

COURT OF APPEALS : STATE OF NEW YORK

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In the Matter of the Application of
Jerome H. Barr and Citibank, N.A.,
as Executors of the Will of Milton
Kaufman, Holders of One-Quarter of
All Outstanding Shares of Puccini
Clothes, Ltd. Entitled to Vote in
an Election of Directors,
For the Dissolution of Puccini
Clothes, Ltd.

Petitioners-Appellants,

[GEORGE SASSOWER, Esq.,
Respondent-Respondent].
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FURTHER JURISDICTIONAL
STATEMENT.

1. This statement responds to the Court's inquiry dated October 2, 1985, on which nothing has been received from adversarial counsel.

2a. Except for its unusual posture, to wit, denial of a motion to dismiss a notice of cross-appeal, analysis reveals "finality", since all remaining issues would have been disposed by the grant of respondent's motion.

b. Had respondent moved for a Writ of Prohibition against the Appellate Division, prohibiting the Appellate Division from entertaining this cross-appeal which vindicated respondent of criminal contempt, and such application were to be denied, there would no question concerning "finality".

c. The mere fact that the denial was of a motion, rather than for a Writ of Prohibition, does not affect "finality", if in fact the denial of the cross-motion resulted in finality.

3a. A substantial constitutional question is involved since the Appellate Division was under the impression that a prosecutor may appeal, a matter which respondent believes was resolved to the contrary in Plummer v. Rothwax (63 N.Y.2d 243, 481 N.Y.S.2d 657, note 2).

b. In that footnote, this Court stated that in People v. Ressler (17 N.Y.2d 174, 269 N.Y.S2d 414), this Court construed the state's "double jeopardy" provision as extensively as the federal constitutional prohibition.

c. Clearly then, the state constitution, as well as the federal constitution (Benton v. Maryland, 395 U.S. 784), prohibits appeals or cross-appeals by the prosecutor where the court fails to find the accused "guilty".

d. The holding by the Appellate Division to the contrary raises a substantial federal and state constitutional question, particularly since the interest sought to be protected is the harassment of the accused.

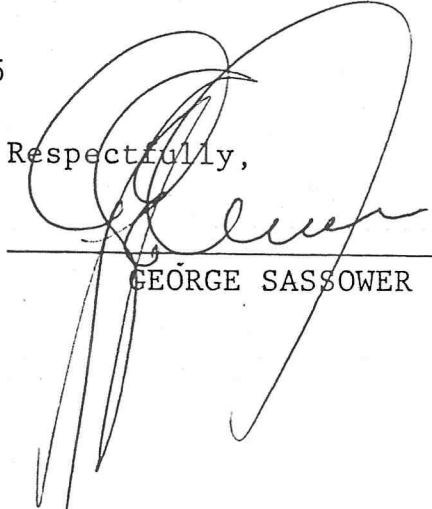
The private prosecutors herein apparently have an inexhaustable amount of assets to expend in order to compel the respondent to cease the exposure of their larceny of judicial entrusted assets, perjury, and corruption.

e. This is the type of harassment that one can expect when the judiciary permits private parties to control of criminal judicial process (People v. Acme, 37 N.Y.2d 326, 372 N.Y.S.2d 326), and condemned in Polo Fashions v. Stock Buyers, (760 F.2d 698-6th Cir.).

4. Further noted is that respondent is a non-party in this matter (Cohen & Karger, Power of the Court of Appeals, pp. 183-186).

Dated: October 12, 1985

Respectfully,



GEORGE SASSOWER

STATE OF NEW YORK, COUNTY OF

ss.:

I, the undersigned, an attorney admitted to practice in the courts of New York State,

Check Applicable Box
☐ Certification
By Attorney
☐ Attorney's
Affirmation

certify that the within
has been compared by me with the original and found to be a true and complete copy.
state that I am

the attorney(s) of record for
in the within action; I have read the foregoing
and know the contents thereof; the same is

true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as
to those matters I believe it to be true. The reason this verification is made by me and not by

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated:

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

ss.:

I, being sworn, say: I am

Check Applicable Box
☐ Individual
Verification
☐ Corporate
Verification

in the within action; I have read the foregoing
and know the contents thereof; the same is true to my own knowledge, except as to
the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

the
of
a
corporation and a party in the within action; I have read the foregoing
and know the contents thereof; and the same is true to my own knowledge,
except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe
it to be true. This verification is made by me because the above party is a corporation and I am an officer thereof.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Sworn to before me on

19

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF KINGS

ss.:

(If both boxes are checked — indicate after names, type of service used.)

I, Pat Gomez

being sworn, say: I am not a party to the action, am over 18 years

of age and reside at Brooklyn, New York
On October 12, 1985

Check Applicable Box
☒ Service
By Mail
☐ Personal
Service on
Individual

I served the within further jurisdictional statement

by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care
and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last
known address set forth after each name:

by delivering a true copy thereof personally to each person named below at the address indicated. I knew each person
served to be the person mentioned and described in said papers as a party therein:

Kreindler & Relkin, P.C.; Feltman, Karesh & Major, Esqs.; and
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

Sworn to before me on

October 12, 1985

BARBARA TATESURE
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1986

The name signed must be printed beneath

Pat Gomez
Barbara Taturesure