

Supreme Court, Appellate Division
First Judicial Department

Departmental Disciplinary Committee

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41 MADISON AVENUE
NEW YORK, N.Y. 10010

May 23, 1984

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PERSONAL & CONFIDENTIAL

Hyman Raffae
A.R. Fuels, Inc.
2125 Hill Avenue
Brooklyn, New York 11234

Re: Matter of Arutt, Nachamie, Benjamin, Lipkin & Kirschner
Docket No.: 688/84

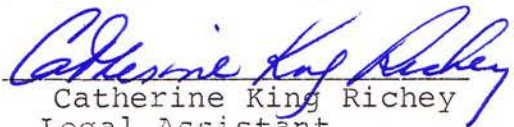
Dear Mr. Raffae:

Enclosed herewith is the answer to your recent complaint,
received from the above-named.

Should you wish to submit a reply to the answer, kindly
do so, in writing, on or before June 12, 1984. If we
do not hear from you by that date, we shall assume that
you do not wish to submit a response to the attorney's
statement. Accordingly, the Committee will make its
disposition on the basis of the materials already in its
file.

Very truly yours,

CLAUDIO B. BERGAMASCO

BY: 
Catherine King Richey
Legal Assistant

CBB:CKR:dml
Enc.

CLR

NACHAMIE, KIRSCHNER, LEVINE, SPIZZ & GOLDBERG, P. C.

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May 22, 1984

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DEPARTMENTAL
DISCIPLINARY
COMMITTEE

Michael A. Gentile
Chief Counsel
First Judicial Department
Departmental Disciplinary Committee
41 Madison Avenue
New York, NY 10010

Re: Hyman Raffe-A.R. Fuels, Inc.
Docket No. 688/84

Dear Mr. Gentile:

This is in response to your letter dated May 3, 1984 concerning the complaint of Hyman Raffe ("Raffe") against Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C., Kreindler & Relkin, P.C. and Feltman, Karesh & Major, Esqs.

A brief background of the facts is in order. Puccini Clothes, Inc. ("Puccini") is a New York corporation. Milton Kaufman, deceased, Eugene Dann, Robert Sorrentino and Raffe each owned 25% of the authorized and outstanding shares of Puccini.

George Sassower ("Sassower") originally represented Eugene Dann, Robert Sorrentino and Puccini, as well as Raffe. By order of the New York State Supreme Court, New York County, dated September 11, 1980, Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. was substituted in place of George Sassower as attorney for Eugene Dann, Robert Sorrentino and Puccini. In February, 1982, Sassower was disqualified as Raffe's attorney in Case Nos. 01816/80 and 16792/80 (see below) by two separate orders of the Honorable Thomas V. Sinclair, Jr., both of which were subsequently unanimously affirmed by the Appellate Division, First Department. By Order of the New York State Supreme Court, New York County, dated February 1, 1982, Lee Feltman was

Michael A. Gentile
May 22, 1984
Page 2

appointed permanent receiver of Puccini and was authorized to appoint attorneys for Puccini. Subsequently, the law firm of Feltman, Karesh & Major was substituted in place of Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. as the attorneys for Puccini. Kreindler & Relkin represent Citibank, N.A. and Jerome H. Barr as co-executors of the Estate of Milton Kaufman.

Citibank, N.A. and Jerome H. Barr qualified as executors of Mr. Kaufman's estate upon his death in 1979. In 1980, the executors instituted an action in the New York State Supreme Court, New York County (Index No. 01816/80) for the dissolution of Puccini pursuant to Section 1104(a) of the New York Business Corporation Law. After extensive litigation, an Order of Dissolution was granted on June 4, 1980. The Order appointed John V. Lindsay as receiver (who never qualified). The Order of Dissolution was appealed from by Raffé, and was subsequently unanimously affirmed by the Appellate Division, First Department.

In May, 1980, Raffé instituted an action in New York State Supreme Court, County of New York (Index No. 10006/80) against Citibank and Barr after the dissolution proceeding was commenced, seeking the recovery of \$35,000 and alleging the executors had damaged Puccini. That action was dismissed in the lower court and the dismissal was affirmed unanimously in the Appellate Division, First Department.

In November, 1980, Citibank and Barr, as the co-executors of the Estate of Milton Kaufman, commenced a second action in New York State Supreme Court, County of New York (Index No. 16792/80) against Raffé as guarantor of certain obligations of Puccini. A judgment was rendered in favor of the executors for approximately \$350,000 against Raffé, who, in turn was awarded judgment over against Dann, Sorrentino and Puccini for the amounts recovered from him by the Estate of Kaufman.

In January, 1981, John Lindsay declined to accept the appointment as receiver of Puccini, and by Order dated February 1, 1982, the June 4, 1980 Order was modified to the extent of appointing Lee Feltman as permanent receiver of Puccini.

In January, 1984, Hyman Raffé instituted an action in the United States District Court, Eastern District of New York (84 Civ. 9305 (EHN)) against Citibank, N.A., and Jerome H. Barr, individually, and as executors of the Estate of Milton Kaufman, Kreindler & Relkin, P.C., Lee Feltman, Feltman, Karesh & Major;

Michael A. Gentile
May 22, 1984
Page 3

Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C., Rashba and Pokart, P.C., Eugene Dann, Robert Sorrentino, Robert Abrams, as Attorney General of the State of New York, John V. Lindsay, and the Supreme Court of the State of New York, County of New York. The complaint, inter alia, alleged in conclusory fashion a conspiracy between the various parties to take possession and control of Puccini's affairs. All of the defendants moved by Motion for an Order seeking dismissal of the Complaint on the grounds that (1) the Complaint fails to state a claim upon which may be granted against the defendants, (2) the Court lacks jurisdiction over the subject matter of the action, (3) the Complaint is barred by res judicata and collateral estoppel, and (4) the plaintiff had no standing to commence the action. The motion was heard before the Honorable Eugene Nickerson and is presently sub judice. Raffe subsequently brought on a motion for leave to serve an amended complaint as well as seeking the transfer of all of the State cases from the New York State Supreme Court to the U.S. District Court, or the issuance of mandates to that Court. The motion was heard by the Honorable Eugene Nickerson and is presently sub judice.

In addition to all of the aforementioned actions, Raffe has commenced a law suit against Feltman, Karesh & Major and Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. based upon Feltman's representation of the Receiver and our representation of Dann and Sorrentino. The lawsuit has been dismissed against Feltman, Karesh & Major and continues against Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

Mr. Raffe's allegations of wrongdoing is merely another attempt to intimidate the parties. Raffe has commenced almost 100 separate motions and appeals in the State actions in the last two years alone. Virtually every order has resulted in multiple motions by Raffe for renewal, reargument, resettlement, and/or clarification. As a result of the aforementioned, the Court, by application of Lee Feltman, has appointed a Special Referee, the Honorable Donald Diamond, to supervise the State actions. The Order includes a directive that a pre-motion conference be held prior to the making of any motion, a procedure devised in order to avoid the continued proliferation of needless motion practice in the State actions and proceedings.

Mr. Raffe's allegations of wrongdoing have been dealt with and disposed of by the courts on numerous occasions in the New York State Supreme Court Proceedings. By illustration, Raffe, in Case No. 21208/79, brought on a Motion returnable

Michael A. Gentile
May 22, 1984
Page 4

February 14, 1984, which, inter alia sought the disqualification of Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C., the disqualification of Feltman, Karesh & Major, and to direct Kriendler & Relkin, P.C., Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C., Lee Feltman, Esq. and Rashba and Pokart, P.C. to submit to disclosure proceedings. Judge Beverly S. Cohen denied Mr. Raffe's motion in its entirety noting that Mr. Raffe had brought on a number of previous motions to disqualify which had been denied and that there was no evidence presented which would require a contrary ruling. Judge Cohen in discussing Mr. Raffe's conduct, stated that:

"this case and related ones have been marked by repetitive conduct on the part of the movant and his counsel which merits censure. There is little doubt that this course of misconduct has added unjustifiably to the opposing party's litigation expenses."

The charge of criminal larceny of judicially entrusted funds by Kreindler & Relkin, P.C. and Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C., have been made by Raffe time and time again in the New York State Supreme Court proceedings and have all been determined to be without any validity. Any funds received by our firm from Puccini Clothes was for legal services rendered for the winding down of Puccini's business operations. No funds received by our firm were for legal services to rectify any defaults or for the personal benefit of our clients.

Raffe's charge that Rashba and Pokart was a partison accounting firm "associated with the Kreindler and Arutt firms" are categorically denied. Raffe's conclusory allegations concerning Rashba and Pokart and associations with various law firms have been made numerous times in the New York State Supreme Court proceedings. In each instance, the Courts have determined no such relationship existed.

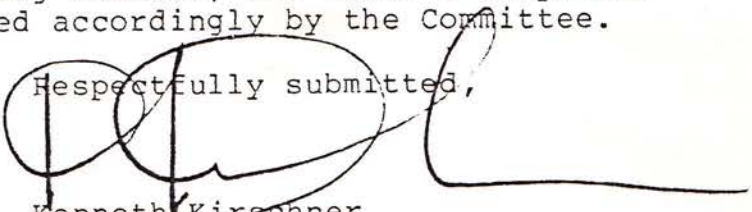
A statement of affairs of Puccini has been filed by Eugene Dann and Robert Sorrentino pursuant to the Order entered as a result of Raffe's motion for an Order directing Dann and Sorrentino to file a Statement of Affairs. In fact, we have been advised by Feltman, Karesh & Major, that Raffe has failed to comply with the aforementioned Order to file a Statement of Affairs.

Michael A. Gentile
May 22, 1984
Page 5

In conclusion, it must be stressed that Raffe's ^{ou} baseless allegations have been repeatedly raised on numerous occasions and have been rejected by every Judge who has heard them. Raffe's complaint has been filed strictly in an attempt to intimidate and harass the parties.

For all the foregoing reasons, Mr. Raffe's Complaint should be rejected and treated accordingly by the Committee.

Respectfully submitted,


Kenneth Kirschner

KK/lv