

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

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HYMAN RAFFE and GEORGE SASSOWER,  
individually and on behalf of  
PUCCINI CLOTHES, LTD., EUGENE DANN,  
and ROBERT SORRENTINO,

Petitioners,

-against-

THE SUPREME COURT OF THE STATE OF NEW  
YORK, APPELLATE DIVISION, FIRST JUDICIAL  
DEPARTMENT,

Respondent.

-----x  
S I R:

PLEASE TAKE NOTICE that upon the annexed  
petition of June 7, 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 1st 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 vacating the  
respondent's order dated May 9, 1985 (23136-23145N),  
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 7, 1985

Yours, etc.

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

To: Appellate Division, First Dept.  
Hon. Robert Abrams  
Kreindler & Relkin, P.C.  
Lee Feltman, Esq.  
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

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THE SUPREME COURT OF THE STATE OF NEW  
YORK, APPELLATE DIVISION, FIRST JUDICIAL  
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Respondent.

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

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

1a. This proceeding seeks the nullification  
of an Order of the Respondent dated May 9, 1985  
(23136-23145N).

b. To the extent that this proceeding  
mirrors pending actions and proceedings in the United  
States District Court of the Southern District of New  
York wherein respondent and/or some of its justices are  
defendants and/or respondents, this proceeding is  
without prejudice to such federal pending actions and/or  
proceedings.

c. Indeed, the federal tribunal represents the preferred forum of the petitioners, and they submit this matter for state resolution only if for federalistic or technical reason federal jurisdiction is declined or held in abeyance.

2a. This proceeding involves the civil analogue of Anders v. California (386 U.S. 738) and People v. Saunders (52 A.D.2d 833, 384 N.Y.S.2d 161 [1st Dept.]), and the refusal of the respondent to obey its constitutional mandate under even more egregious and compelling circumstances.

b. Except for being civil instead of criminal, the circumstances in the underlying proceeding involves a situation more threatening to fundamental rights since: (a) Puccini Clothes, Ltd. ["Puccini"] was made a helpless person by judicial action, and does not represent a situation wherein the incompetency was the result of non-judicial circumstances; (b) the respondent has actual notice that Puccini, Eugene Dann ["Dann"], and Robert Sorrentino ["Sorrentino"] have indefensible claims, which are not being asserted by their legal

and/or usurper representatives, including a direct judicial appointee; and (c) indeed, the respondent has actual notice of an active judicially corrupt situation at nisi prius, which thus far, it has seemingly been indifferent towards, including the corruption now being practiced in its own forum.

c. Petitioners, for the purpose of this petition make no distinction between actual corruption and an indifference to corruption at nisi prius wherein, having the power, respondent, nonetheless, fails or refuses to correct.

Petitioner does not request that this Court transgress its own jurisdictional bailiwick and eradicate the corrupt practices in the bailiwick of the respondent, only urges that respondent give obedience to the law, as herein set forth, whether this Court believes same to be corrupt or otherwise.

d. The relief herein limits itself to compelling respondent to follow an Anders-Saunders procedure before entertaining any judicial action, on the merits of an appeal, albeit civil, not criminal.

3a. The facts reveal that respondent has actual knowledge that although the underlying substantive relief requested inures to the benefit of Puccini, the helpless judicial trust, its corrupt Receiver, Lee Feltman, Esq. ["Feltman"], and his corrupt usurper law firm, Feltman, Karesh & Major, Esqs. ["FK&M"], have failed and refused to support same, both at nisi prius and at the respondent forum!

Indeed, repeatedly, overtly and with unabashed arrogance, on many occasions, Feltman and FK&M, have vigorously acted contrary to the interests of their judicial trust.

b. The facts reveal that respondent has actual knowledge that although the underlying substantive relief requested inures to the benefit of Dann and Sorrentino, their attorneys, Arutt, Nachamie, Benjamin, Lipkin, & Kirschner, P.C. ["ANBL&K"], it also has failed and refused to support same, both at nisi prius and at the respondent forum!

c. Thus, as will be demonstrated, attorneys and a court appointed receiver are actively betraying their clients and a helpless judicial trust, although actually known to respondent, it has nonetheless, failed and refused to take any steps to remedy the situation.

d. Unlike the usual Anders-Saunders situation, no state, nor municipal, nor judicial financial resources are required to constitutionally protect the helpless Puccini at respondent's tribunal!

Indeed, at bar, the judiciary itself is financing and underwriting Puccini's betrayal in the respondent's forum with its own assets!

The helpless rapee is being compelled to pay for its own rape!

e. Unlike the Anders-Saunders holdings, no state, nor municipal, nor judicial financial resources are required to constitutionally protect Dann and Sorrentino, inasmuch as the only judiciary imposition required is a simple inquiry as to whether the clients are aware that their attorneys are betraying their legitimate interests!

4a. The efforts being made by Hyman Raffe ["Raffe"] include his attempts to vacate two judgments secured by the clients of Kreindler & Relkin, P.C. ["P.C."], the attorneys for Jerome H. Barr ["Barr"] and Citibank, N.A. ["Citibank"], as executors of the last will and testament of Milton Kaufman ["Kaufman"].

b. In each instance Raffe has a judgment or claim over in full against Puccini by way of indemnification and/or subrogation, and a two thirds judgment or claim over as against Dann and Sorrentino by way of contribution.

c. Such legal relationship was judicially pronounced by Hon. Martin B. Stecher on September 9, 1982; by Hon. Thomas V. Sinclair, Jr., on October 28, 1982; and by respondent on November 3, 1983 (Barr v. Raffe, 97 A.D.2d 696, 468 N.Y.S.2d 332 [1st Dept.]), although the relationship and the consequences thereof were never in serious dispute before, then, and certainly not now.

d. Thus in the proceeding leading to respondent's order [23136-23145N], Raffe sought to have vacated the judgment by Barr and Citibank against him, and simultaneously the judgment over by him against Puccini for \$475,425.86, and his judgment over as against Dann and Sorrentino for two-thirds that amount (\$316,950.57).



5a. Since Raffe desires to vacate as part of the relief requested his judgment over as against Puccini, Dann and Sorrentino, absent a wholly meritless situation, such efforts should be supported by the representatives of Puccini, Dann and Sorrentino.

b. Not only was and is such relief not supported at nisi prius and respondent's forum, but vigorously opposed by the representatives of Puccini, Dann and Sorrentino.

c. The basis for Raffe's motions to vacate the K&R judgment was that (a) such judgment was secured by the perjury of K&R and its clients, Barr and Citibank, in conspiratorial consort with the representatives of Puccini, Dann and Sorrentino which deceived the court in rendering its decision; and (2) the larceny of Puccini's judicially entrusted assets, prejudicing Raffe's right of indemnification.

d. Neither the aforementioned assertions, nor the applicable law was or is the subject of any controversy either at nisi prius or before respondent.

e. The blatant perjury has been fully established, indeed confessed, by the participants, and the massive larceny of Puccini's judicially entrusted assets also documented and uncontroverted.

6a. Relief at nisi prius has been stonewalled by the ukase of the Administrative Judge, Hon. Xavier C. Riccobono ["Riccobono"], who prior thereto, became an active litigant, as administrative judge, in the federal court.

b. Riccobono, as administrative judge, was served with a federal summons and complaint on January 23, 1984, charged with serious acts of neglect while Puccini's assets and affairs were custodia legis.

c. Puccini was involuntarily dissolved on June 4, 1980, and which point its assets and affairs, as a matter of law and by the terms of the Order itself became custodia legis.

During the first twenty months of judicial custody, there was no bonded receiver in possession, and covertly, Puccini's assets were massively dissipated during such period under the "engineering" of the K&R firm.

d. Instructively, now in its sixth year, no accounting, final nor intermediate, has been rendered by Riccobono, his court, or Feltman, since Riccobono's judicial flock merely extend such time each and every year.

e. Since January 23, 1984, by reason of Riccobono's hyperactivity in the judicial manipulations at nisi prius, several more lawsuits were commenced at the federal and state levels against him personally and against his two subalterns, Referee Donald Diamond ["Diamond"] and Hon. Ira Gammerman ["Gammerman"].

f. To conceal this massive larceny, perjury, fraud, and corruption Riccobono, Diamond, and Gammerman, have remained on in their administrative and judicial posts and with their iron dictates, stonewalled any and all relief that Raffae has sought; all of which also inured to the benefit of Puccini, Dann and Sorrentino.

7a. In short, although clearly disqualified by virtue of Judiciary Law §14 and constitutional limitations, Riccobono, Diamond, and Gammerman insist on remaining active, if not hyperactive, in the state forum.

b. By non-appealable administrative orders, phantom, ever-changing rules and self-proclamations, the aforementioned have essentially bonded the judicial thrall at nisi prius.

c. Thus, the aforementioned appeals did not represent denials on the merits for the CPLR 5015(a)[3] relief sought, but, but without prejudice denials after every possible variant of the ad hoc rules had run the gauntlet!

d. In each and every instance, the representatives of Puccini, Dann and Sorrentino either failed to support Raffe, although the relief requested inured to the legitimate interests of their clients and judicial trust, or actively opposed same.

8a. Annexed hereto, and made part hereof, is the federal complaint bearing the Docket Number 3712 [WCC] (Exhibit "A") in the United States District Court for the Southern District of New York, where respondent and some of its members are defendants.

b. Annexed hereto, and made part hereof, is the federal complaint bearing the Docket Number 3927 [WCC] (Exhibit "B") in the United States District Court for the Southern District of New York, where respondent and some of its members are defendants.

9a. Decisive, in petitioners' view, is the only appeal which has been able to "run the gauntlet" imposed by nisi prius (Barr v. Raffe, App. Div. #667-669), sub judice since January 30, 1985 on the merits.

While the underlying action is different than those involved in #23136-231445N, the legal relationships are the same, and arise out of the same basic documents.

b. That appeal, because its origin was before the the involuntary dissolution order, does not involve the perjury of K&R and its clients, only singular question of the consequences of a subsequent larceny by the creditors on the assets of the ultimate indemnitor [Puccini].

That appeal, based on the unlawful dissipation of Puccini's judicially entrusted assets, revealed destruction of Raffe's guarantee and the failure to support the unassailable legal position also inuring to the benefit of Puccini, Dann and Sorrentino.

c. Consequently, Raffe's attorney moved in respondent's forum for relief, as set forth in Exhibit "A" (pp. 12-15).

d. Although no excuse was given by the representatives of Puccini, Dann and Sorrentino for their lack of support, the respondent denied Raffe's motion, without requesting an Anders explanation.

10a. There is no denial that vacateur of the judgments secured by the clients of K&R is compelling, legally and factually.

b. There is no denial that such relief inures to the ultimate benefit of Puccini, Dann and Sorrentino.

c. There can be no legal or constitutional reason for any appellate court allowing attorneys in the judicial forum to take positions consistently adverse to their clients and trust, without requesting an explanation or insuring for itself that the clients (Dann and Sorrentino) are actually aware of what is happening.

d. There certainly can be no legal or constitutional reason for any appellate court allowing it appointed agent and his attorneys in the judicial forum for taking positions consistently adverse to their judicial trust without demanding an explanation or making an independent review of the record, and so stating.

11. Any review of the record patently reveals that the attorneys for Puccini, Dann and Sorrentino have consistently taken positions contrary to their trust and clients; that nisi prius by the ukases of Riccobono and Diamond [and now Gammerman] have and are stonewalling all motions so as to unconstitutionally prevent review.

12. Even the statutory watchdog of dissolved corporations has been corrupted, since as seen in the papers in federal court, the attorney in this one-man unit, has been commandeered by nisi prius to represent it and its members, inter alia, in respondent's forum and he has been accepted by respondent in such betrayed position.

13a. The petitioners, as judgment creditors of Puccini, Dann and/or Sorrentino, have legal standing to bring this matter on their behalf.

b. Additionally, petitioner, Raffe is a 25% shareholder in Puccini.

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

Dated: June 7, 1985

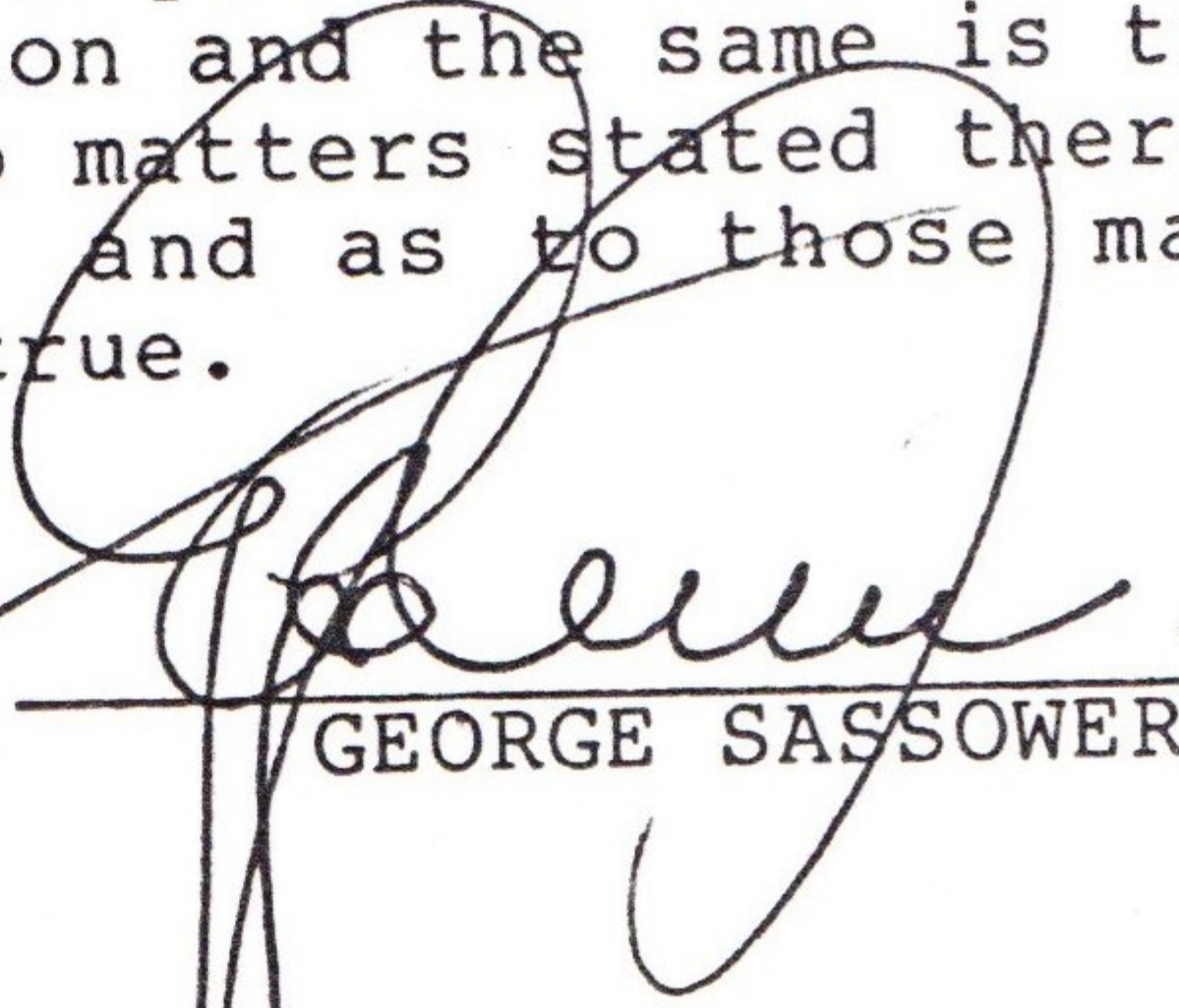
GEORGE SASSOWER, Esq.  
Attorney for petitioners.

STATE OF NEW YORK  
CITY OF NEW YORK  
COUNTY OF KINGS

)  
) ss.:  
)

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  
7th day of June, 1985



KENNETH SILVERMAN  
Notary Public, State of New York  
No. 24-4608988  
Qualified in Kings County  
Commission Expires March 30, 1987