UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GEORGE SASSOWER, Plaintiff, -against- ROBERT ABRAMS, FRANCIS T. MURPHY, XAVIER C. RICCOBONO, CHARLES L. BRIEANT, JAMES L. OAKES, A.R. FUELS, INC., HYMAN RAFFE, HOWARD BERGSON, FRED L. SHAPIRO, DONALD DIAMOND, CAROLYN CAIRNS OLSON, and MATTHEW T. CROSSON, Defendants.	Docket No. 92 Civ. 8515 [PKL]

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1a. This affirmation, made under penalty of perjury, is in support of a motion for the relief set forth in the annexed Notice of Motion, which includes divesting Chief U.S. District Court Judge CHARLES L. BRIEANT ["Brieant"] and his cronies of all the monies they made the subject of larceny and plundering from the judicial trust assets of PUCCINI CLOTHES, LTD. ["Puccini"], monies which were payable "to the federal court" but diverted to the Brieant cronies, and the monies extorted from HYMAN RAFFE ["Raffe"] for not being incarcerated under a criminal conviction and a criminal report, which admittedly exceeds $2,000,000.

b. Affirmant appreciates the intimidating and deceitful circumstances surrounding the execution of the affirmations of J. MICHAEL McMAHON ["McMahon"] and Deputy U.S. Marshal MICHAEL WITKOWICH ["Witkowich"], dated November 28, 1993, and thus requests they be given immunity in exchange for their non-hearsay testimony on the subject of inquiry.

2a. On Saturday, January 30, 1993, affirmant received, by regular mail, the affirmations of McMahon, Witkowich and

KENNETH FREDA ["Freda"], all dated January 28, 1993, and now, with dispatch, responds and further moves.

b. Within a few days, affirmant will, by separate sanction motion, address the Sadowski "Memorandum", dated January 29, 1993, which accompanied the aforementioned McMahon-Witkowich-Freda affirmations.

3. Significantly, the defendant, Brieant has not submitted an affidavit or affirmation that the McMahon and Witkowich affirmations are truthful and/or were executed under non-intimidating circumstances.

a(1) The documented fact is that since the White Plains Branch opened, more than 10 years ago, until the Brieant physical exclusion edict of July 1989, affirmant had only one (1) case in the U.S. District Court in White Plains, -- only one -- which case was active from March to the beginning of July of 1987 (Vilella v. Santagata, 87 Civ. 1450 [GLG]).

(2) With Court records in the custody and available to McMahon, to describe a single case in more than 10 years, as "the large number of lawsuits" is clearly a perjurious statement, and compels the conclusion that Assistant U.S. Attorney ROBERT W. SADOWSKI ["Sadowski"] and Brieant suborned perjury (18 U.S.C. §1622) in obtaining such McMahon affirmation.

b(1) Witkowich informed affirmant shortly after the physical exclusion edict was issued in July of 1989, that the Brieant Order was "oral", and also informed affirmant of the precise contents of such edict.

Affirmant has reason to believe that Witkowich, or his colleague, reduced such Brieant physical exclusion edict to writing shortly after it had been made.

(2) Obviously, with the intent of deceiving Witkowich, Witkowich was not advised when he executed his affirmation of January 28, 1993, that there were numerous writings, ante litem motam, filed with, inter alia, the FBI, the Department of Justice, the U.S. Attorney's Office, and even in the White Plains Courthouse, confirming the nature of such physical exclusion edict, as stated by Witkowich in July of 1989.

(3) Furthermore, and decisive of the deceit imposed upon Witkowich, Witkowich was not informed when he executed his affirmation that on January 23, 1990, Brieant signed and mailed a statement addressed to the office of Congresswoman NITA M. LOWEY ["Lowey"], which, as relevant, states:

> "This letter responds to your inquiry ... concerning George Sassower. ... The prior exclusion order remains in effect, unless and until his physical presence is actually required. ..." [emphasis supplied]

(4) Thus, contrary to the Witkowich affirmation, Brieant himself wrote that plaintiff is physically excluded from the Federal Building "unless and until his physical presence is actually required".

(5) Recently, when affirmant needed some forms, he telephoned the Federal Courthouse in White Plains, spoke to a person who was aware of the true nature of the Brieant physical exclusion edict (who I will not identify), requested that such forms be left inside the entrance door, and thereafter affirmant came to the Federal Building and picked up those forms.

The aforementioned recent conduct is totally inconsistent with the contents of the Witkowich January 28, 1993 affirmation.

(6) In having Witkowich execute his affirmation of January 28, 1993, with a radically new version of the July 1989 physical exclusion edict, Brieant and Sadowski were clearly suborning perjury.

4a. Had McMahon been caught diverting a few dollars of judicial funds to his own pockets, neither Sadowski nor any other Assistant U.S. Attorney would represent him at federal cost and expense.

b. Were Witkowich to involve himself in a "shake-down" of a few dollars, neither Sadowski nor any other Assistant U.S. Attorney would represent him at federal cost and expense.

c. However when Brieant involves himself in the larceny of very substantial judicial trusts assets, diverts monies payable "to the federal court" to private pockets, and extorts millions of dollars from Raffe to avoid incarceration under a criminal conviction, Sadowski defends Brieant, at federal cost and expense, although neither Sadowski or Brieant have ever denied the serious criminal charges lodged against Brieant and his co-conspirators.

5a. In view of the extant evidence, documentary and otherwise, Brieant obviously will not execute an affirmation on the subject, or even a statement that the McMahon-Witkowich affirmations are truthful and correct, since he actually knows them to be false, perjurious, deceptive and/or misleading.

b. The Brieant philosophy -- "when in a hole, dig deeper, and pull others in, as well".

6a. By reason of what is expressly stated, and/or deliberately omitted, in the McMahon-Witkowich affirmations, affirmant will move for summary judgment against Brieant and others in Sassower v. McFadden (93 Civ. 93-0342).

b(1) Uncontroverted is the fact that "due process", either before or after, substantive or procedural, was not afforded to affirmant with respect to the Brieant edict of December 10, 1987, the Brieant edict of December 11, 1987, or the Brieant physical exclusion edict of July of 1989.

(2) Such lack of due process, in and of itself, mandates that the aforementioned Brieant edicts be declared a nullity, and mandates a monetary damage award against Brieant (Carey v. Piphus, 435 U.S. 247 [1978]), and those who enforced his unconstitutional edicts (Supreme Court of Va. v. Consumers Union, 446 U.S. 719, 736-7 n. 15 [1980]) causing affirmant constitutional injuries.

(3) Furthermore, as demonstrated, there was no subject matter or personal jurisdiction over plaintiff by Brieant when he issued his edicts.

7a. As aforementioned, there is no dispute that Brieant is engaged in egregious criminal racketeering activities, and is employing his administrative office for that end.

b(1) There is no dispute that the judicial trust assets of Puccini were made the subject of larceny and unlawful plundering, and that no accounting can be rendered without implicating Brieant and other members of the judiciary.

(2) There is no dispute that substantial monies payable "to the federal court" were diverted to the private pockets of the cronies of Brieant and Presiding Justice FRANCIS T. MURPHY ["Murphy"].

(3) The Raffe affidavit in this action, dated December 22, 1992, read in tandem with the Raffe agreement of November 4, 1985, confirms that an amount, which Raffe states "exceed[s] Two Million Dollars" has been extorted from him by the Brieant-Murphy criminal syndicate.

As independently investigated, reported and published in, inter alia, the Village Voice (June 6, 1989) by Mr. JONATHAN FERZIGER ["Ferziger"] of UNITED PRESS, INTERNATIONAL ["UPI"]:

> "By signing three extraordinary agreements in 1985, however, Raffe ... . In exchange, the court agreed to let him go free. The tab so far has come to more than $2.5 million, paid to the [Brieant-Murphy cronies]. Raffe continues to pay with checks from his A.R. Fuels Co. business."

As long as Raffe keeps paying, and so the written agreement reads, he will not be incarcerated, as was affirmant.

So Raffe pays, pays and pays, to these "judicial indulgence peddlers" under continuous threats that he will be incarcerated, as was affirmant, if he refuses.

As Raffe repeatedly stated on June 19, 1987, in White Plains --- "they are bleeding me to death".

(4) Beyond question, Brieant is defrauding the federal

government by being represented by Sadowski, at federal cost and expense, without a 28 U.S.C. §2679 "scope" certificate.

(5) Almost certainly, Brieant is evading the revenue laws of the United States by not reporting his federal representation, at federal cost and expense, as "taxable income".

(6) Added to the aforementioned, there can easily be lodged against Brieant many counts of obstruction of justice, obstruction of criminal investigations, and other criminal activities, -- and now -- by the McMahon-Witkowich affirmations, counts of subornation of perjury can be lodged against Brieant and/or Sadowski.

8. Had Witkowich not been deceived and been advised by Brieant or Sadowski of the January 23, 1990 Brieant letter, or the other evidence, documentary and otherwise, of the contents of the July 1989 physical exclusion edict, Witkowich certainly would not have executed an affirmation which reads:

> "In July of 1989, I received oral instructions from Chief Judge Charles L. Brieant directing the United States Marshal to stop Sassower from entering the Courthouse unless the United States Marshal determined that he was entering the building for legitimate purposes. Judge Brieant informed me that Sassower was not to enter the Courthouse to file papers without leave of the Court or to disrupt the orderly operation of Courthouse business by monopolizing the attention of personnel in the Clerk's Office. In addition, Sassower was to be denied access to the judges' chambers."

a. When one considers that affirmant was not in the Federal Building and Courthouse in White Plains during the months of March, April, May, June and the first half of July of 1989, for Brieant to have issued his physical exclusion edict, as described by Witkowich, before affirmant's first visit to the

Federal Building in July of 1989, is manifestly absurd nd obviously contrived.

b. As aforestated, since the initial opening of a branch in White Plains until July 1990, as Court records will confirm, affirmant only filed one (1) case in the United States District Court in White Plains which was adjudicated in White Plains Vilella v. Santagata (supra).

c. In July of 1990, or one (1) year after the third edict by Brieant, affirmant filed another case (Sassower v. Brieant et el., which was assigned to U.S. District Court Judge THOMAS P. GRIESA ["Griesa"] in Foley Square.

d(1) Affirmant has never been in the Office or Chambers of any District Court judge in White Plains -- Never!

(2) It was immediately outside the Brieant Chambers that Brieant, in December of 1987, threatened affirmant with incarceration if he again requested an accounting of the judicial trust assets of "Puccini" - "The Judicial Fortune Cookie".

9. In view of affirmant's history of: (a) affirmant having filed a single case in White Plains (Vilella v. Santagata [supra]) -- which was only active for four (4) months in 1987; (b) with a history of affirmant never having been in the Office or Chambers of a District Court Judge in the White Plains Federal Courthouse; (c) with the non-existence of any cases by affirmant then pending in White Plains; (d) with a history of never having been in such Federal Building between March of 1989 and July 15, 1989 -- the contrived, concocted and fabricated statement by Witkowich that Brieant gave him the instructions, as set forth in

his affirmation of January 28, 1993, is patently false and contrived, particularly in the face of the documentary evidence, including a contradictory signed Brieant statement.

10a. During affirmant's two (2) months, without bail, incarceration, the Brieant cronies had Referee DONALD DIAMOND ["Diamond"] "approve" a 'phantom', 'non-existent' "final accounting" for Puccini, in which the Brieant-Murphy syndicate took for themselves all the judicial trust assets of Puccini, leaving nothing for any, New York to California, legitimate creditor.

b. Any doubt concerning the larceny of Puccini's judicial trust assets, needs only a filed accounting to prove the point, and an accounting <u>must</u> be filed by every court receiver, in every jurisdiction of the United States, including New York.

11a. Witkowich states in his affirmation that affirmant was arrested for filing a "frivolous" paper in New Jersey.

b. The relief in the motion paper that affirmant filed, for which he was charged, arrested, and incarcerated without bail, reads as follows:

> "for an Order (1) enjoining and restraining anyone receiving any monies or other considerations, directly or indirectly, from HYMAN RAFFE, and enjoining and restraining HYMAN RAFFE from paying any monies or other considerations, directly or indirectly, for purported legal efforts before Hon. DANIEL J. MOORE, as being the product of criminal extortion (18 <u>U.S.C.</u> §1951[b][2]), except by express written permission of this Court; (2) referring this matter to the United States Attorney for investigation and prosecution; (3) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises."

c. Since such motion, if granted, would have terminated the extortion payments being made by Raffe to the Brieant-Murphy syndicate, Brieant arranged to have such motion aborted and affirmant arrested and incarcerated for making it.

12a. On May 17, 1989, affirmant wrote the Chief U.S. Marshal as follows:

> " 1. Pursuant to the Freedom of Information Act, please advise me of the cost incurred by your department in an unsuccessful attempt to effectuate my capture since March 3, 1989.
>
> I have repeatedly stated that if sent a copy of the Arrest Warrant, I would voluntarily surrender, if such warrant is facially valid.
>
> Instead, your main office and your local offices in New Jersey and the Southern and Eastern District of New York, have expended hundreds of man-hours, as well as many thousands of dollars of taxpayers' monies in a futile attempt to arrest me in White Plains, Manhattan, Long Island, and elsewhere.
>
> With the local "radio hosts", and other media outlets, exhorting, ad nauseam, for more police personnel and greater police expenditures, I am asking them to also communicate with your office so that you can rationally explain, if possible, your modus operandi in this matter.
>
> 2. My written and oral offers to voluntarily surrender are numerous, and for media purposes, I here set forth a copy of my letter to you, dated March 8, 1989, which reads, in haec verba, as follows ... .
>
> The bottom line is that your office spent a great deal of time, effort, and taxpayer monies, and obtained no results. A simple letter or telephone call, however, would have been fruitful in every respect."

b. It is apparent that Brieant did not simply want affirmant to simply surrender at the Marshal's Office, but desired a public display of the fact, which cost the government several tens of thousands of dollars.

13. The McMahon affirmation of January 28, 1993, is inundated with false and misleading statements.

a. Since the records under the control of McMahon will prove that until July of 1990, affirmant filed only one case in that Court, to wit., Vilella v. Santagata (87 Civ. 1450 [GLG]), which was only active for four (4) months; the McMahon affirmation about the "large number of lawsuits commenced by Sassower", contained in his Par. 13, or that being the reason for the 1987 Brieant edicts, simply does not wash, and is clearly perjurious.

b. The court records within the immediate control of McMahon should reveal that prior to July 1990, neither he nor his office ever sent any of affirmant's papers to the pro se office at Foley Square.

Thus, the McMahon statement about the "voluminous papers" that affirmant submitted "to the Clerk's Office in White Plains for filing", as set forth in Par. 10 is also patently false and perjurious.

c. As required by the Rules and practice, all affirmant's papers, wherever filed in the Southern and Eastern District, are submitted in duplicate. Affirmant has never filed his papers in triplicate.

At times affirmant has placed the duplicate copy or "Courtesy Copy" in a separate enveloped, addressed directly to the jurist involved. Neither McMahon nor anyone in his office has ever objected or faulted such practice, which affirmant knows is a practice followed by others.

Particularly in view of the aforementioned, affirmant does not understand the McMahon statement in Par. 11:

> "When Sassower left envelopes addressed to district court judges in the Clerk's Office, the clerks forwarded the envelopes unopened to the judges' chambers. <u>Because the envelopes regularly contained pleadings or motions</u>, the district court judges either contained pleadings or motions, the district court judges either return Sassower's correspondence to the Clerk's Office or directed the clerks to forward Sassower's papers to the Pro Se Clerk's Office." [emphasis supplied]

d. Clearly improper, were it not false, is the McMahon statement Par. 14:

> "Because there are injunctions precluding Sassower from commencing litigation in this Court, and because this Office may not accept Sassower's papers for filing, each time he submits papers to the Clerk's Office, a clerk must read Sassower's papers to determine whether accepting his papers for filing is a violation of this Court's orders."

It is not within the provence or competence of McMahon, the pro se clerk, or any other clerk to make a determination as to whether affirmant's papers violate some `phantom', `non-existent' injunction -- that is a judicial function.

In fact, McMahon, the clerk's in his office, the clerk's in Foley Square, the pro se clerk, only check motion papers to determine whether they contain a "Certificate of Service". Such check for a "Certificate of Service" is made with respect to everyone's motion papers.

14. In addition to being a criminal racketeer, one need only examine the Brieant Order of December 10, 1987,

attached to the McMahon affirmation to conclude that Brieant is a pathological liar.

a. The title of that case Sassower v. Sapir et el. (87 Civ. 7135 [CSH], reveals that it was pending before U.S. District Court Judge CHARLES S. HAIGHT ["Haight"].

b. The title of that case, also reveals that U.S. District Court Judge WILLIAM C. CONNER ["Conner"] was "added" when he was caught "fixing".

c. The title of that case, negates the existence of Judge Haight as a party defendant.

d. Nevertheless, in order to intrude upon this action, Brieant contrived, concocted, and fabricated the statement that:

> "Judge Haight himself has been added to the case as a defendant, along with Judge Conner of this Court." [emphasis supplied]

e. Should one believe his own eyes, or a contrary Brieant statement?

f. Without that false statement, the raison d'etre of what follows falls flat on its face.

15a. Anyone doubting Brieant's racketeering practices, simply need request him to give you a copy of the mandatory Puccini accounting, or request affirmant for a photocopy of some of the checks signed by Raffe to the Brieant cronies to avoid being incarcerated.

b. Raffe may pay "millions of dollars", but affirmant opts to be incarcerated before he will give Brieant or his cronies a plug nickel.

16. There is more that could be stated, but affirmant, to support his assertions herein, does not wish to needlessly jeopardize any employee in the Federal Building.

WHEREFORE, it is respectfully prayed that affirmant's motion be granted in all respects, with costs.

Dated: February 1, 1993

GEORGE SASSOWER

CERTIFICATION OF SERVICE

On February 2, 1993 I served a true copy of this Notice of Motion and Affirmation by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to Assistant U.S. Attorney Robert W. Sadowski, 100 Church Street, 19th Floor, New York, NY 10007; Assistant Attorney General Carolyn Cairns Olson, 120 Broadway, New York, NY 10271; Howard M. Bergson, Esq., 21 Technology Drive, East Setauket, New York, N.Y. 11733; Deputy U.S. Marshal Michael Witkowich, J. Michael McMahon, and Kenneth Freda, c/o Federal Building and Courthouse, 101 East Post Road, White Plains, NY 10601, that being their last known addresses.

Dated: February 2, 1993

GEORGE SASSOWER