

LAW OFFICES

FELTMAN, KARESH & MAJOR

MARTIN S. MAJOR  
LEE FELTMAN  
JOHN I. KARESH  
DAVID M. FARBMAN  
DONALD F. SCHNEIDER

PARK AVENUE PLAZA  
55 EAST 52ND STREET  
NEW YORK, NY 10055  
(212) 371-8630

RICHARD G. KLEIN  
SAUL K. GROSS  
RICHARD C. GILES  
AVE MARIA BRENNAN

November 30, 1984

Grievance Committee  
210 Joralemon Street  
Brooklyn, New York 11201

Re: George Sassower, Esq.  
2125 Mill Avenue  
Brooklyn, New York 11234

Dear Sir or Madam:

We are writing to bring to your attention the conduct of George Sassower, Esq. We describe below Mr. Sassower's persistent violations of the following court orders: (1) two separate Orders of the Honorable Thomas V. Sinclair, Jr. which disqualified Mr. Sassower from representing a litigant due to a conflict of interest (These Orders are sometimes hereinafter collectively referred to as the "Disqualification Orders"); (2) the Order of the Honorable Edward Greenfield that permanently enjoined Mr. Sassower from representing Puccini Clothes, Ltd. ("Puccini"), a corporation which had previously discharged Mr. Sassower as counsel and which thereafter was judicially dissolved and a Receiver appointed; and (3) the Administrative Order of the Honorable Xavier C. Riccobono and the rules of Special Referee Donald Diamond promulgated pursuant thereto governing certain aspects of the Puccini dissolution. Indeed, Mr. Sassower's conduct recently resulted in a decision by the Honorable Martin Evans granting a motion to hold Mr. Sassower in contempt of court for his violations of the Disqualification Orders. In addition, Referee Donald Diamond issued a separate decision discussing at length the reasons for his conclusion that Mr. Sassower violated the Disqualification Orders.

We also document that Mr. Sassower's routine violations of these Orders enabled him to engineer a campaign of harassment against the other parties involved

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in the dissolution of Puccini, their attorneys and even the jurists who ruled against him and his client. During less than a three-year period, Mr. Sassower and his client made over 100 frivolous motions, filed more than one dozen baseless Article 78 proceedings against various judges and filed twelve vexatious lawsuits, in an apparent effort to harass every individual who opposed his position or that of his client. Indeed, several justices have expressly recognized the vexatious nature of this litigation in their opinions.

#### The Background Facts

Puccini was judicially dissolved by the Order of the New York State Supreme Court, County of New York (Sinclair, J.) dated June 4, 1980. My partner, Lee Feltman, Esq., is the court-appointed permanent Receiver for Puccini (the "Receiver"). Feltman, Karesh & Major ("FK&M") are the attorneys for the Receiver.

Puccini had four equal 25% shareholders: Messrs. Hyman Raffe ("Raffe"), Eugene Dann, Robert Sorrentino, and Jerome H. Barr and Citibank, N.A., co-executors of the Estate of Milton Kaufman. Mr. Sassower has a judgment of approximately \$28,000 against Puccini for legal services rendered prior to his discharge as its counsel.

By February, 1982, when the Receiver was appointed, the disputes among the shareholders of Puccini had already resulted in a number of litigations in addition to the dissolution proceeding.\* In each of these actions, as

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\*The litigations date back to 1979, three years prior to our involvement. The Estate of Kaufman was then represented by the law firm of Kreindler & Relkin, P.C., while Eugene Dann and Robert Sorrentino were represented by Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. (now known as Nachamie, Kirschner, Levine, Spizz & Goldberg, P.C.) for a portion of this period.



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well as in the dissolution proceeding, Mr. Sassower was the attorney of record for Raffe. However, by two separate orders dated February 1, 1982 (collectively Exhibit "A")\*, Mr. Sassower was disqualified from representing his client in various actions and in the dissolution proceeding due to a disabling conflict of interest.

Notwithstanding his disqualification, Mr. Sassower continued to represent his client and to participate in the actions in which he was disqualified, resulting recently in a decision granting our motion to hold Mr. Sassower (and Mr. Raffe) in contempt of court (Exhibit "B"). The amount of litigation proliferated, and in the less than three years of the receivership, Mr. Sassower and his client have made more than 100 motions, virtually all of which were frivolous and were denied. Many of the motions sought reargument, renewal, resettlement and/or clarification, and were based on the same allegations as the original motions that were denied. These motions are listed in Exhibit "C". Some of the motions were made directly by Mr. Sassower, others were made by Mr. Sassower as attorney for Mr. Raffe, and the remaining motions were made by Mr. Raffe, a layman, purporting to appear pro se. Many of these motions involved the efforts of Mr. Sassower and his client to remove from participation in the dissolution of Puccini those parties who had opposed their positions. Thus, for example, Mr. Sassower and his client unsuccessfully sought (a) on nine separate occasions to remove the Receiver; (b) on numerous occasions to have FK&M disqualified and/or discharged as attorneys for the Receiver or to deny FK&M compensation for the legal services they rendered; (c) on numerous occasions to have the lawyers and a co-executor for the Estate of Milton Kaufman disqualified; and (d) on several occasions to have various justices who ruled adversely to him recuse themselves or be disqualified.

Because the proliferation of litigation had substantially delayed the winding up of the affairs of

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\*Reference is made to the binder of exhibits submitted herewith.



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Puccini and depleted the Estate by increasing significantly Puccini's legal fees in defending such litigation, the Receiver wrote to Chief Administrative Judge Xavier C. Riccobono and requested that one judge be appointed to oversee the Puccini litigations. This request resulted in an Administrative Order dated March 26, 1984 which appointed a Referee to oversee certain matters in the Puccini litigations. After his appointment, Special Referee Diamond issued certain directives, which, if followed, would have streamlined the litigation and stopped many frivolous motions by Mr. Sassower. However, in most instances, Mr. Sassower and his client entirely ignored these directives and continued making frivolous motions as before. They also proceeded to circumvent these restrictions by commencing more than one dozen separate proceedings pursuant to CPLR Article 78 (over which Referee Diamond had no jurisdiction) against various justices seeking relief that ordinarily and properly should have been sought by a motion in the Dissolution Proceeding (and which had previously been denied).

Throughout this three-year period, Mr. Sassower and his client also commenced a number of lawsuits against the litigants, their attorneys, public officials and even justices of the Supreme Court. The procession of lawsuits started in the latter part of 1982, after Mr. Raffe made a motion for leave to sue my law firm. Although this motion was denied, Mr. Sassower, representing himself and Mr. Raffe as plaintiffs, nevertheless sued FK&M and the law firm of Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. (the attorneys for Messrs. Dann and Sorrentino, shareholders of Puccini), alleging against FK&M that it had acted improperly in its representation of the Receiver (Exhibit "D"). The complaint was dismissed as against FK&M on the ground that it failed to state a cause of action (Exhibit "E"), and the appeal was subsequently unanimously dismissed by the Appellate Division, First Department (Exhibit "F").

In January, 1984, Mr. Sassower, as attorney for Mr. Raffe, filed an action in the United States District Court, Eastern District of New York (84 Civ. 9305 (EHN)) in which he named as defendants FK&M, the Receiver,



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the other shareholders of Puccini, the attorneys for the other shareholders, former Mayor John V. Lindsay, Attorney General Robert Abrams, and the entire "Supreme Court of the State of New York, County of New York" (Exhibit "G"). Mr. Raffe sought damages of \$50,000,000, essentially alleging that all the defendants had conspired to deprive him of his civil rights, and also sought again to remove the Receiver. The alleged basis for such relief against FK&M and the Receiver was that we joined with Attorney General Abrams and the entire "Supreme Court, New York County" in a cover-up of criminal larceny of Puccini's funds by the other shareholders of Puccini and their attorneys. These were precisely the same allegations made by Mr. Sassower and his client on their many motions to remove my firm and me which had all been denied.

After all defendants made pre-answer motions to dismiss the complaint, Mr. Sassower made five separate frivolous motions on behalf of his client resulting in an order by United States District Judge Nickerson enjoining him from filing any further litigation papers until after adjudication of the motions to dismiss.

In a Memorandum and Order of August 1, 1984 (Exhibit "H"), Judge Nickerson granted our motion for summary judgment dismissing the complaint on the grounds of res judicata and collateral estoppel. The complaint was dismissed against the other defendants on various grounds. In addition, Judge Nickerson assessed attorneys' fees against Mr. Sassower and his client jointly and severally for bringing a frivolous lawsuit and for their "vexatious" litigation tactics. Reargument was denied. There is presently pending a Petition for a Writ of Mandamus filed by Mr. Sassower which seeks to compel Judge Nickerson to accept additional papers in opposition to the motions for summary judgment which were previously granted.

Almost simultaneously with the filing of this second frivolous lawsuit, Mr. Raffe signed a letter to the Grievance Committee against FK&M and the two other law firms for the remaining shareholders (Exhibit "I"). We



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strongly believe that the grievance was inspired and prepared by Mr. Sassower. The complaint contained virtually the same allegations of wrongdoing that were the subject of the federal court action and the prior motions to remove FK&M and the Receiver. The grievance was thereafter rejected against FK&M (Exhibit "J") (and against the other law firms), the Committee finding that there was no basis for taking any action.

Throughout this period, Mr. Sassower's client also signed several letters to District Attorney Robert Morgenthau, charging criminal wrongdoing by the litigants and their attorneys. We believe that Mr. Sassower also prepared such correspondence. We are unaware of any response by the office of the District Attorney.

At this point, apparently unfazed by the judicial determinations which again and again had rejected his contentions and should have served to halt even the most overzealous litigant, Mr. Sassower stepped up his attack dramatically and filed eight lawsuits in short order. Less than one month after the dismissal of the federal court action and the grievance complaint, Mr. Sassower, as attorney for Mr. Raffe, commenced another lawsuit against FK&M and me, this time in the United States District Court for the Southern District of New York. Also named as defendants are the Honorable Xavier C. Riccobono, the Honorable Michael J. Dontzin, the Honorable Thomas V. Sinclair, Jr., the Honorable Donald Diamond, Attorney General Robert Abrams, Assistant Attorney General David Cook, the other shareholders of Puccini and attorneys for the other shareholders. The complaint (Exhibit "K"), which is principally a rehash of the prior complaint that was dismissed by Judge Nickerson, seeks omnibus injunctive relief and \$25,000,000 in damages. All defendants, including FK&M and the Receiver, filed motions to dismiss this complaint, which motions are pending. We have also sought an order enjoining further lawsuits by Sassower and Raffe.

In the three months following the filing of the second federal court lawsuit, and shortly after Judge Connor authorized FK&M and me to make a motion to enjoin Mr. Sassower and his client from filing additional



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lawsuits against us, (1) Mr. Sassower, appearing pro se, personally served a summons without complaint naming FK&M and me as defendants (Exhibit "L"); (2) Mr. Sassower, as attorney for Mr. Raffe, personally served yet another complaint naming as defendants the Honorable Xavier C. Riccobono, the Honorable Michael Dontzin, the Honorable Thomas V. Sinclair, Jr., FK&M and the Receiver (Exhibit "M"); (3) Mr. Sassower, representing Mr. Raffe individually and on behalf of Puccini Clothes, Ltd., personally served a summons without complaint naming FK&M and the attorneys for the other shareholders as defendants (Exhibit "N"); (4) Mr. Sassower, representing "Hyman Raffe individually and on behalf of Puccini Clothes, Ltd.", filed a Petition naming as Respondents the same three justices, Attorney General Robert Abrams, the two law firms which represent Puccini's other shareholders, FK&M and me (Exhibit "O"); (5) Mr. Sassower, as attorney for Mr. Raffe, filed a complaint against the Honorable Thomas V. Sinclair; (6) Mr. Sassower, as attorney for Mr. Raffe, filed a complaint against various justices; and (7) Mr. Sassower, as attorney for Mr. Raffe, filed a summons without complaint naming the law firm of Kreindler & Relkin, P.C. as a defendant. I was advised that previously, Citibank, N.A., one of the co-executors of the Kaufman Estate, was sued by Mr. Raffe, represented by Mr. Sassower, in the Supreme Court, Nassau County. With this background in mind, we turn to a more detailed discussion of some of Mr. Sassower's conduct.

1. The Violations of Court Orders.

A. The Disqualification Orders.

As noted above, by two separate orders dated February 1, 1982 (collectively Exhibit "A"), Mr. Sassower was disqualified from representing Mr. Raffe due to a disabling conflict of interest in the action bearing Index No. 16792/80, the Dissolution Proceeding bearing Index No. 01816/80, and "in all other actions or matters wherein George Sassower, Esq. represents an interest adverse to . . . Eugene Dann, Robert Sorentino and Puccini Clothes, Ltd." Numerous motions for reargument, renewal and



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resettlement were denied. These orders were unanimously affirmed by the Appellate Division, First Department (Exhibit "P").

Soon after FKM's retention as attorneys for the Receiver in February, 1982, it appeared that Mr. Sassower was continuing to represent Mr. Raffe in actions in which he had been disqualified. We therefore made a motion to hold Mr. Sassower and his client in contempt of court. In view of the fact that much of the evidence then known to us was circumstantial, as well as the serious consequences of a contempt finding, we suggested to Special Term that it might be appropriate to direct a hearing on the issues raised by the motion.

In response, neither Mr. Sassower nor Mr. Raffe denied the allegations of our motion. They did raise a host of technical defenses concerning the form of the proceeding and of the motion papers, and Mr. Sassower also argued that the order to show cause for contempt had not properly been served upon him. The Honorable Martin Evans, to whom the motion was submitted, rendered a decision holding the motion in abeyance pending a hearing on whether Mr. Sassower had properly been served with the order to show cause. A hearing was subsequently held at which Mr. Sassower did not attend, and thereafter a Referee issued a decision finding that Mr. Sassower had properly been served.

During the twenty-one month period between submission of the motion and the ultimate contempt determination by Judge Evans, Mr. Sassower's violation of the Disqualification Orders became increasingly more open and flagrant. Thus, for example, he began to make court appearances for his client in actions in which he had been disqualified. He also began to write letters to justices and to the litigants concerning matters in which he had been disqualified.

On July 26, 1984, Mr. Sassower appeared at the examination before trial of Mr. Raffe in the Dissolution Proceeding in which he had been disqualified. At the



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outset, Referee Diamond, who had been assigned to supervise such disclosure, denied the request of the other litigants to exclude Mr. Sassower from the deposition room, and permitted him to remain as an "observer", stating however, that at "the first interjection, he goes." (See p. 4 of the transcript, Exhibit "Q".) During the examination, just as Mr. Raffe was about to identify the person who had prepared the lengthy litigation papers to which he had affixed his name after Mr. Sassower's disqualification, Mr. Sassower interjected by instructing Mr. Raffe that he did not have to answer questions on Fifth Amendment grounds and urged him to leave the deposition room:

"Q Mr. Raffe, let me give you another copy of the affidavit which has just been marked as Receiver's Exhibit B. I'm going to be asking you some questions about it. This way you can refer to it.

A Now?

Q Yes.

A Okay.

Q . . . . Who prepared this affidavit?

A I did.

Q You wrote the entire seventy-two pages?

A I had some help that I got.

Q Who assisted you in writing it?

A Well, I had -- I'm not sure when the date was, we had Mr. Harry Katz, who was alive. I'm not sure if he was at this

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particular time. [Pause] He wasn't? I had a Mr. --

MR. SASSOWER: Excuse me. May I object? I insist. He's under contempt proceedings. I think you are obliged to warn the witness about his Fifth Amendment rights. I think it is an obligation by the Court.

THE REFEREE: Mr. Sassower, please leave the room.

MR. SASSOWER: Fine. I think it is an obligation.

Mr. Raffe, you have Fifth Amendment rights. You do not have to answer them. And they are going beyond the scope of the examination. This entire thing is a fraud on the record.

THE REFEREE: Mr. Sassower.

MR. SASSOWER: It is a fraud.

THE REFEREE: Mr. Sassower.

MR. SASSOWER: Fine.

THE REFEREE: Please leave the room.

MR. SASSOWER: I will leave the room.

You have Fifth Amendment rights, Mr. Raffe.

And I think you ought to leave the room also, Mr. Raffe. I think the whole thing is a fraud. The innocent guy they are examining. The criminals they are not." (pp. 51-53 of the transcript)(emphasis supplied)



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Shortly thereafter, Mr. Sassower returned to the deposition room, and stated:

"I am directing my client not to answer any further questions because you have gone beyond the scope of the examination, because you have gone into other litigation which is not part of this case or this Court." (pp. 76-77 of the transcript)  
(emphasis supplied)

Referee Donald Diamond immediately directed that Mr. Sassower be escorted from the Courthouse and the examination continued. However, Mr. Raffe thereafter invoked the Fifth Amendment in response to all questions that sought to ascertain whether he had knowledge of the myriad of legal proceedings that he had instituted pro se, and to elicit facts showing that Mr. Sassower was directly responsible for such litigations.\*

Referee Diamond recently issued a decision barring Mr. Sassower from attending (even as an observer)

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\*At the conclusion of this deposition session, Referee Diamond directed Mr. Raffe to produce certain documents and appear for the continuation of his deposition on September 24, 1984. However, on that date, Mr. Sassower, not Mr. Raffe, appeared. Mr. Sassower stated that he and his client would appear at the Appellate Division at 2:00 p.m. that day to make an application in connection with the Puccini litigations, apparently implying that such appearance, which had been orchestrated by Mr. Sassower, was the reason for Mr. Raffe's failure to appear for the continuation of his deposition. However, I telephoned Assistant Attorney General David Cook later that afternoon and learned that Mr. Sassower had visited his office at approximately 2:00 p.m. and stated that he would not appear at the Appellate Division that day. Mr. Raffe did not thereafter appear for the continuation of his deposition.

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further proceedings in which he discussed the reasons for his conclusion that Mr. Sassower had violated the Disqualification Orders:

"In the proceedings before me George Sassower has ignored the order removing him as attorney and it is apparent that the real objection to the holding of a pre-motion conference, a procedure used in the Federal and other courts, is to conceal and obscure his continuous representation of Mr. Raffe and that he is acting as his attorney with respect to the making of motions in the proceedings where he has been removed.

The totality of circumstances all point to the fact that Mr. Sassower continues to represent Mr. Raffe notwithstanding the order removing him.

George Sassower maintains his office for the practice of law at the same business address used by the defendant pro se with both sharing the same business telephone number.

The motion papers used on the making of this motion contain a supporting affirmation by George Sassower dated August 24, 1984, long after he was barred from representing the movant.

The physical appearance of the papers submitted by the defendant pro se bears a striking resemblance to those papers clearly identifiable to George Sassower and are made on the same type of paper with the same type style and formatting.

In addition to the physical appearance, the draftsmanship of the motion papers, language and polemic style bear such



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remarkable similarity that they are clearly authored by a single hand.

At each instance where the defendant pro se was required to appear before me, Mr. Sassower appeared indicating that he continues having ties with the defendant pro se and advocating the contentions of the pro se defendant with utter disregard of the order removing him from acting as attorney for the pro se litigant.

During the deposition of the defendant pro se, Mr. Sassower was removed from the room. On that occasion, his daughter Elena Ruth Sassower remained as an observer during the examination before trial of the defendant pro se. His daughter also served the moving papers for the making of this motion.

After a brief recess in the disclosure proceeding, Mr. Sassower returned to the room and it was necessary to have him escorted out of the courthouse. Again, his daughter remained as an observer.

On another occasion, I observed his daughter eavesdropping at my door during the holding of a conference with the attorneys in this case.

During the deposition of the defendant pro se, he invoked his constitutional privilege to refuse to answer questions about his activities as a pro se litigator leading to the inference that if he had answered the questions, the answers would have established that George Sassower continues to represent the defendant pro se as an attorney although he is barred from such activity.

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None of these activities are consistent with the role of an attorney after the making of an order removing the lawyer from representing parties to this lawsuit.

On September 18, 1984, Mr. Sassower appeared before me and advised me not to schedule the continued disclosure of the pro se defendant because Mr. Raffe would not appear at the time and date previously fixed. And, the defendant Raffe did default in the furnishing of disclosure.

Mr. Sassower's continued participation in these proceedings violates the orders of this court barring him from acting as an attorney for parties to this lawsuit and I am constrained to view the role of his daughter as being an alter ego whereby Mr. Sassower continues to control the litigation for the pro se defendant notwithstanding his removal by order of this court as well as his physical removal from the courthouse.

To give effect to the orders removing George Sassower as attorney, both he and his daughter Elena Ruth Sassower are barred from attending all further proceedings conducted before me in those actions and proceedings where George Sassower has been removed as attorney.

We are enclosing herewith collectively as Exhibit "R" the motion papers submitted on the contempt motion and letters written to Judge Evans which outline additional, but far from all, instances of misconduct. We believe that the transcripts of proceedings before Referee Diamond also show Mr. Sassower's participation on behalf of Mr. Raffe in matters in which he was disqualified. Unfortunately, no transcript was made of Mr. Sassower's many court appearances on behalf of Mr. Raffe after the disqualification.



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By decision dated August 14, 1984, Judge Evans granted the contempt motion (Exhibit "B").

b. The Order Enjoining Mr. Sassower  
From Continuing to Represent Puccini.

At one time, Mr. Sassower represented Puccini in certain litigations, as well as Messrs. Raffe, Eugene Dann and Robert Sorrentino, three of Puccini's four shareholders. Thereafter, by the Order of the Honorable Hilda Schwartz dated June 30, 1980 (Exhibit "S"), Mr. Sassower was relieved as counsel for Puccini (as well as for Messrs. Dann and Sorrentino). This Order was entered at approximately the same time that Puccini was judicially dissolved.

Upon the appointment of the Receiver, pursuant to the Order of the Honorable Thomas V. Sinclair, Jr. authorizing the Receiver to appoint attorneys, he retained FK&M. Notwithstanding the foregoing, Mr. Sassower filed a Brief on behalf of Puccini in the Appellate Division. After writing to Mr. Sassower in an unsuccessful effort to convince him to cease his improper continued representation of Puccini, we made a motion for an order enjoining him from continuing to represent Puccini. The Honorable Edward Greenfield granted the motion (Exhibit "T"), and thereafter entered an Order which provided in pertinent part:

"ORDERED, that neither George Sassower, Esq. nor any other attorney may represent or purport to represent Puccini Clothes, Ltd. in any legal action, proceeding or otherwise unless expressly authorized to do so by Lee Feltman, Esq., in his capacity as court-appointed and duly qualified permanent receiver of the property and assets of Puccini Clothes, Ltd." (Exhibit "U")

Thereafter, notwithstanding this Order, Mr. Sassower filed at least five Complaints and a Petition in



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which he purported to represent Raffe "individually and on behalf of Puccini Clothes, Ltd." Copies of these pleadings are annexed hereto as Exhibits "G", "K", "M", "N", "O" and "V". We point out that two of the Complaints were filed in federal court, and there may be an issue as to whether Mr. Sassower's conduct in filing those actions falls within the jurisdictional scope of Judge Greenfield's order. In any event, since Mr. Sassower had previously been discharged as attorney for Puccini and since only the Receiver was then authorized to represent Puccini, such representation was patently improper. The Petition and other Complaints were filed in the New York State Supreme Court and thus no such issue arises.

c. The Administrative Order and the Directives Issued Pursuant Thereto.

As noted above, our request for the appointment of a supervisory justice resulted in an Administrative Order and the appointment of Special Referee Donald Diamond to oversee certain matters in the Puccini litigations. Referee Diamond issued certain directives: (1) no party is permitted to make a motion without a pre-motion conference at which the factual issues raised by the motion are to be resolved, and (2) any application for reargument and renewal may be made only by order to show cause signed by the justice who signed the order from which reargument or renewal was sought. For the most part, particularly after a few instances of compliance by Mr. Sassower which proved to be unsuccessful for he and Mr. Raffe, he proceeded to ignore the Administrative Order and these directives and continued making frivolous motions as before in Special Term without requesting a pre-motion conference before Referee Diamond. We of course will make available to the Committee our voluminous files which contain motions made by Mr. Sassower and his client in violation of the Administrative Order and the directives.

One recent incident when Mr. Sassower violated not only these directives but also the Disqualification Order is illustrative of his conduct. An Order to Show Cause was presented on behalf of Mr. Raffe, apparently by Mr. Sassower, to the Honorable Thomas V. Sinclair, Jr.



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seeking reargument and renewal of an order granting a money judgment in favor of the Kaufman Estate and against Mr. Raffe. Apparently, Judge Sinclair declined to sign the Order to Show Cause. Thereafter, the same or a similar Order to Show Cause was presented to Judge Parness who was at that time sitting in Special Term, Part II. Judge Parness was not the judge who signed the order from which reargument and renewal was sought, and thus was not the judge to whom the order should properly have been submitted pursuant to the directive of Referee Diamond. In addition, the Order to Show Cause did not annex a copy of the Administrative Order or reveal that Judge Sinclair had declined to sign the Order. (I have been advised by another litigant that the Clerk in Special Term, Part II has stated that the Order to Show Cause was submitted by Mr. Sassower himself.)

Apparantly unaware of the Administrative Order and Referee Diamond's directives, Judge Parness signed the Order to Show Cause. Shortly thereafter, the attorneys for the Kaufman Estate requested a hearing before Judge Parness on the issue of the propriety of his signing the Order to Show Cause. That hearing was attended on August 16, 1984 not by Mr. Raffe, but by Mr. Sassower who had previously been disqualified in that proceeding (New York County Index No. 16792/80). After being advised of the foregoing, Judge Parness referred the matter to Judge Sinclair for de novo determination concerning the Order to Show Cause. Thereafter, once again, Mr. Sassower, not Mr. Raffe, attended and participated in the hearing before Judge Sinclair, after which Judge Sinclair issued a Memorandum declining to sign the Order to Show Cause. The Memorandum mentions Mr. Sassower's participation (Exhibit "W"). Thereafter, Mr. Sassower, as attorney for Mr. Raffe, filed two separate lawsuits based on this incident.

## 2. Mr. Sassower's Abuse of the Judicial Process

We firmly believe that the onslaught of frivolous litigation, only some of which is described above, is



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similar to the conduct of Mr. Sassower that was recently enjoined by the Appellate Division, Second Department in Sassower v. Signorelli, N.Y.L.J., March 7, 1984, p. 13. In that case, the Second Department unanimously affirmed the lower court's injunction against Mr. Sassower (and his wife) restraining their filing of additional lawsuits arising out of orders which required Mr. Sassower to account for his activities as a fiduciary. The Appellate Division wrote in pertinent part as follows:

"This appeal is the latest in a series of frivolous and repetitious claims, motions, petitions, collateral proceedings and appeals arising from the rulings of the defendant, the Surrogate of Suffolk County, which required plaintiff George Sassower to account for his activities as a fiduciary. We affirm the order insofar as appealed from, and utilize the opportunity to caution these plaintiffs, as well as others, that this court will not tolerate the use of the legal system as a tool of harassment . . . .

We now turn to the question of whether Special Term acted properly in enjoining plaintiffs from instituting further actions or proceedings in connection with this matter. We hold in the affirmative.

To be sure, public policy mandates free access to the court and zealous advocacy is an essential component of our legal system (citation omitted), and ordinarily, the doctrine of former adjudication will serve as an adequate remedy against repetitious suits.

Nonetheless, a litigious plaintiff pressing a frivolous claim can be extremely costly to a defendant and can waste an inordinate amount of court time, time that this court and the trial courts can ill



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afford to lose (citation omitted). Thus, when, as here, a litigant is abusing the judicial process by hagridding individuals solely out of ill will or spite, equity may enjoin such vexatious litigation (citations omitted).

. . . . Indeed, attorneys who participate in such manipulation of the legal process are subject to strong disciplinary sanctions (see Code of Professional Responsibility, DR 7-102, subd. [A], par. [1]; Matter of Lee, 86 A.D.2d 131).

In short, Special Term acted properly in putting an end to plaintiff's badgering of the defendant and the court system. For the reasons stated, the order should be affirmed insofar as appealed from, with costs."

Several of the justices who have been called upon to adjudicate motions in the Puccini litigations have expressly recognized Mr. Sassower's vexatious litigation practices:

(a) Recently, in denying two motions made by Mr. Sassower's client and awarding attorneys' fees to the Receiver, the Honorable David B. Saxe stated:

Since 1982 Sassower and Raffe have made such an extensive series of motions (a list is appended as Ex. D to defendant's cross motion to motion #113), that future motions by Messrs. Sassower and Raffe should be examined in light of the well-established exception to the American rule that attorneys' fees are recoverable in response to vexatious suits and litigations commenced in bad faith.

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It appears that the litigation connected with the Puccini dissolution is endless. But it does not have to be vexatious . . . . Attorneys' fees may be assessed against Raffe by the receiver herein for the defense of these two baseless and frivolous motions." (Exhibit "X")

(b) In dismissing the first federal court lawsuit, Judge Nickerson imposed attorneys' fees against both Mr. Sassower and his client for their improper litigation tactics:

"This court has already determined that [Raffe's] complaint is entirely without merit and duplicative of the state court dispositions. Sassower knew, or should have known, that [Raffe] would have been precluded from litigating his claims in this court. Furthermore, Sassower's framing of the complaint in conclusory terms and his failure to support those conclusions warrant the imposition of fees against him. Finally, his manner of conducting this litigation has been vexatious. Defendants have incurred repeatedly the costs of answering and appearing for [Raffe's] entirely frivolous motions. Sassower has also engaged in correspondence clearly aimed at threatening and harassing the various defendants.

[Raffe] and his [sic] Sassower are to share equally the burden of paying the attorneys' fees incurred in defending this suit and are held jointly and severally liable for that amount." (Exhibit "H")

(c) The Honorable Louis Grossman referred to Mr. Raffe's "continued frivolous and baseless motions" in awarding "sanctions" (Exhibit "Y").



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These litigations have been extremely time-consuming and costly to the litigants and the attorneys, and have occupied a significant amount of judicial time. They have resulted in a substantial depletion of Puccini's assets because of the legal fees expended to defend such onslaught. Indeed, since Mr. Sassower is a judgment creditor of Puccini and his client is a shareholder, such depletion is certainly not in their financial interest. This suggests that their avalanche of litigation is motivated by other than legitimate pecuniary concerns. Indeed, the docket sheets of the state and federal courts serve as eloquent testimony to Mr. Sassower's utilization of the judicial process for improper purposes. This conclusion is also suggested by his recent letter to me concerning a summons that he had personally served on FK&M and me only a week before:

"Re: Sassower v. D. Schneider

Dear Mr. Schneider:

With respect to the above matter, I believe it would serve our mutual purposes if you would voluntarily identify "John Doe" and the office of which he is an employee, which you refused to divulge on the 18th.

You must recognize by a simple examination or interrogatory for the purpose of preparing a complaint, you would be compelled to give such information.

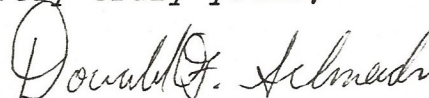
Incidentally, your conduct on the 24th was also reprehensible.

I suggest you do some reading before, not after you open your mouth. Otherwise, you might find it dangerous to your health and pocketbook." (Exhibit "Z")

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Please let us know if there is any further information we can provide or questions that we can answer.

Very truly yours,

A handwritten signature in cursive script that reads "Donald F. Schneider". The signature is written in dark ink and is positioned above the typed name.

Donald F. Schneider

DFS:dj  
Enclosure