
7-1	122	BIERNACKI BUTLER	WILENS ENT.JDGM. B 150-5
DADA 6-19	123	BARR DSSLU.PUCCINI CLOTHES LTD.	FELTMAN CONTEMPT B 150-4
6-28 7-1	124	MONTAUK HIP	SCHIAVETTI S.J. M 127-2
7-5	125	MARINE MIDLAND BK.OF NY GREAT EASTERN ASSO.INC.	KRONISH CONF.REF.RPT. M 127-1
SAL	126	FERRER PERLROTH	LEON LVE.SVE.AMD.CMPL F 77-9
		FRIDAY,JUNE 14,1985 SPECIAL TERM PART 1	

Exhibit "A-1"

		TRAILL	BURNS ENJ. U 9-7
	136	SAME	SAME AMD.CMP. U 13-4
		SAME	
	137	BRAKE WILLIAMS	LAPATIN ENJ. B 144-6
	138	LUNDY WIENER	ORSECK FILE AMD.CMPL. L 88-3
	139	STEVENS ORENS	BACHNER ENJ. S 165-6
	140	BERG NY UNIVERSITY	ROSENBERG DISM.CMPLT. B 152-7
	141	BARR DSSLU.PUCCINI CLOTHES LTD.	FELTMAN CONTEMPT B 150-4
	142	RIFFAT CONTINENTAL INS.CO.	GOLDMAN DISM.CMPLT. R 100-6
		WEDNESDAY,JUNE 19,1985 SPECIAL TERM PART 1	

Exhibit "A-2"

BY ENDORSEMENT THIS CHECK WHEN PAID IS ACCEPTED IN FULL PAYMENT OF THE FOLLOWING ACCOUNT

DATE		AMOUNT	
10/10/82		6200	—
Re: Pokart			
	Voucher		

IF INCORRECT PLEASE NOTIFY US BEFORE CASHING

ARUTT, NACHAMIE, BENJAMIN, LIPKIN & KIRSCHNER, P.C.
SPECIAL ACCOUNT 2
292 MADISON AVENUE
NEW YORK, N.Y. 10017

184

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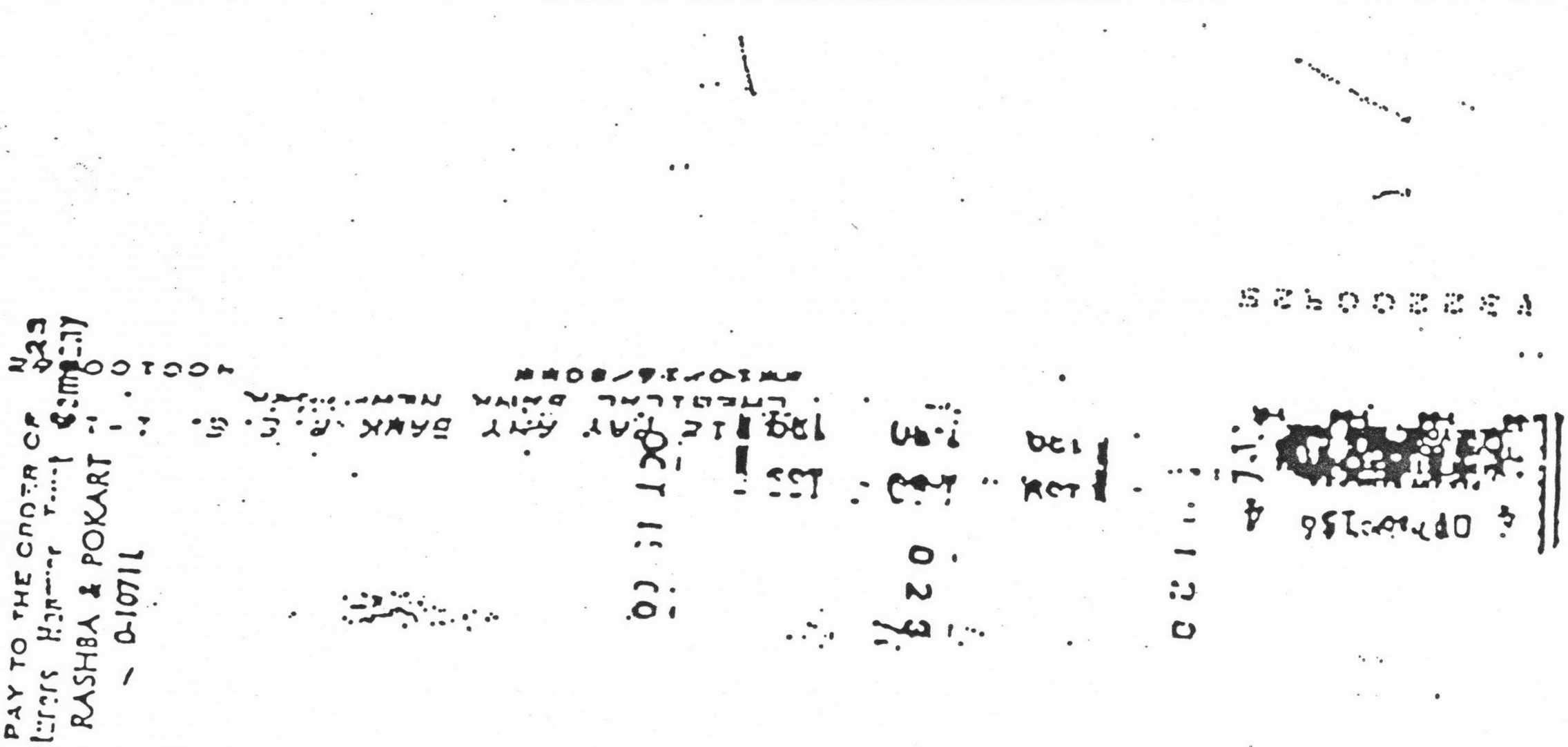

Exhibit "2"