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Legal Cost Won By Receiver In Bankruptcy

By Martin Fox

A principal in a now-dissolved corporation which was at the center of one of the most litigated cases ever brought in New York has been ordered to pay legal fees of $170,410 incurred by the corporation's receiver in defending himself against an "onslaught" of "hagriding and harassing" suits.

A New York State special referee found Hyman Raffe liable for the legal fees under a 1985 stipulation of settlement. The referee rejected Mr. Raffe's claims that he had "no control" over the attorney filing the actions on his behalf, George Sassower, who has since been disbarred. Mr. Raffe said Mr. Sassower "continues virtually every day to initiate new litigations" in the federal courts in New Jersey. In addition to a bankruptcy petition there, Mr. Sassower also has filed for bankruptcy in U.S. District Court in Westchester County.

The decision is on page 7, column 3.

"The picture that Mr. Raffe paints of a client duped by a trusted lawyer is more appropriate to a novel by Dickens than the facts in this case," wrote Referee Donald Diamond, in *Feltman, Karesh, Major & Farbman v. Raffe*, filed last week in New York County, Supreme Court, IA Part 18. He noted that during the years of litigation in state and federal trial and appellate courts in New York, the pair had a close relationship and together had "conceived the plan" to obtain all the assets of the now-dissolved company, Puccini Clothes Inc.

"This plan was not based upon any legal or moral justification," he added. "They planned to engage in meritless and baseless lawsuits until everyone with an adverse interest capitulated because the cost of litigation was not worth the defense of the onslaught of lawsuits."

In rejecting the defendant's claim of "lack of knowledge that Sassower's activities would continue unabated," Referee Diamond determined that "Raffe and Sassower were engaged in a tactic that was tantamount to extortion .... they fabricated meritless lawsuits using sham claims."

The permanent receiver for Puccini is Lee Feltman, with his firm, Feltman, Karesh, Major & Farbman, serving as counsel. The stipulation required the defendant to pay legal costs only for new litigation, an arrangement the court said was "not

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unconscionable." Mr. Raffe, who owns a successful fuel oil business, allowed his attorney to use the company's facility as his home and office, and the litigation expense became "cost-effective" because it was "part of fixed business overhead," the decision observed.

The referee, whom all the parties agreed would hear and determine issues in Puccini-related matters, provided a detailed review of the case that began in 1980 and resulted in a series of contempt orders against Mr. Raffe and Mr. Sassower and another attorney.

1987 Disbarment

Mr. Sassower's disbarment by the Appellate Division, Second Department (NYLJ, Feb. 27, 1987), was based upon professional misconduct that included "frivolous and vexatious litigation against litigants, judges, referees, attorneys, public officials and other parties" brought "for the purposes of harassing, threatening, coercing and maliciously injuring those made subject to it." The disbarment order also cited three convictions for criminal contempt for disobeying orders in relationship to litigation and a "deliberately false misrepresentation" to the Grievance Committee. He previously had been incarcerated for contempt of court.

In holding Mr. Raffe liable for the $170,410 in legal fees incurred by the receiver, not taking into account "prospective legal services," Referee Diamond emphasized that the defendant "had no illusions about Sassower stopping the litigation. He knew that Sassower was committed to using litigation as a tool of economic duress."

The decision said it was unclear how Mr. Sassower was pursuing litigation in Bankruptcy Court in New Jersey since he was a New York resident. However, it noted "his choice of forums and options has been curtailed" as the result of his disbarment and the prospect of "confinement for contempt" mentioned in a federal appellate order.