UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE THIRD CIRCUIT

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In the Matter of the Petition of
GEORGE SASSOWER
For a Writ of Mandamus and Prohibition.

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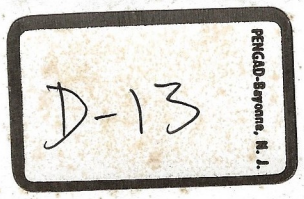

> "39. No free man shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will we proceed against or prosecute him, except by the lawful judgment of his peers and by the law of the land.
>
> 40. To no one will we sell, to none will we deny or delay, right or justice.
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> 45. We will appoint as justiciaries, constables, sheriffs, or bailiffs only such men as know the law of the land and will keep it well." Runnymede, June 1215, The Magna Carta.

Petitioner, individually and as a Chapter 13 (Title 11 U.S.C.) debtor, by this petition, against Chief Judge JOHN F. GERRY [hereinafter the "respondent"], of the United States District Court of the District of New Jersey, respectfully sets forth and alleges:

1. Petitioner, by this petition, respectfully prays that respondent be mandated to allow petitioner to file a federal writ of habeas corpus (28 U.S.C. §2255) in any federal district court of New Jersey; and prohibiting the respondent, or anyone subject to respondent's administrative authority, from interfering, directly or indirectly, with such constitutional and/or lawful right, or the normal processing of same, all of which accords with "the law of the land".

2a. Petitioner is a native American citizen, "a free man", having received every combat battle star awarded in World War II, from Normandy to Germany, but because an outstanding, patently invalid, Arrest Warrant, issued by United States District Judge NICHOLAS H. POLITAN ["Politan"] of New Jersey, petitioner faces imminent threat of incarceration, making habeas corpus relief available.

b. By reason of such patently invalid Arrest Warrant, petitioner is unable to travel anywhere in the United States without fear of unlawful apprehension by United States marshals.

c. The invalidity of such Arrest Warrant, as well as the underlying Order, is actually known to respondent, Judge Politan, and should be known to the United States marshals, who have unlawfully been directed by Judge Politan to harass, your petitioner and members of his family.

d. The existence of such lawless Arrest Warrant is the result of the willful usurpation of lawful authority by Judge Politan, with the concomitant abdication, abnegation, and surrender of "in office" obligations and responsibilities by the respondent.

3a. The United States District Court of New Jersey is a court of limited jurisdiction and that court, and its justices, have only such powers and authority as has been granted them by the Congress of the United States.

b. Nevertheless, Judge Politan, has employed apparent authority, and is orbiting some distant celestial galaxy in his Captain Ahab pursuit of petitioner.

4a. Judge Politan, with Bankruptcy Judge DANIEL J. MOORE ["Moore"], CLAPP & EISENBERG, P.C., ROTHBARD, ROTHBARD, & KOHN, Esqs., HUGH LEONARD, Esq., and others, are the active, transactionally involved, New Jersey members of a criminal racketeering enterprise, engaged in the massive larceny of judicial trust assets, criminal extortion, judicial corruption, and other criminal and unethical activities.

b. By reason of Judge Politan's transactional involvement in a criminal racketeering enterprise, wherein petitioner is one of the victims, Judge Politan cannot constitutionally or lawfully act as a judicial official in related matters or where petitioner is involved, particularly in a contempt proceeding (Cooke v. U.S., 267 U.S. 517).

5. It would serve a salutary purpose to briefly set forth the present status of the aforementioned racketeering conspiracy:

a. Although an accounting by a court-appointed receiver must be filed "at least once a year" (22 NYCRR 202.52[e]), not a single accounting has been filed -- not one-- although more than eight (8) years, nine (9) months, have elapsed since PUCCINI CLOTHES, LTD. ["Puccini"] -- "the judicial fortune

cookie" -- was involuntarily dissolved on June 4, 1980, its assets becoming custodia legis.

Since a court-appointed receiver is an arm of the court, subject to the court's exclusive control (Atlantic Trust v. Chapman, 208 U.S. 360), a public accounting must be rendered in every American jurisdiction, state and federal.

The public, as well as those having vested interests, are entitled to know through, inter alia, a filed accounting, how the judiciary and its cronies, handle judicial trust assets.

b. Although all fees awarded from a judicial trust in excess of two hundred dollars ($200) must be publicly reported by the judiciary (N.Y. Judiciary Law 35-a), not a single report -- not one -- has been rendered by the corrupt jurists involved, although approximately one million dollars ($1,000,000) has been awarded from such helpless constitutional "person", which was involuntarily made a ward of the court.

c. Indeed, all of Puccini's judicial trust assets were made the subject of massive larceny and plundering by the "cronies" and "bag-men" of the judiciary, leaving nothing for the legitimate creditors and stockholders of this raped and ravished "judicial fortune cookie".

d. In addition thereto, millions more have been criminally extorted from HYMAN RAFFE ["Raffe"], petitioner's client, and one of Puccini's stockholders, for activities in the judicial forums of New York, New Jersey, and Pennsylvania, in an

attempt to compel his and petitioner's silence about the aforementioned larcenous and plundering activities, and the attendant judicial and official involvement therein.

e. No true accounting can ever be filed without further exposing the conduct of the "criminals with law degrees", and their cadre of corrupt officials and judges, which include as active participants, Judge Politan and Judge Moore of New Jersey.

f. The activities of Presiding Justice Francis T. Murphy of the Appellate Division, First Department of New York, the second most powerful state jurist in New York, a "core" corrupt jurist in the Puccini matter, is under investigation by several commissions, including by his own Appellate Division, and media articles on the subject of the Presiding Justice's activities appear almost on a daily basis.

g. Aeons before the present media publications concerning the activities of Presiding Justice Francis T. Murphy, petitioner was publishing his accusations against the Presiding Justice, and other corrupt jurists and officials, causing petitioner to be made the object of an unprecedented reign of judicial terror, including by Judge Politan and Judge Moore.

h. In short, the attempt by corrupt jurists, including Judge Moore and Judge Politan, to silence petitioner, in manifest violation of petitioner's First Amendment rights and professional obligation (Disciplinary Rule 1-103), has failed miserably.

i. Indeed, the actions and activities of Judge Politan and Judge Moore, have helped to dramatically emphasize the extent to which corrupt jurists are willing to extend themselves in disregarding constitutional mandates in order to advance the aforementioned criminal racketeering adventure.

6. On or about May 11, 1988, Judge Politan, without notice or opportunity to litigate, before or after such prior restraint, and/or without any pretense of due process, sua sponte issued a ukase which read:

> "ORDERED, that in the event George Sassower or anyone acting on his behalf, shall, in violation of the within order, file without having first obtained the prior written consent of this Court, any pleading, new case, proceeding, motion or other litigation document, then George Sassower may immediately be held in contempt of this Court and shall be subject to arrest and other appropriate sanctions without further notice ....".

7. On or about May 19, 1988, when petitioner attempted to file a Notice of Appeal from the aforementioned transparently invalid ukase of Judge Politan in the District Court of New Jersey, in order to vest jurisdiction in the Circuit Court of Appeals for the Third Circuit, Judge Politan refused to permit same from being accepted by the Clerk of the Court or otherwise filed.

8a. Notwithstanding this clear usurpation of this Court's appellate authority by a nisi prius jurist, this Court refused, without opinion, to issue any extraordinary writ to

prevent such unconstitutional and/or unlawful conduct by Judge Politan (Docket No. 88-5441).

b. As manifestly appears, although the ukase of Judge Politan is transparently invalid, petitioner made every good faith, reasonable effort, to have same reviewed, as suggested in In re Providence Journal (820 F.2d 1354 [1st Cir.], cert granted U.S. , 108 S.Ct. 65), all without success.

9. Since petitioner knew that Judge Politan was ready to seize upon any pretext in order to incarcerate petitioner, and attempt thereby to compel petitioner's silence, petitioner was caused thereby to surrender his right of free travel and avoid any presence in New Jersey.

10a. On December 31, 1988, petitioner made three (3) motions returnable on February 3, 1989, in matters properly before respondent, not Judge Politan, containing irresistible compelling relief, for which no opposition was interposed by the parties involved.

b. One such motion sought the dismissal, on constitutional grounds, of a non-summary criminal contempt proceeding against petitioner referred by the respondent, not Judge Politan, to the United States Attorney for New Jersey, at the instance and request of Judge Moore.

c. Since the aforementioned reference made by respondent to the United States attorney, no other jurist has been assigned such proceeding and consequently, at the time

petitioner made his motion, and at the present time, this matter was and is within the exclusive jurisdictional bailiwick of respondent, not Judge Politan.

11. Petitioner was informed by the chambers of respondent that his motions, made returnable February 3, 1989, would be adjudicated by submission, and that no personal appearance was required of petitioner or anyone on his behalf.

12a. Thereafter, without receiving any notice or order from respondent, petitioner received by regular mail a sua sponte order to show cause, executed by Judge Politan, returnable March 3, 1989, as to why petitioner "should not be held in contempt or otherwise sanctioned".

b. The aforementioned Order to Show Cause reveals, on its face, that a copy of same was sent to respondent.

c. Thus, at least by sufferance, the respondent has permitted Judge Politan to intrude, encroach, and trespass upon respondent's exclusive jurisdictional bailiwick, and the judicial independence of the respondent.

13a. The Order to Show Cause, which only had annexed to it petitioner's moving papers before respondent, set forth no express language indicating in any way that the proceedings were criminal in nature.

b. Indeed, the aforementioned Order to Show Cause had a civil title, which was a title different than those which appeared on any one of petitioner's three (3) motions.

14. On or about February 26, 1989, petitioner commenced a proceeding in this Court, serving copies thereof upon the respondent, as well as Judge Politan, which petition is incorporated herein by reference.

15. To insure that under no circumstance could petitioner be declared in default, since petitioner considered Judge Politan, inter alia, a "loose torpedo", a self-proclaimed "judicial caesar", and much more, on or about February 27, 1989, in addition to the filing of a petition in this Court, petitioner caused to be served upon Judge Politan, as well as respondent, his written answer to said Order to Show Cause.

16a. On March 3, 1989, without any other notice having been given to petitioner, Judge Politan issued an Arrest Warrant against petitioner, and on information and belief, since such time, Judge Politan has been functionally conducting himself, insofar as petitioner is concerned, in the capacity of a United States marshal.

b. Thus, at one and the same time, Judge Politan acts as the "accuser", the "prosecutor", the "jurist", and the "marshal".

17. On information and belief such Arrest Warrant has the same civil title as the Order to Show Cause, and again there is nothing on the face of same to indicate that the proceedings are criminal in nature.

18a. The civil, rather than criminal, nature of the proceedings, as a matter of law, was actually known to Judge Politan when he issued the Arrest Warrant, since the petition of petitioner, dated February 26, 1989, contained the following:

> "d. A Writ of Mandamus, mandating the dismissal of the sua sponte Order to Show Cause, dated February 3, 1989, and prohibiting enforcement of any order based upon same, as failing a showing whether said proceeding is for criminal or civil contempt, or both, and/or otherwise giving notice of the nature of the proceeding, and/or the potential consequence thereof (Gompers v. Buck's Stove, supra, at 446)."

b. As a matter of law, by reason of the aforementioned, the proceedings, assuming the validity thereof, must be considered one of civil, not criminal, contempt (Gompers v. Buck's Stove, supra; McCann v. Stock Exchange, 80 F.2d 211, 214-215 [2nd Cir., per L. Hand, J.]; Dunn v. Stewart, 235 F. Supp. 955).

c. Indeed, it has been held that where doubt exists as to whether the proceedings are civil or criminal, the contempt proceedings are wholly invalid and must be vacated (In re Stewart, 571 F.2d 958 [5th Cir.]; Clark v. Boynton, 362 F.2d 992 [5th Cir.]).

19a. Absent the most exigent and abnormal circumstances, here clearly absent, it is unconstitutional to issue an arrest warrant in a civil contempt proceeding, prior to judgment, except as a remedy of last resort, where no less intrusive alternative exists.

b. In those possible extreme cases where a pre-judgment arrest warrant may be issued, reasonable bail must be provided as part of such warrant, except possibly in the most abnormal situation, here clearly absent.

c. Thus, for example, Rule 43 of the Federal Rules for the Southern and Eastern District of New York reads as follows:

> "(a) A proceeding to adjudicate a person in civil contempt of court ... . If an order to show cause is sought, such order may upon necessity shown, embody a direction to the United States marshal to arrest the alleged contemnor and hold such person in bail in an amount fixed by the order, conditioned on the appearance of such person at the hearing, and further conditioned that the alleged contemnor will hold himself or herself amenable to all orders of the court for surrender." [emphasis supplied]

20a. Transparently invalid is any attempt by Judge Politan to issue any contempt proceedings against petitioner, whether it be civil or criminal, by reason of Judge Politan's personal involvement in same.

b. Transparently invalid is any injunction issued without notice by Judge Politan preventing petitioner from seeking a writ of habeas corpus, without Judge Politan's permission.

c. Transparently invalid is an Arrest Warrant, prior to judgment, not based upon any accusatory affidavit or sworn testimony.

d. Transparently invalid is an injunction issued by Judge Politan preventing petitioner from moving to dismiss, on constitutional grounds, a criminal proceeding against petitioner pending before a coordinate jurist.

e. Transparently invalid is an injunction issued by Judge Politan preventing petitioner from mandating that Judge Moore perform a ministerial act, so that petitioner may perfect his appeal from Judge Moore's court.

f. Transparently invalid is an injunction issued by Judge Politan preventing petitioner from mandating that Judge Moore entertain petitioner's Rule 60(b) motion.

g. Transparently invalid is an injunction by Judge Politan preventing petitioner from moving to prevent criminal activities in the federal courts of New Jersey, and to have such criminal activities referred to the United States Attorney for investigation and criminal prosecution.

h. Transparently invalid is an injunction by Judge Politan preventing petitioner from filing a notice of appeal.

21a. On information and belief, the oral directions being given to the United States marshals by Marshal Politan are to execute said Arrest Warrant as if it were a criminal warrant asserting a serious crime, a direction which the U.S. marshals are obeying, despite the fact said Arrest Warrant must be

considered, at best, an Arrest Warrant for civil, not criminal, contempt (Gompers v. Buck's Stove, supra; McCann v. Stock Exchange, supra; Dunn v. Stewart, supra).

b. On information and belief, the aforementioned instructions have been given to, or are intended to be given to, any United States magistrate that petitioner might be brought before.

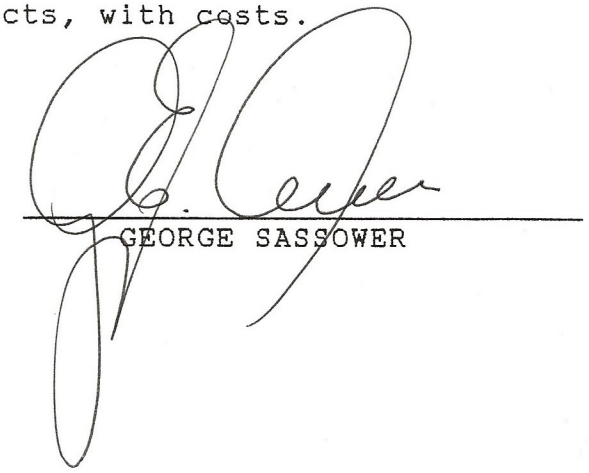
22. Judge Politan knows that the aforementioned contempt proceedings, including the Arrest Warrant, is "shot-full-of-fundamental-error", but in his tyrannical rampage has simply ignored the duties and responsibilities of the respondent by dragooning the matters to himself.

23a. Petitioner verily believes, in good faith, for reasons set forth herein and others, that he is constitutionally entitled to file a writ of habeas corpus in the District Court of New Jersey, without fear that as a result thereof, Judge Politan will employ such petition as pretext for still another contempt proceeding, or otherwise seek sanctions against petitioner, all while the respondent abdicates his judicial and administrative responsibilities and obligations.

b. If judicial despots, such as Judge Politan can prevent the filing of a notice of appeal, or a writ of habeas corpus, there is no reason why he cannot suspend and abrogate, by a sua sponte ukase, Article I, Article II, or any other article of the Constitution of the United States, and indeed the entire Constitution.

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

Dated: March 17, 1989



GEORGE SASSOWER

GEORGE SASSOWER, affirms the following to be true under the penalty of perjury.

That he has read the foregoing petition, knows the contents thereof, and the same is true to his own knowledge, except as to matters stated thereon to be on information and belief, and as to those matters he believes them to be true.

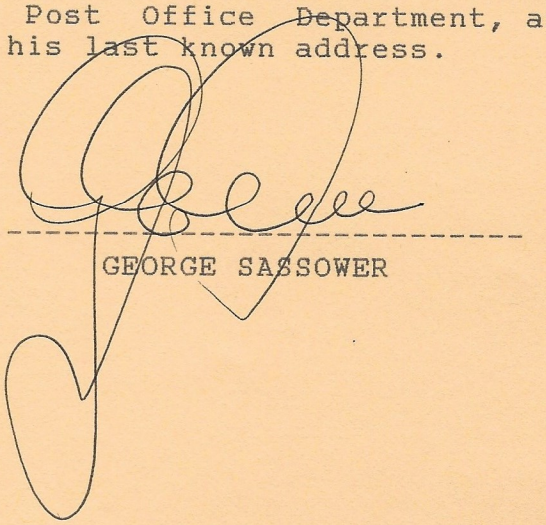
Dated: March 17, 1989

GEORGE SASSOWER

GEORGE SASSOWER affirms the following to be true under penalty of perjury.

On the 20th day of March, 1988, he caused to be served a copy of the within Verified Petition on Chief Judge John F. Gerry by enclosing same in a sealed envelopes, with proper postage, and depositing same in a U.S. Postal Box maintained by the United States Post Office Department, and addressed to the aforementioned at his last known address.

Dated: March 20, 1988



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RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

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