

GEORGE SASSOWER

16 LAKE STREET
WHITE PLAINS, N.Y. 10603

914-949-2169

March 9, 1994

Gerald Stern, Esq.
State Commission on Judicial Conduct
801 Second Avenue
New York, NY 10017

For Immediate Attention

Re: Mr. Justice Theodore R. Kupferman
Appellate Division: First Department.

Dear Mr. Stern,

1a. Unless DONALD F. SCHNEIDER, Esq. ["Schneider"] forthwith executes a sworn affidavit, or an affirmation executed under penalty of perjury, clearly and unambiguously swearing/stating that he was served by SAM POLUR, Esq. ["Polur"], with the summons, of which the annexed is a certified copy, and then immediately serving the original affidavit/affirmation on Mr. Justice THEODORE R. KUPFERMAN ["Kupferman"], with copies on (1) your office, (2) the Departmental Disciplinary Committee, and (3) myself; and in the event of the anticipated failure and default by Mr. Schneider, and the failure of Mr. Justice Kupferman to immediately take the necessary action to sua sponte stay Mr. Polur's professional suspension (DDC v. Polur, 173 A.D.2d 82, 579 N.Y.S.2d 3 [1st Dept.-1992]), then I wish to add to my February 7, 1994 charges against Judge Kupferman to include, as a separate count, the diabolical, malevolent, depraved and demented violation of Mr. Polur's constitutional and civil rights of a criminal magnitude.

b. As long as the potential exists for the exercise of my confrontational rights, Mr. Schneider will not execute such an affidavit or affirmation.

2. The following, although not necessary to support my above request/charge, is my impression resulting from a cursory examination of only a portion of an incomplete Appellate Division's file in DDC v. Polur (supra), which I have ever reason to believe fair and accurate of the whole.

a. HAL R. LIEBERMAN, Esq. ["Lieberman"] and/or ANDRAI N. BRATTON, Esq. ["Bratton"], with actual knowledge that neither MICHAEL J. GERSTEIN, Esq. ["Gerstein"] nor Senior Assistant N.Y. State Attorney General DAVID S. COOK ["Cook"] would support Mr. Schneider's tale of Polur's service of a particular summons upon him, intentionally did not call upon them to testify.

March 9, 1994

b(1) Lieberman/Bratton, unquestionably aware that I would decisively demolish any assertion of a Polur service upon Schneider, did not call upon me to testify, or even communicate with me that a proceeding was pending, although they had on file my, ante litem motam statement on the subject, which was executed at a time when such statement was contrary to my pecuniary and penal interests.

(2) With actual knowledge of the existence of my, ante litem motam statement in the possession of DDC, the Chairman of the Hearing Panel, JOHN HORAN, Esq. ["Horan"] denied Polur the right to subpoena me, although he stated that if Polur caused my voluntary appearance, he would accept my testimony.

c. Once again, at Polur's disciplinary hearings, Schneider refused to identify the enclosed summons, or a copy, as the summons which Polur served upon him on April 10, 1985, tendering a patently absurd answer, as the reason for his refusal.

d. At that point, the Polur proceeding on that charge should have been at an end, and a dismissal of same was mandated.

e. Horan/Bratton however, forewarned and anticipating a Schneider refusal to directly identify the enclosed summons as being the one served upon him by Polur, nevertheless marked same as "Exhibit H" in Evidence with no foundation testimony.

f. Mr. Justice Kupferman is well aware that concealing my decisive oral testimony and evidence from the hearings, in and of itself, mandates a reversal (T.R. Kupferman, as Receiver v. Consolidated Research, 459 F.2d 1072, 1080 [2nd Cir.-1972]), particularly when Horan denied Polur the right, power and authority to have me subpoenaed.

3. Horan/Bratton for causing to be placed in evidence, without a foundation, Exhibit "H" as purportedly genuine of the summons served by Polur upon Schneider, when in fact they knew was it -- the corpus delicti -- was bogus, compels a Judiciary Law §44[10] reference by the Committee, to the appropriate criminal and disciplinary authorities.

4. To summarize, in part, my complaint of February 7, 1994, against Mr. Justice Kupferman for those not familiar with its contents, it is:

March 9, 1994

a(1) In one document, without a trial, without the opportunity for a trial, without any confrontation rights, in absentia, without due process, without the right of allocution, without any live testimony in support thereof, and without any constitutional or legal waiver, (1) HYMAN RAFFE ["Raffe"], (2) Polur, and (3) myself were fined and each sentenced to be incarcerated for thirty (30) days for non-summary criminal contempt.

(2) Polur's conviction was based on the assertion that he had served Schneider with a summons, which in fact was never produced to the nisi prius court, or the Appellate Division, unless Exhibit "H" is accepted as the genuine document.

(3) MICHAEL J. GERSTEIN ["Gerstein"] in a mirrored contempt motion at nisi prius, which was consolidated with the Schneider motion, alleged that the particular summons had been served upon him, not Schneider, as revealed by his affidavit on the subject (Microfiche #1-85-1989, Rec. on Appeal, p. 48):

"4. On April 10, 1985, a bare summons (a copy of which is annexed hereto as Exhibit 'B' was served upon Kreindler & Relkin, P.C., purporting to commence a new action ('Action No. 1' herein) on behalf of Raffe against Justice Riccobono, Special Referee Donald Diamond ..." [emphasis supplied]

Gerstein, in his motion or supporting affidavit, never mentions Polur, as being part of this transaction.

(4) Obviously, if I served Gerstein with a summons, it was I who served Schneider, who was standing next to and almost touching him.

b(1) With Polur and myself incarcerated under such trialess, manifestly unconstitutional criminal conviction, in a "boiler room" operation in the Courthouse offices of Referee DONALD DIAMOND ["Diamond"], Raffe without his attorneys of record present (cf. Moustakas v. Bouloukos, 112 A.D.2d 981, 492 N.Y.S.2d 793 [2d Dept.- 1985]), finally succumbed and agreed to: execute releases his adversaries, including to the judiciary; agreed to effectively surrender all his stock and creditor interests in PUCCINI CLOTHES, LTD. ["Puccini"]; agreed to consent to a 'phantom', 'non-existent', "final accounting" by Referee Diamond, presented by the senior partner in the Schneider firm, and in addition make "extortion" payments to the Schneider/Gerstein firms, to avoid incarceration under a criminal conviction, and not to have the Referee Diamond Report confirmed.

Gerald Stern, Esq. [T.R. Kupferman]

March 9, 1994

(2) Those "extortion" payments made by Raffe, are by check, and in an unsolicited filed affidavit of December 1992, Raffe admitted that these payments total "more than \$2,000,000.00".

c. Polur was not incarcerated because he served any summons, but because his presence, as Raffe's attorney, was an impediment to direct access to Raffe, in order to compel him to succumb and submit.

d. Then, four (4) years later, because Polur exposed this fraud, or a part thereof, as part of a federal action, and/or his perceived association with me, this triable, manifestly unconstitutional, conviction was then, ex post facto, elevated from an "offense" (Cheff v. Schnackenberg, 384 U.S. 373 [1966]) to an "infamous" and/or "serious" crime (cf. Blanton v. City of No. Las Vegas, 489 U.S. 538 [1989]) by, inter alia, "the Kupferman Krooks".

6a. Mr. Stern, ask any town, village, or local judge what sanctions your Commission would inflict on them if they had convicted and incarcerated, without the opportunity of a constitutionally mandated confrontational trial, a lawyer, in order to impose "rack and screw" procedures on his client, and "extort" from the client "more than \$2,000,000.00", which check payments are still continuing, under threats that he will incarcerated if he does not make payment?

b. Nothing less than "town, village, and local judge" justice should be imposed on Associate Appellate Division Justice Kupferman by your Commission.

7. I leave for another day the argument, that he who convicts and incarcerates, without opportunity of a confrontational trial, one who is so clearly innocent, is estopped from requesting a trial for himself, when the documentary evidence reveals him to be so clearly guilty.

Most Respectfully,

GEORGE SASSOWER

cc: Mr. Justice Theodore R. Kupferman
Hal R. Lieberman, Esq.
Andrai N. Bratton, Esq.
John Horan, Esq.
Donald F. Schneider, Esq. [Certified Mail-P 269 529 345]
Michael J. Gerstein, Esq.
Sen. NYS Ass't Atty Gen. David S. Cook

Exhibit H

SUPREME COURT : NEW YORK COUNTY

HYMAN RAFFE,

against

Plaintiff

XAVIER C. RICCOBONO, DONALD DIAMON, FELTMAN, KARESH & MAJOR, Esqs., and KREINDLER & RELKIN, P.C.

Defendant

Index No.

Plaintiff designates New York

County as the place of trial

The basis of the venue is

Defendant's place of business

Summons with Notice

Plaintiff resides at

County of

To the above named Defendant

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days if the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated, April 10, 1985 Defendant's address

GEORGE SASSOWER, Esq.

Attorney(s) for Plaintiff Office and Post Office Address

2125 Mill Avenue, Brooklyn, New York, 11234 718-444-3403

Notice: The nature of this action is violation of Judiciary Law, ~~XXXXXX~~ obstruction of justice.

The relief sought is damages

Upon your failure to appear, judgment will be taken against you by default for the sum of \$ ~~500,000~~ 10,000,000 with interest from 19 and the costs of this action.

APPELLATE DIVISION SUPREME COURT FIRST DEPARTMENT STATE OF NEW YORK

I, FRANCIS X. GALDI, Clerk of the Appellate Division of the Supreme Court, First Judicial Department, do hereby certify that I have compared this copy with the original thereof filed in said office on 4-10-85 and that the same is a correct transcript thereof, and of the whole of said original.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court on FEBRUARY 7th, 1994.

Francis X. Galdi

CLERK

Rec'd in Ct 4/10/85 MTC