

1 SUPREME COURT OF THE STATE OF NEW YORK

2 APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

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4 In the Matter of GEORGE SASSOWER, an attorney :
5 and counselor-at-law

6 GRIEVANCE COMMITTEE FOR THE SECOND :
7 AND ELEVENTH JUDICIAL DISTRICTS,

8 Petitioner, :

9 GEORGE SASSOWER,

10 Respondent. :
11 - - - - -x

12 Brooklyn, New York

13 March 20, 1986

14 B e f o r e:

15 HON. M. MICHAEL POTOKER,
16 Referee

17 A p p e a r a n c e s:

18 ROBERT H. STRAUS, ESQ.,
19 Chief Counsel, Grievance Committee

20 IRA POSTEL, ESQ.,
21 Attorney for Hyman Raffé

22
23
24 ARTHUR BLAUSTEIN
25 Certified Shorthand Reporter

1
2 MR. STRAUS: If your Honor pleases, we are
3 ready to proceed.

4 Our next witness is Hyman Raffe, and Mr.
5 Raffe is represented by Ira Postel, and before
6 we call Mr. Raffe to the stand, there was one
7 matter which I wanted to straighten out pursuant
8 to your request.

9 Mr. Postel has provided me with a copy of
10 a notice of cross-motion pertaining to index
11 number 2478 of 1980, together with an affidavit
12 in support of the cross-motion in the same matter.

13 This pertains to his testimony.

14 I believe he testified that he had served it,
15 but didn't have it with him at the time he testi-
16 fied.

17 Since he's been excused as a witness, I
18 would offer this in evidence.

19 This was particularly in response to Mr.
20 Sassower's request, and this would be received
21 in evidence as Exhibit 62 -- 63.

22 MR. SASSOWER: Put him on the stand and let
23 him testify that he sent it out, and who he sent
24 it out to.

25 MR. STRAUS: If your Honor pleases, for that

limited purpose, I have no objection to calling Mr. Postel so that he can conclude his testimony, and then serve as Mr. Raffe's attorney.

MR.SASSOWER: Well, you won't conclude his testimony this way, but, all right, call him back.

MR. STRAUS: Mr. Postel, would you take the stand, please.

THE REFEREE: You are still under oath, sir.

MR. POSTEL: Yes.

I R A P O S T E L, recalled, resumed the witness stand and testified as follows:

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Postel, at your last appearance, I believe you testified that you had served a notice of cross-motion in a matter in Supreme Court, Nassau County, is that correct?

A That was my recollection, yes.

Q I show you --

MR. STRAUS: Let me have this marked for identification as 63 for identification.

(So marked)

Q Would you look at 63 for identification, please?

A Yes.

Q It this a copy of cross-motion and supporting

affidavit which you prepared?

A Yes, it is.

Q And, did you serve it on somebody and file it with the court?

A To the best of my recollection --

MR. SASSOWER: No.

THE REFEREE: Continue, sir.

A -- I served copies of this on Mr. Sassower and the Nachamie-Kirschener firm, then sent a copy out to be filed in Supreme Court, Mineola.

MR. STRAUS: I offer that in evidence as Petitioner's Exhibit 63.

Let me show it to Mr. Sassower.

MR. SASSOWER: Mr. Postel --

MR. STRAUS: Do you have any objection to its receipt in evidence?

MR. SASSOWER: Absolutely. Voir dire?

THE REFEREE: Go ahead.

VOIR DIRE EXAMINATION

BY MR. SASSOWER:

Q Mr. Postel, is this an exact copy of what you say you sent out to me, yes or no.

A Other than the fact that we have the date filled in, and it was to be signed by Mr. Raffe, it is a copy of

what was sent out.

Q Could you give us an exact copy of what was sent out, not with blank dates on them?

A I was asked to look for the copy. I have just recently moved my office from Twenty-sixth Street to Fifty-seventh Street.

Some boxes are still downtown. Some boxes are uptown.

I have not been able to find the exact copy. I called the word processing service that I use the other day and I asked them if the papers on this matter were still on the discs because they don't -- they, generally do not erase anything that I give them, and they said, "No, it was not erased," and I asked them to print out another copy and I picked it up. This is what this is. I received this from the word processing service.

I cannot find the original. The copy, my office copy, I served on you, Mr. Goldstein, and filed and sent it to the courthouse. I can't find that copy.

Q You can't find the copy. Did you call up the Nachamie firm, Mr. Postel, and ask them for a copy that you sent them, yes or no?

MR. STRAUS: Objection. This is not appropriate voir dire.

1
2 A I called Mr. Goldstein. Mr. Goldstein is out
3 of town and won't be back until tomorrow.

4 Q When did you call Mr. Goldstein up?

5 A The other day, either yesterday or the day be-
6 fore.

7 Q And you waited until yesterday or the day before
8 to call him up? All right.

9 Did you call up the court and ask them if they
10 have a copy of it?

11 A No, I did not.

12 Q Did you receive any response from anyone with
13 respect to that?

14 MR. STRAUS: Objection. We're offering this
15 as --

16 This is voir dire as to a document in evi-
17 dence.

18 MR. SASSOWER: Your Honor, the Nachamie
19 firm received this, or I received it. I'm asking
20 so that for authenticity, if he received a response
21 to this particular cross-motion.

22 THE REFEREE: The witness testified that
23 this is a copy.

24 MR. SASSOWER: It's not a copy. He testified
25 to --

THE REFEREE: He said with the exception of the date and the signature, it's a copy of the notice of cross-motion, and supporting affidavit.

Q Who sent it out, Mr. Postel?

A It would have been one of the girls in the office.

Q Well, and, therefore -- do you keep a copy of the affidavit of service?

A It's not attached. I can't find my file copy.

Q You testified it's over a week now. Couldn't you call up the --

MR. STRAUS: Objection. This is argumentative.

MR. SASSOWER: That's not a copy. We'll bring him back with a copy.

Mr. Goldstein is coming back in a day or two. Fine. Let him come back with a good copy.

I'll testify that I never received it, and from all correspondence in my file, neither did the Nachamie firm receive it.

THE REFEREE: Sir, the fact that you didn't receive it, doesn't apply to this in any way.

He states that doesn't indicate --

MR. SASSOWER: Let's see a copy of the

1
2 affidavit of service from the court, a copy from
3 the Nachamie firm. Apparently, nobody received
4 it.

5 MR. STRAUS: If your Honor pleases, we have
6 always taken the position -- this is an issue
7 which Mr. Sassower raised as a collateral issue.

8 It's always been our position that there was
9 no need for any notice of cross-motion since
10 Mr. Sassower was long -- was previously disquali-
11 fied from appearing.

12 It was only at his request that we asked
13 Mr. Postel to go to the trouble of trying to
14 locate the copy.

15 The whole area was an area which Mr. Sassower
16 raised. We feel it has no bearing on the charges,
17 in any event.

18 The question is whether Mr. Sassower could
19 appear in the case, not whether Mr. Postel was
20 required to submit a notice of cross-motion to
21 substitute for him. That's immaterial.

22 It's an issue which Mr. Sassower would like
23 to raise, but it really doesn't pertain to the
24 charges.

25 MR. SASSOWER: I say this testimony is false,

contrived, perjurious.

THE REFEREE: Mr. Sassower, you have already indicated that in another paper filed with the Appellate Division.

MR. SASSOWER: Right.

THE REFEREE: You said there is no such copy, never did, so Mr. Postel is here.

MR. SASSOWER: That's not a copy.

THE REFEREE: Sir, the witness testified it is a copy.

MR. SASSOWER: He didn't testify that he sent it out.

THE REFEREE: His office sent it out.

MR. SASSOWER: All right.

MR. STRAUS: I renew my offer of this item in evidence.

MR. SASSOWER: I say this is recently contrived. It's fabricated.

THE REFEREE: You maintained that position right along.

MR. SASSOWER: Let me cross-examine on that point.

THE REFEREE: On what point?

MR. SASSOWER: AS to whether it's contrived

or not.

MR. STRAUS: There is no testimony. We've offered a document in evidence. Period.

That's the only purpose of this witness' testimony.

MR. SASSOWER: I am contending that this testimony has been contrived, fabricated, like a lot of other testimony has been contrived and fabricated and I'm entitled to cross-examine him.

THE REFEREE: You wanted a voir dire on whether or not this document will be received in evidence.

I gave you the voir dire, gave you the opportunity to conduct a voir dire.

Now what is it you want?

MR. SASSOWER: I say, based on the voir dire, with no affidavit of service, with no testimony that it was sent out, with no evidence from anybody, neither me, the Nachamie firm, or the court, that they received it, then it should not be accepted.

If your Honor would look at it and see, you will see what's left out of that.

MR. STRAUS: I'm only offering it to

satisfy Mr. Sassower in the first place. If he doesn't want it in evidence, I'll withdraw the offer. It's really not important. It has no bearing on the charges.

MR. SASSOWER: Then it has bearing. This man lied or did not lie.

THE REFEREE: The offer is withdrawn. It's not in evidence.

MR. STRAUS: May the witness be excused?

THE REFEREE: Thank you.

MR. STRAUS: At this time, I call Hyman Raffe, and if your Honor pleases, may Mr. Postel be seated in the jury box so that he may be in a position --

MR. SASSOWER: No, he's going to be called back. He's to be treated like anybody else.

THE REFEREE: He may be seated in the jury box which is roughly ten feet away from the witness.

MR. SASSOWER: Then may he sit behind Mr. Raffe?

THE REFEREE: He's the attorney for Mr. Raffe, as I understand.

MR. SASSOWER: Can he sit behind Mr. Raffe?

THE REFEREE: He doesn't have to sit behind him. Go ahead, sir.

MR. SASSOWER: I don't want facial expressions, your Honor.

THE REFEREE: Sir, continue, sir.

H Y M A N R A F F E, 2134 Pacific Boulevard,
Atlantic Beach, New York, having been duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Raffe, what is your business or occupation?

A Fuel oil dealer.

Q Do you have a particular company that you operate from?

A Yes, I do. It's AR Fuels, 2125 Mill Avenue, Brooklyn.

Q How long have you been in the fuel oil business?

A I have been in the coal and fuel oil business before that, in fact it's going to be 50 years that the business is in existence, I think sometime within the next six months.

Q Do you know the Respondent, George Sassower?

A I do.

Q How long have you known him?

1
2 A Approximately 20 years, give or take a year or two.

3 Q Under what circumstances did you meet him?

4 A Very unusual. He was representing -- I was a
5 plaintiff in a case, and he was representing the defendant.

6 MR. SASSOWER: I think it's all immaterial,
7 twenty years and how we met.

8 THE REFEREE: Go ahead, sir.

9 MR. SASSOWER: I don't care, but all the de-
10 tails.

11 MR. STRAUS: Just background, sir.

12 Q Would you go ahead?

13 A We were suing on a defaulted note and it kept
14 getting postponed and I kept going to court, examinations
15 before trial, and after a while --

16 Q Mr. Raffe, were you represented by counsel?

17 A Yes, I was.

18 Q Was that Mr. Sassower?

19 A No, Mr. Sassower was the counsel for the defendant.

20 Q Go ahead.

21 A Mr. Feinberg represented me. He was an attorney
22 and I kept getting frustrated and very annoyed, and after
23 a while, I told my attorney "forget about it, I don't
24 want to be bothered anymore, just forget about the entire
25 case," and we did forget about it, and, sometime after that,

1
2 I discharged my attorney and had Mr. Sassower represent
3 me.

4 Q What kind of cases did he represent you in?

5 A Mostly collection cases for goods sold and de-
6 livered.

7 Q Was your coal or fuel oil business a retail
8 business?

9 A Yes, it was, retail and somewhat wholesale.

10 Q Did you also have an interest in a concern
11 named Puccini Clothing?

12 A Yes, I did.

13 Q What was your interest in that?

14 A I had a 25 percent interest in Puccini Clothes.

15 Q Were there other partners?

16 A There were three partners.

17 Q What were their names?

18 A Gene Dann, Milton Kaufman, and I think it was
19 Bob Sorrentino.

20 Q What was Puccini Clothing?

21 A It was a, it was in the main a wholesale clothing
22 operation; men's clothing.

23 Q What was your involvement in its operation?

24 A I was just -- my involvement was strictly finan-
25 cial.

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Q And did the other partners operate it?

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A One. Mr. Kaufman was strictly financial and the other two were the operator partners.

5

6

Q Did there come a time when one of the partners died?

7

A Yes.

8

Q Who was that?

9

A Mr. Kaufman.

10

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Q After Mr. Kaufman's death, what was done with regard to Puccini Clothes?

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13

A After he died, the rest of us decided to orderly liquidate the company.

14

15

Q Who represented Puccini Clothes? Did you have an attorney?

16

A At that particular time in question, Mr. Sassower.

17

18

Q At this time Mr. Sassower was both the attorney for your fule oil company and the attorney for Puccini

19

Clothes?

20

A That's right.

21

22

Q Did he represent any of the other partners as their attorney?

23

A No.

24

25

Q I didn't mean to interrupt you. You were discussing the orderly dissolution of Puccini Clothes. What was

its value at the time?

A I'd say, roughly, not including good will, about half a million dollars.

Q Now, your discussions pertaining to the dissolution, who were these discussions held between?

A An executor of the estate and I think they were trustees also, which was Citibank.

Q Did you reach a resolution?

A Well, we were trying to reach a resolution. We were going to try to liquidate it in an orderly fashion and at the time, for a while, Citibank would rather have gone for a quick dissolution of the corporation and we convinced them that it would be for everybody's interest including the executor, the Kaufman estate and the rest of the partners to liquidate it orderly instead of taking a terrific licking on the inventory.

Q What was the outcome?

A The outcome was when we were sitting in those negotiations with Bank Leumi, that the executors had arranged to an offer as far as letters of credit that were issued, so that we could liquidate orderly. Citibank had a problem at that time because they had a conflict of interest, because they were executors of the estate and they were involved with the letters of credit, so I

1 think they had problems themselves.

2 But while we were sitting in negotiations, sup-
3 posedly in a friendly, amicable fashion, to arrange for
4 orderly liquidation, we had found out through a phone
5 call that Citibank had attached Puccini's bank account
6 and we felt that that was bad faith, not morally honest,
7 whatever and we walked out of the negotiations at that
8 particular time, didn't want to have any part of it, and
9 left. And sometime shortly after that, we met in my office
10 because --

11 Q When you say, "We," --

12 A Mr. Sorrentino, Dann, myself and Mr. Sassower,
13 discussing the whole situation and Mr. Sassower believed
14 we had a strong case against Citibank.

15 Q Is that what he said?

16 A That's what he said, yes.

17 Q Go ahead.

18 A And that we were in a very good position, for a
19 legal suit and that we should go ahead and sue, and we
20 all listened and the other partners raised a question of
21 what was going to be involved --

22 MR. SASSOWER: Excuse me, I hate to interrupt.

23 can we have a time?

24 Q Do you know the time of this discussion, Mr. Raffe?

1
2 A The time had to be -- I'm not very good at
3 dates, but I can associate it with the time very shortly
4 after Mr. Kaufman died, whenever that was.

5 Q Go ahead. The four of you were together.

6 A We were together, discussing how we should
7 proceed, and they raised a question about the legalities,
8 what was involved.

9 And, I mentioned it to Mr. Sassower, "Well, what's
10 involved with the legalities?"

11 I wanted to be very careful about how that meet-
12 ing was being held, because Mr. Sassower was there through
13 my representations, and they were my partners.

14 I wanted to make sure there was no misunderstand-
15 ing, so, Mr. Sassower got up, took a walk up and down the
16 office and said he'll want the case on a contingency, is
17 it?

18 Q Right, contingency, a percentage.

19 A A percentage of what we got in court.

20 Q Did he mention a figure?

21 MR. SASSOWER: Excuse me. This one conversat-
22 ion --

23 THE WITNESS: This is one conversation, at
24 that particular time, and they said, "Well, what
25 was going to be the figure, you know, contingency

figure and I asked George, "What's the figure?" I wanted to be careful that there was no misunderstanding, and he said he'll handle it for, on a contingency basis of twenty-five percent.

So, before the partners got a chance to answer, I said that I would give fifty percent on that arrangement, because --

Q Let me stop you at this point.

Did Mr. Sassower mention what costs there would be to --

A No costs. He was going to handle it on a twenty-five percent contingency basis.

That's the only cost that was mentioned.

I said I would give fifty percent because it all seemed like not a joke but I figured if he's going to collect such money, he has so much confidence, I'll give him fifty percent, I'll be happy to collect fifty percent of something that I didn't expect to get to start with.

Sorrentino and Dann, they said, which I thought was funny at the time, "He's going to get twenty-five, you're going to give him fifty percent, what is he, a partner in this business?" and I got very angry and I said, "Are you fellows crazy? You're talking about this like you're in a hospital, you're in an automobile accident,

1
2 and you had your both legs broken and your life was in
3 danger. This is ridiculous. What the hell are you com-
4 plaining about?"

5 They got very angry and they walked out of the
6 office.

7 There were some nasty words passed between us
8 and that was the last pleasant relationship that we had
9 where we were all on the same side.

10 Q After this meeting broke up, was litigation in-
11 stituted?

12 A Yes, there was litigation.

13 Q On your behalf?

14 A Well, there was litigation instituted, I guess
15 on my behalf, their behalf.

16 Q Pertaining to Puccini?

17 A Only to Puccini.

18 Q Are you familiar with the term pro se?

19 A I am at this time, yes.

20 Q How did you learn the meaning of the term pro se?

21 A Well, there was a time when Mr. Sassower could
22 not appear himself because he was disqualified, that he
23 asked other people -- I didn't want to go -- not that he
24 asked me -- he asked other people in my office to go and
25 deliver papers and they were going pro se. That's where

the words were used, which I subsequently found out is like somebody legally representing themselves.

Q Did you sign papers pro se?

A I did.

Q Did you prepare those papers?

A No, I didn't prepare them. I couldn't prepare them. I wouldn't know how to prepare them.

Q Who did prepare them?

A Mr. Sassower prepared them.

MR. SASSOWER: This is not part of the charges.

Q Mr. Sassower prepared them.

A Yes, he did.

MR. SASSOWER: Objection. This is not part of the charges.

It's all right to go in, but it is not part of the charges.

THE REFEREE: Mr. Straus is leading up to something, right, sir?

MR. STRAUS: I am, sir.

MR. SASSOWER: Your Honor, Mr. Straus goes astray all over the place, but, apparently I cannot even get germane questions in at times.

THE REFEREE: Let's get to it.

Q Did you ask Mr. Sassower about your signing papers

pro se?

A Yes. Mr. Sassower mentioned that it was just going to be -- at one time he mentioned that it would be for a short time because illegally he was disqualified because of switching papers someplace in the court system and he has an appeal and it will come down shortly and he's sure it was going to be overturned. It's just a temporary nature and I had mentioned to Mr. Sassower, subsequently, when we were appearing a couple of times I went with him that, you know, if anybody asked me whether I prepared these papers, there's no way that I could say that I prepared them. "We all understand this, right, George?" He said, "Yes, of course." I said, "I'm going to tell the truth." He said, "Yes, tell the truth." He expected me to do that.

Q Did you recover any money as a result of this litigation?

A Recover?

Q Yes.

A Just the opposite. We didn't recover any money.

Q Were you assessed any costs?

A I was assessed costs. So far, costs of roughly a million dollars.

Q How did you learn of those expenses?

1
2 A I learned these expenses mostly when our bank
3 accounts were attached, corporate accounts were attached,
4 at different times.

5 Q Did you have credit cards?

6 A I had credit cards. They notified American Ex-
7 press Company. They wanted -- it wasn't topped in any way
8 because they couldn't get any money from American Express
9 because they were asking for certain documents from
10 American Express.

11 Q When you were assessed these costs, did you have
12 any conversations with Mr. Sassower concerning those assess-
13 ments?

14 A Yes.

15 MR.SASSOWER: Excuse me, I'd like a time and
16 a place, because it's obvious I had, really,
17 thousands of conversations with Mr. Raffe and --

18 Q Did you have conversations with Mr. Sassower?

19 A Yes.

20 MR. SASSOWER: We had thousands of conversat-
21 ions.

22 If it's a conversation that I said something
23 and he said something, I want a time and place.

24 THE REFEREE: Do you recall approximately
25 when you spoke to Mr. Sassower about the assessments?

THE WITNESS: I am, like I said, your Honor, I'm very poor with dates, but the times were at the time of the assessments, at the time I was notified; there were a number of them.

Q So, you would receive notice that something had been attached.

A Yes. I received --

THE REFEREE: Starting when?

THE WITNESS: Starting when? The first one was four hundred some odd -- close to about \$400,000. I can't tell -- if somebody -- I can't tell you the date.

Probably four years ago. Around four years ago.

Again, your Honor, I don't want to be held to the date. It's all public someplace.

Q Well, at the time you learned of this attachment, of some \$400,000, did you contact Mr. Sassower?

A Yes, he was right there, sure, I asked him. He said, "Don't worry about it, we have the judgment on the first one." He says we have a judgment against the other people that got the judgment for us.

MR. SASSOWER: Can we have a time, a date, your Honor?

MR. STRAUS: He's indicated the best of his recollection. He says he's unable.

THE WITNESS: Mr. Sassower said there were thousands --

MR. SASSOWER: Mr. Raffe, did you come with any books?

MR. STRAUS: Will you direct Mr. Sassower to be seated?

MR. SASSOWER: Excuse me, your Honor.

THE REFEREE: Mr. Sassower, he said about four years ago a conversation started with you at which time he raised the question of the assessments.

MR. SASSOWER: Four hundred, \$400,000 four years ago?

THE WITNESS: Around \$400,000. The first one they got a judgment against us and we got a judgment against them.

Q What did you say to Mr. Sassower and what did he say to you about this \$400,000 attachment?

A He said, "Don't worry about it." That was the words he used at various times. "Don't worry about it, we'll get the money back. We have a judgment against them. They have to put up a bond. Don't worry about it."

Q How many subsequent attachments were there?

A There was one big one for over \$400,000. Then there were various ones -- I couldn't remember -- assessments against me, against Mr. Sassower, for \$20,000, \$17,000, 5,000.

Q Was it your practice to speak to him after you were notified of each of these?

A Yes, I spoke to him.

Q What was his response?

A The response was always the same. "It's up on appeal, we're ging to get it all back, double, triple." "It's illegal. They're not allowed."

Q Did there come a time, Mr. Raffe, where you begaan to take notes of your conversations with Mr. Sassower?

A Yes, there did.

Q Did you record them someplace?

A I wrote some of them down. Mr. Sassower knows about them.

MR. STRAUS: May we have this marked as

Exhibit 64 for identification, please.

(So marked)

Q Mr. Raffe, look at 64 for identification, if you would. Can you tell me what that is?

A Those were answers to questions that I posed to

to Mr. Sassower at different times.

Q Are these different conversations that you had with him?

A Different conversations, and some of them are conversations that he made at the time.

Q Looking at 64 for identification, does that refresh your recollection as to dates of conversations?

A I have dates marked when he mentioned them.

Q When was the first conversation that you made a note of?

A February 24 of '83, 1983.

Q Can you tell us what you said and what he said during that conversation, to the best of your recollection?

A At that particular time, because of the way the case was going, that I felt against me, I'm going to read exactly what I wrote down.

"Told George Sassower that I would pay \$25,000 out of my pocket to close the whole Puccini case because he was mentioning -- that was an answer as to how he was mentioning how good it was going to be and I was saying that -- how I thought it was going to come out, that I would be happy to pay \$25,000 to forget that it ever happened."

Q What did he say in response to that?

A Nothing. He just laughed.

1

2

Q Do you recall another conversation with him?

3

A Yes.

4

Q What's the next conversation?

5

A Only three days later, February 27, '83, which was in answer to some kind of a denial or whatever you'd want to call it, in the proceeding, and his words were, "With every loss is becoming a victory." I thought it was so profound, that I wrote it down.

10

Q What did you say to him in response to that?

11

A Nothing. I don't remember what he said.

12

I wasn't going to write down what I said, because that wasn't important.

14

I wrote down what I thought was important, what he said.

15

16

Q What was the next conversation you had with him?

17

A March 18, '83. "We have them buried."

18

MR.SASSOWER: March what?

19

THE WITNESS: The 18th, '83.

20

Q At that time, how much had you been assessed or attached?

21

22

What did this case cost you by March of 1983 when he said "We have them buried."?

23

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A I believe my time frame is right; roughly half million dollars.

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Q What did you say when he said "We have them buried"?

A Like I said, I don't remember what I said. Whatever I said, I didn't write it down, but it could be something like "You're out of your mind" or something like that.

Q When is the next conversation?

A March 30, '83. "Puccini case will be over in six to eight weeks."

Q Is that what Mr. Sassower told you?

A Yes. That was -- all these statements are not anything that Mr. Sassower readily mentioned. They are all in answers to something that I would have said to him, complaining about things, how they were going or whatever.

Q Is it your recollection that you asked him when this matter would end?

A That was probably, you know -- that I did at various times. "When is it going to end? How long is it going to be like this?"

Q When is the next coversation that you had with him?

A Next conversation was roughly two months later. June 14, '83. "Puccini case may be closed in two weeks." This was after I had, I had mentioned after six weeks, you

1
2 know, "You mentioned it was going to be closed." He said,
3 "Puccini case may be closed in two weeks."

4 Q That was in June.

5 A June '83.

6 Q Did you have a conversation March 30 of '83 with
7 Mr. Sassower?

8 A Yes. March 30. I skipped that. "Puccini case
9 will blow up in ten weeks with me on top."

10 Q Who's the "me" that he was referring to?

11 A "Me," meaning him or me, which is the same thing.

12 THE REFEREE: What date was that?

13 THE WITNESS: March 30, '83.

14 THE REFEREE: When did he tell you that the
15 case would be over in six to eight weeks?

16 THE WITNESS: That was April 15, '83.

17 I skipped one, your Honor.

18 Q Then after the June conversation, did you have
19 another conversation?

20 A Yes.

21 Q When?

22 A October 10, '83. "I have good news for you.
23 Puccini will blow up in one month." I don't know what the
24 heck I'm laughing about. October 10, '83, "I'm finishing
25 up the papers. Will give it to you in two hours."

1
2 Q After that conversation, do you recall our
3 response to that?

4 A The response was more or less the same like
5 all the other responses.

6 I might have put my hands down and walked away
7 without saying anything.

8 Q Were those conversations that you had in person?

9 A In person.

10 Q Where was Mr. Sassower's office located at this
11 time?

12 A In a corner of my general offices.

13 Q Your fuel oil business was located where?

14 A At 2125 Mill Avenue.

15 Q What kind of a building is that?

16 A It's a combination of office and part of it is a
17 repair for -- a garage for truck repair.

18 Q Where was your office located?

19 A On the second level.

20 Q Where was Mr. Sassower's office located?

21 A On the ground level.

22 Q So these conversations, to the best of your re-
23 collection took place in his office or your office.

24 A most of them would be in my office. He'd come up.
25 We'd have lunch together. Have coffee together, lots of times.

Q After the conversation in October of '83, when is the next time you remember?

A October 19, '84. "Diamond is out in one week."

Q What was that referring to?

A Referee Diamond, who we had the big problems with him as far as how the case was going.

Q Your recollection is that Mr. Sassower told you that Referee Diamond would be removed from the case in one week?

A That's what he meant.

THE REFEREE: That was October 19, 1984?

THE WITNESS: '84.

THE REFEREE: You discussed the Puccini case with him from October '83 to October '84.

THE WITNESS: Yes.

Q What was the answer?

A Yes.

Q Between October of '83 and October of '84, did you have conversations with him about Puccini?

A I'm sure that I did.

Q Did you bring down -- did you write down --

A I have nothing written down, nothing that I would write down. I didn't write down every conversation that I had with him. After a while, I, more or less, stopped,

1
2 because it was like all the same kind of -- that I felt
3 was nonsense.

4 Q When is the next conversation you had with him?

5 A January 27, '84.

6 Q That you made a note of.

7 A Made a note of?

8 Q What did he say then?

9 A "The papers I'm serving today should really
10 knock them out."

11 Q Who was he talking about, "them."

12 A He's talking about Feltman and Gerstein's firm.

13 Q When was the next conversation you had with him?
14 That you made a note of.

15 A I had something written down here but it didn't
16 pertain to Puccini.

17 It was November 29, '83.

18 Q Don't tell us.

19 A You don't want this?

20 Q No.

21 A The next one relating to Puccini was December 20,
22 '84.

23 MR. SASSOWER: No, let me see the note about
24 that he's omitting, if I may, your Honor.

25 THE WITNESS: It says "Amoco is dead."

December 20, '84. "I'll give you three to one odds. The Lane Decision. We'll with on appeal which will throw everything out. Should come up in February '85."

Q Did you have another conversation that day?

A The same day. He spoke to Cook.

Q Who is that?

A From the Attorney-General's Office. "I keep saying the same thing. I'm laughing as I am saying it. Spoke to -- spoke to Cook. I think it will be all over in January."

Q Next conversation.

A February 18, '85. "Appeal. That's how things kept being delayed."

The questions that I asked, it was always something that's going to end apropos to what I'm writing here.

February, '85. "Appeal will come up in the June term. It will be all over."

It was always going to be all over in the June term or -- the appeal and whateber. That's the last notation.

Q Mr. Raffe, I show you Petitioner's Exhibit 38 in evidence. Would you take a look at that, please?

A Yes.

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Q Is that a copy of a letter that you signed?

A Yes.

Q How did that letter come to be written?

A Well, it was written at the time that I -- that Mr. Postel was representing me in the Puccini matter, and he suggested that I write this letter to George.

Q Who dictated the letter?

A Mr. Postel dictated it.

Q Did you read it before you signed it?

A Yes.

Q Did you find it to be accurate?

A I did.

Q After you signed that letter, what did you do with it?

A George was in jail at the time, that the letter was dictated and I placed it in his office, which was in my building, on his desk.

Q Was someone picking up Mr. Sassower's mail?

A Yes, at different times his daughter was picking up his mail.

Q What's her name?

A I don't know how many times she picked it up, but she did.

MR. SASSOWER: Excuse me. Unless he knows --

THE WITNESS: I know that his daughter picked up his mail.

MR. STRAUS: Is this an objection?

MR. SASSOWER: At this particular letter, when it was picked up, who put it on my desk, when she picked it up?

MR. STRAUS: You can do that on cross-examination.

MR. SASSOWER: You're trying to introduce --

THE REFEREE: I'll let you develop it on cross-examination.

MR. SASSOWER: Okay.

Q After you placed the letter on Mr. Sassower's desk, did you have occasion to return to his desk?

A Yes, I did.

Q Was the letter still there?

A No, it wasn't.

Q Between the time that you placed the letter on his desk and the time that you returned, had his daughter visited the office?

A She did.

Q Had she taken mail from the office?

A That's what she came for.

Q In the letter, directing your attention to

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Exhibit 38, in the first paragraph of that letter, you discuss --

I'm directing your attention to the first paragraph, okay?

Specifically where you say, "George, more than six months ago I told you that you were not to commence any further litigations in my name for any purpose with reference to Puccini Clothes."

Okay. Do you remember where that conversation took place?

A In my office; all conversations.

Q In your office?

A Yes.

Q Who else was present?

A It was either my office or his office, but in the office building.

Q Who else was present, do you remember?

A At the moment, I don't remember. My secretary may have been present if it was upstairs.

Q What did you tell him in substance and what -- what did you say and what did he say in that conversation?

A You're talking about six months ago?

Q Yes.

MR. SASSOWER: I want a date.

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2 A Six months earlier I told him not to represent
3 me in anything where I was concerned with Puccini.

4 Q What did he say?

5 A He said, "All right."

6 Q And after that, did he stop?

7 A No, obviously he didn't.

8 Q Who did you find that out from?

9 A From Mr. Postel. He found it out from other at-
10 torneys, I guess.

11 Q Between the date of your conversation with him in
12 January and this letter in July, were you arrested or subject
13 to arrest?

14 A Subject to arrest.

15 Q How did you find out about that?

16 A I'm not sure at the moment whether I found out
17 by the marshal calling me or Mr. Sassower told me, I'm
18 not sure which, how I found out.

19 Q Did you have any conversation with Mr. Sassower
20 about the order for your arrest?

21 A I did.

22 Q What did you say and what did he say?

23 A He said it was going to be straightened out for
24 a number of, for a period of time; he told me to leave town,
25 leave the office, leave town, he's going to get it straight-

ened out.

Q Did he get it straightened out?

A No, he didnt' get it straightened out.

Q When you were subject to arrest, did you have a conversation with Mr. Postel concerning your problem?

A Sometime after that, yes, I did.

Q What did you say to Mr. Postel and what did he say to you?

A Well, that's how this letter came to be written sometime after that, and he was trying to see what he could do about me not going to jail, and I had -- Mr. Postel still was representing me as far as Puccini was concerned.

Q Did you discuss Mr. Postel's appearance with Mr. Sassower?

A Yes, I did.

Q What did he tell him?

A He met Mr. Postel and they were discussing it in my office.

Q Do you know when that conversation took place with Mr. Postel?

Q Sometime after, probably during the month of August, I would assume would be after he got out of jail, after the letter was written. I believe it would be about August, to the best of --

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MR. SASSOWER: This is what I object to, Mr. Raffe looking at Mr. Postel, to verify whether the testimony is correct as to dates.

MR. STRAUS: No one is prompting the witness.

MR. SASSOWER: He's looking at Mr. Postel. I don't want that. Let him sit in the back of Mr. Raffe. He can hear.

You saw what he did just now.

MR. STRAUS: I don't know what you're talking about, sir.

MR. SASSOWER: I want Mr. Raffe's testimony and not Mr. Postel's.

MR. STRAUS: It's another figment of your imagination.

Mr. Postel hasn't done a thing.

THE REFEREE: Mr. Postel did not offer any response.

THE WITNESS: That's true, he didn't prompt me.

THE REFEREE: He's seated in a chair that's about ten feet away.

MR. SASSOWER: I don't want Mr. Raffe looking at Mr. Postel, if your Honor pleases.

THE REFEREE: Go ahead.

Q The meeting that you had with Mr. Postel and Mr. Sassower, was anyone else present?

A I don't believe so.

Q To the best of your recollection, what was the substance of the conversation?

What did the three of you talk about?

A This is in August.

MR. SASSOWER: This is August.

A We were talking about the Puccini case, about the jail, about the possibility of jail and George was telling Mr. Postel that whatever they are doing is wrong, we have appeals and we're going to do this, et cetera, et cetera, like most of the things that I mentioned up to now.

Q What did Mr. Postel say?

A He didn't say much of anything as far as -- that I could remember. He questioned it, but he didn't contradict Mr. Sassower in any way and he didn't agree with him in any way.

Q Did you tell Mr. Sassower that Mr. Postel was your lawyer?

A Yes, I did.

Q What did Mr. Sassower say to that?

A Didn't say anything.

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Q After this meeting --

A He knew he wasn't representing me as far as Puccini was concerned. I had to have somebody representing me in view of what was going on, to try to keep me out of jail, to stop the assessments as far as monies that I had to pay.

Q After the July 31st letter, did you have any further conversation with Mr. Sassower, any other letters?

A Yes, I had further correspondence, one correspondence.

MR. STRAUS: May we have this marked for identification as Exhibit 65, please?

(So marked)

Q Will you look at 65 for identification?

A Yes.

Q Do you recognize it?

A Yes.

Q What is it?

A It's a letter that I wrote to Mr. Sassower which came about because I had been --

MR. SASSOWER: That answers the question.

Q This is a copy of a letter which you sent to Mr. Sassower.

A It is.

MR. STRAUS: I offer that in evidence.
This is a two-page letter dated November 22nd,
1985, addressed to George Sassower, above the
name, Hyman Raffe.

I offer this in evidence as Exhibit 65.

THE REFEREE: What's the date of it?

MR. STRAUS: November 22nd, 1985.

Any objection?

MR. STRAUS: No objection.

(So marked)

Q Directing your attention to --
I'll direct your attention to a particular part
of it, okay?

A Yes.

Q You take the letter.

A Yes.

Q Second paragraph.

MR. SASSOWER: Excuse me. As far as I'm
concerned, it's only for the purpose that I re-
ceived it, for no other purpose at this point.

THE REFEREE: Sir, it's in evidence.

MR. SASSOWER: Then I object to it as being
self-serving, your Honor.

MR. STRAUS: May I proceed, your Honor?

THE REFEREE: Yes, go ahead. Objection overruled.

Q You state "Only yesterday you told me that we'll always be good friends and everything you were doing was for my benefit." Okay?

A Yes.

Q Do you recall that conversation that you had on the previous day?

A Yes, mildly.

Q Do you recall what you said, and what Mr. Sassower said?

A Yes.

Q What did he -- what was the substance of it?

A I was trying to arrange an appointment to see him, and to discuss most of the things that were in this letter, eye to eye. I'm not a correspondent.

I don't usually go in for that, but he had promised to meet me for weeks, and he kept delaying it. "I'm waiting for something to come in, then I'm going to meet you. Everything I'm doing is for your benefit, and, we'll always be friends." And that was part of the conversation, and he said he was going to meet me shortly, and I said, "Okay," and that was it.

Q Did he, in fact, meet with you again shortly?

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A Never met with me.

Q Look at the last complete paragraph on the bottom of Page 1.

"On top of everything, do I have to keep paying an attorney to defend me against your actions?"

What were you referring to?

A I was referring to --

MR. SASSOWER: It speaks for itself, your Honor.

I don't know what he was referring to, what Mr. Raffe was referring to.

MR. STRAUS: That's the question.

MR. SASSOWER: I don't know what he was referring to.

MR. STRAUS: He's going to tell you.

THE REFEREE: Overruled.

A I was referring to the necessity of me having to hire an attorney like Mr. Postel to defend me against Mr. Sassower's continuing actions.

Q Do you know what those actions were?

A Those were actions that -- evidently that he was doing in my name, that he represented a hindrance to me being able to settle the Puccini case.

Q The last complete sentence on Page 2. "George,

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2 I plead, have a heart, help me forget, I can't unless
3 it stops and only you can do this."

4 Did you receive any response from Mr. Sassower
5 to this letter?

6 A None. The only response I got from him was on
7 the telephone where he said it was a beautiful letter.

8 Q When was this?

9 When did you have that conversation on the tele-
10 phone?

11 A I had that conversation with him when he called
12 me finally and asked me would I --

13 Q When did he call you?

14 A Again, not to hold me too close, he probably would
15 know, with the incident, he was going to Florida.

16 Q Was that in 1986?

17 A Yes, it was probably, I think in February, he
18 was going to Florida, end of January or February, I'm not
19 sure.

20 Q Did he indicate where he was calling from?

21 A No, he didn't indicate. He was going to be --
22 it was at night and he was going to leave the next day
23 for Florida and he wanted, would I meet him at the airport?

24 Q What did you say?

25 A I said, "Why do I have to meet you at the airport?"

1
2 I've been trying to meet you for weeks and you never wanted
3 to meet me. I wrote you a letter and he said it was a
4 beautiful letter. Why didn't you answer my letter? Why ask
5 me to meet at the airport?"

6 I realized it was a waste of time to meet him at
7 the airport because I know it couldn't have been for my
8 benefit.

9 MR. SASSOWER: Objection, your Honor.

10 THE REFEREE: Strike it.

11 Q Mr. Raffe, at this point, as of this date,
12 has the litigation pertaining to Puccini Clothing and
13 Shareholders ceased, that is litigation instituted or
14 continued by Mr. Sassower?

15 A Has it what?

16 Q Has it ended?

17 A No, it hasn't ended. If it did, I wouldn't be
18 here.

19 MR. SASSOWER: Objection. Not responsive,
20 your Honor.

21 THE REFEREE: Overruled.

22 Q When was the last conversation, either in person
23 or on the telephone, that you had with Mr. Sassower concern-
24 ing Puccini Clothing and its shareholders?

25 A At the time he called me to meet him at the

1
2 airport, concerning --

3 Q Yes?

4 A -- that was the last time.

5 Q Have you met him in court?

6 A I met him in court, but that was when we were
7 both appearing opposite. I met him in the hallway and he
8 came over to say hello and I wouldn't shake his hand and
9 he said "You don't want to shake my hand?" and I said
10 "You're trying to kill me and you want me to shake your
11 hand?" and he turned around and walked away.

12 Q Mr. Raffe, during the course of this approximately
13 seven years of litigation, have you received various docu-
14 ments pertaining to the litigation; letters, documents?

15 A Probably hundreds or thousands.

16 Q What did you do with them when you received them?

17 A Any time I got anything I gave it to Mr. Sassower.

18 Q After Mr. Postel came in the case, what did you
19 do with them then?

20 A Gave them to Mr. Postel.

21 Q Did you retain any of them yourself?

22 A Very few.

23 Q Would you know what you retained?

24 A Something that I would have wanted to read, some
25 of them which were, you know, which I felt were strange, you

1
2 know, letters, Mr. Sassower likes to quote Shakespeare in
3 his letters and he also uses some very strong language in
4 some of those letters as far as judges are concerned.

5 MR. SASSOWER: Objection, your Honor.

6 THE REFEREE: Overruled.

7 MR. STRAUS: I have no further questions.

8 Thank you, very much.

9 Mr. Raffe, Mr. Sassower may have some ques-
10 tions.

11 MR. SASSOWER: May I see 63? We'll start
12 with 63.

13 THE REFEREE: That's for identification.

14 MR. STRAUS: It's a cross-motion.

15 CROSS EXAMINATION

16 BY MR. SASSOWER:

17 Q Mr. Raffe, is it not a fact and we're speaking
18 only about the Puccini matter, is it not a fact that the
19 **general practice**, your general practice was that whenever
20 **you had** to sign something, you generally kept a copy for
21 yourself? In fact, Mr. Postel testified that you had a
22 full elevator full of documents.

23 MR. STRAUS: Object to what Mr. Postel tes-
24 tified to.

25 THE REFEREE: Sustained.

Q Did you keep photostatic copies?

A Excuse me, would you mind repeating that question?

MR. STRAUS: The only question is, did you keep photostatic copies?

A Did I keep photostatic copies of what?

Q Of documents that you signed and gave to somebody else, whether it be Mr. Postel or --

A No, I didn't keep -- as a rule, no, I may have made a couple that I would keep but as a rule; no, in fact --

Q Do you have a private elevator?

MR. STRAUS: I think he's finishing his answer.

He was saying, "In fact" something -- could we have the rest of the answer?

THE REFEREE: He says --

A As a general rule, no, I didn't keep photostatic copies.

THE REFEREE: Next question.

Q I show you this affidavit and ask you --

THE REFEREE: Which one?

MR. SASSOWER: It's 63 for identification.

MR. STRAUS: Actually he doesn't have the entire exhibit.

MR. SASSOWER: It's a notice of cross-motion.

THE REFEREE: The notice of cross-motion and an affidavit, and Mr. Sassower has now exhibited the affidavit to the witness.

The question is, did he see that affidavit.

THE WITNESS: I didn't hear the question.

Q Did you see the affidavit?

A I couldn't answer whether I saw it or not. There were thousands of affidavits. I couldn't say.

Q This is November of 1985.

Did you keep a copy of it?

THE REFEREE: May I suggest that you read the entire affidavit and see if it refreshes your recollection as to whether or not you did, in fact, sign such a document?

MR. SASSOWER: That's January of 1986. I said, "November."

THE REFEREE: Just take your time and read it.

A Yes, I did see it. I thought it was something you had written.

Q Where did you see it, for the first time?

A I can't remember whether it was in Mr. Postel's office or my office. I couldn't tell you.

Q If it was your office, would you, in normal

practice, keep a copy of it?

A No, not normal practice, I couldn't.

Q Mr. Raffe --

THE REFEREE: Do you recall having signed that affidavit?

Q You are under oath, Mr. Raffe.

A Yes.

MR. STRAUS: Objection. Will you please, sir, he knows he's under oath.

You are not going to intimidate this witness.

A Yes, I signed it.

THE REFEREE: "Yes," he signed it. Go ahead.

Q May I have it back, please? May I have it back, please?

A Yes.

Q Prior to signing this affidavit, on this particular case, did you receive any papers from me?

A I wouldn't remember, George, whether I did or not. A lot of -- I received papers from you yesterday.

Q Isn't it a fact that anything that I send out pertaining to your cases, I sent you copies?

MR. STRAUS: Objection. He's testified four times that he doesn't --

THE WITNESS: What's the question?

Q Since --

A Anything that you send out, do I make copies?

Q Do I send you copies?

A I don't know if you send me copies of everything.

Q But you receive copies, almost on a daily basis,
from me.

A I can't say on a daily basis. When you send them
to me, I receive them.

Q Do you copy them when you receive them?

A No, I don't copy them.

Q What do you do with them?

A I send them to Mr. Postel.

MR.SASSOWER: That's why we wanted Mr. Post-
els' records.

MR. STRAUS: Objection.

THE REFEREE: Mr. Sassower, you're editorial-
izing again. Just ask questions.

MR.SASSOWER: I'm going to ask your Honor --

THE REFEREE: No, no, just inquire of this
witness. He's the only witness on the witness
stand.

Q Mr. Raffe, do you know what this suit is about?

A I have to read it again to try -- this it the

same paper that you just gave me before.

Q Yes. What the suit is about.

A Well, from the little I read here --

THE REFEREE: Are you giving him the entire document, or just the affidavit?

MR. SASSOWER: Just the --

Q You, against the Arutt firm.

THE REFEREE: Did he show you any other paper at the time that he said you signed the affidavit?

THE WITNESS: I couldn't say if he showed me other papers or not.

THE REFEREE: Get the other half of the Exhibit 63.

MR. SASSOWER: I gave the whole thing.

THE WITNESS: I read here in the second paragraph that formally substituting Ira Postel for George Sassower as attorney of record for Hyman Raffe in this action.

This I remember. Is there any other thing in here?

Q I'm asking you -- tell the Court, what the case of Hyman Raffe against Arutt, Nachamie, Benjamin firm, what is the basis of the --

MR. STRAUS: Objection. This is beyond the

witness.

A I really don't know.

I trusted Mr. Postel implicitly and I knew it was for my benefit that he was asking me to sign these papers, and roughly see what it is.

As far as the legality or details are concerned, I wasn't concerned with it.

Q Mr. Raffe, would you not say that over the years, we have had literally thousands of conversations pertaining to Puccini?

A Many, many conversations, okay; I wouldn't say thousands. Maybe it is. I, I wouldn't put it that way, thousands, because there came a time where there was very little that I wanted to discuss about Puccini, because it made me sick.

I even walked in my office a different way so I shouldn't have to see you.

Q Except for that period of time, was not Puccini discussed or referred to almost on a daily basis? Yes or no.

MR. STRAUS: What period of time?

Q Let's say from -- let's say during the year of '84, wasn't Puccini discussed almost on a daily basis?

A No. I would say around that time, it came to pass

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2 that there was -- the only discussion that we would have
3 about Puccini, is if I came to you about something, be-
4 cause there was very little that you wanted to discuss with
5 me, because there wasn't anything possible that you could
6 tell me except if I asked you something.

7 Q Did you sign papers, affidavits?

8 A Yes, I signed papers and affidavits.

9 Q Did you keep copies of them?

10 A No.

11 Q Did you not have in your private elevator a pile
12 of papers?

13 A Yes, I did have a pile of papers.

14 Q Related to Puccini?

15 A Yes, I did.

16 Q Did you not, thereafter, put in your portion of
17 your bathroom, a pile of your papers?

18 A Those were papers that you asked me to hold
19 for Puccini.

20 Q Copies for you?

21 A Me. You. I don't know wo they were for.

22 Q Did you read papers that I gave you to read?

23 A There came a time that I didn't read them.

24 Q Not did there come a time --

25 A Did I read at times?

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2 Q Yes.

3 A At times I did, but not very often.

4 Some of the papers all kept sounding the same
5 to me.6 Q Let's talk about '85. When, exactly, did you
7 tell me what you did tell me, that I should not -- what did
8 you tell me?

9 A About what?

10 Q In January of 1985, what did you tell me about
11 Puccini, that I don't represent you anymore?12 A That you shouldn't represent me in anything that
13 had anything to do with me and Puccini.

14 Q In January of '85.

15 A Yes.

16 Q After January --

17 A Roughly January of '85.

18 Q Did you sign any papers?

19 A Papers where I was the --

20 Q Papers where I was the attorney for you in the
21 Puccini-related matters after January of '85? Yes or no.22 A To the best of my knowledge, after I had told
23 you that, I don't believe that I signed any papers, person-
24 ally.

25 Q What did you do with all the papers that you did

1
2 have in the elevator or in your bathroom with respect to
3 Puccini?

4 A I threw them, all of them out, because I didn't
5 feel they served any purpose to me anymore.

6 Q When did you throw them out?

7 A At different times when I was cleaning up. I
8 couldn't do it all at one time, obviously; they were loaded
9 from the bathroom to the elevator.

10 Q Is it not a fact --

11 A There are possibly some of them still there that
12 I put downstairs on a shelf outside where your office was.

13 Q Mr. Raffe, is it not a fact that my mail would
14 have had to go through your office?

15 A Your mail what?

16 Q Went through your office before I got it?

17 A Some of it. I don't know. Some of it, maybe,
18 you took yourself that was addressed to you. I don't know.

19 I didn't leave official instructions that all mail
20 should come to me.

21 Q Whether you left instructions or not --

22 A As a matter of fact, all mail that came to the
23 office that were not customer's payments of bills always
24 did, and up to this date come to my office.

25 Q Right, so that before I got my mail -- excuse me --

1
2 let me finish the question --

3 Before I got my mail it went through your hands.

4 A Not all of it, except what you would get yourself.
5 Gomez would give it to you.

6 I didn't leave instructions that any mail to you
7 should come to me instead of going to you.

8 I did get mail from time to time that was address-
9 ed to you.

10 Q Did you get -- did you make photostatic copies
11 of the contents when it was related to Puccini, yes or no?
12 Yes or no.

13 A Not always.

14 Q I didn't say always.

15 A Did I, at different times?

16 Q Yes?

17 A Yes.

18 Q And this practice existed until I left in the
19 middle of October, is that not correct?

20 A Sometimes.

21 Q So that when you would get and make photostatic
22 copies of the mail that was coming in from Puccini, related
23 to Puccini, after January of 1985 --

24 A I made copies and sent it to another attorney.

25 Q In January of '85, Mr. Raffe --

1

2

A In January of '85, I sent to another attorney --

3

Q Yes?

4

A -- I sent it to another attorney also.

5

Q Who did you send it in January of '85?

6

A At different times, I believe, to Bergson, some papers.

7

8

Q Mr. Raffe, you keep a diary. Did you come here with any other papers except Exhibit Number --

9

10

A No other papers.

11

Q No other papers?

12

A No.

13

Q How old are you, Mr. Raffe?

14

A Seventy.

15

Q Don't you think you might have brought some papers, some notes, that may have refreshed you?

16

17

MR. STRAUS: Objection.

18

THE REFEREE: Go ahead.

19

Q Were you instructed by Mr. Straus to bring it?

20

A No, I wasn't.

21

Q Were you instructed by Mr. Postel to bring it?

22

A No, I wasn't.

23

Q Were you instructed by them not to bring it?

24

A No.

25

Q When did you start sending papers relating to

1
2 to the Puccini matter to Mr. Berson?

3 A I don't have an office record of when. Maybe
4 Mr. Bergson has, you know, a reord of dates and whatever.

5 Q Did Mr. Bergson bill you for the work he did?

6 A Yes, he did.

7 Q Do you have copies of his bills?

8 A Yes, I have.

9 Q Did you bring those?

10 A Not here, I don't.

11 Q Those bills would tell you when he started to
12 do work for you.

13 A Yes, they should. You met Mr. Bergson in my
14 office a couple of times.

15 Q Sure. Now, Mr. Raffe, tell us after you supposed-
16 ly told me about not handling any more of the Puccini
17 matter --

18 A That related to me.

19 Q ~~That~~ That related to you.

20 A Yes, because you were suing them on your own.

21 Q In January of '85, could you tell us who was
22 handling the Puccini matter on a day to day basis?

23 A On a day to day basis, I believe somewhat Mr.
24 Bergson was handling some of it as far as an attorney; no
25 other attorney until Mr. Postel came into the picture.

1
2 Q What -- when did Mr. Postel come into the
3 picture?

4 A I think in July when you got the letter that he
5 dictated.

6 Q When did you retain Mr. Postel?

7 A At that time.

8 Q On July elst.

9 A I don't know what date, but that was when he got
10 into it.

11 Q Into the picture.

12 A Into the picture, yes, give or take a couple of
13 weeks, or whatever.

14 Q Who was handling the Puccini matter on your behalf
15 in February of 1985?

16 A Mr. Bergson. I suppose if any attorney was
17 handling it, it would be Mr. Bergson.

18 Q Did you sign papers in February of 1985, for Mr.
19 Bergson with respect to the Puccini matter?

20 A I can't remember whether I did or not.

21 I don't know whether I had to sign anything when
22 he went in front of Nickerson. I'm not sure whether I had
23 to sign any papers for him.

24 Q How about in March of 1985, who was handling
25 the day to day basis --

MR. STPAUS: Objection. The witness has not indicated that any one was handling, or, if there was any day to day action to handle.

THE WITNESS: If there was any necessity for an attorney, it was either Mr. Postel --

Q We're talking about March of '85.

A -- or Mr. Bergson, because there was no other attorney in the picture.

Q In March of 1985 --

A It could only be those two at any time that you weren't.

Q And April of 1985?

A Same thing.

Q And in May of '85?

A Same thing.

Q And in June of '85?

A Same thing.

Q What's Mr. Bergson's address, do you recall?

A I don't have it on my person.

Q Whatever papers you had with respect to the Puccini matter, when you hired Mr. Postel, did you turn over to Mr. Postel?

A Only what he asked for. I couldn't have turned

over all the papers. I don't think he has an office big enough.

Q So you had a lot of papers when you retained Mr. Postel related to the Puccini matter, is that correct?

MR. STRAUS: Objection. He's testified over and over to having papers in his possession.

MR. SASSOWER: And he turned them over to Mr. Postel. That's what I would like to know.

THE WITNESS: Whatever he asked for, I turned over to him.

Q Did you turn over everything that you had that I had written?

A No, I didn't. He already testified that he threw many of the papers out and I sent some of them to Mr. Bergson so he may have given to Mr. Postel.

Q Let's talk specifics.

A I didn't know what I would need them for.

Q Let's talk specifics. You said you -- you told me that I was not to handle the Puccini matter on your behalf.

A I told you not to institute any kind of legal matters on my behalf as far as Puccini was concerned.

Q In January.

A Roughly.

1

2

Q Did you ever confirm that in writing?

3

A No, excepting through this letter that you got.

4

Q Back in July.

5

A Yes.

6

Q On July 31st, did you put this letter on my desk, on July 31st?

8

A The date that it was written, I put it on your desk.

9

10

Q And do you know when I got out of jail on July 31st?

11

12

A I don't remember when you got out.

13

Q Was it a day later or two days later?

14

A I don't remember. I think it was a little bit more than that. I don't remember.

15

16

Q Wasn't it on August 2nd, the next business day or two days before?

17

18

A I don't know what July 31st was so I can't tell you if it was the next business day.

19

20

Q Does the court have a calendar with it, that you can tell us the day of the week of July 31st?

21

22

THE REFEREE: Last year?

23

MR. SASSOWER: Yes.

24

THE REFEREE: I don't have it.

25

MR. POSTEL: This was a Wednesday.

1
2 Q Mr. Postel says it was a Wednesday, the following
3 week, August 2, I believe. Is it not a fact that you and
4 I drove from your office to the federal court and I argued
5 before Madam Justice Lowe?

6 Do you recall that?

7 A I know it was in front of Lowe, but I don't remem-
8 ber if we went together.

9 Q We went in a car and we spoke and I said, "There's
10 no" -- to refresh your recollection -- That nobody contends
11 that the convictions were legal. The only problem we
12 have in federal court is the exhaustion of state remedies."

13 A It was in reference to me staying out of jail,
14 something like that.

15 Q Yes?

16 A Yes.

17 Q Weren't papers submitted on your behalf by me
18 to Judge Lowe?

19 A I don't remember. I couldn't answer that.

20 Q Didn't we drive to court together?

21 A I can't remember that either. I'm not saying
22 we didnt, but I can't remember that.

23 Q This would all be in your diary.

24 A When was this, did you say?

25 Q August 2nd.

1

2

A August. I was sitting with Mr. Postel.

3

4

Q You heard me arguing with Judge Lowe on your behalf.

5

A Yes.

6

7

THE REFEREE: Did you drive to the federal courthouse in Manhattan with Mr. --

8

9

10

THE WITNESS: I don't remember, your Honor. I say I may have, but I don't remember whether I went with him or not.

11

12

I know I was sitting with Mr. Postel when I was in court.

13

Q Who was arguing the case?

14

15

A You were arguing the case for a very short time. The judge stopped you from talking.

16

Q Who submitted papers on your behalf?

17

A I don't know.

18

Q You don't know.

19

20

A If anybody submitted. You were there, weren't you, to argue about yourself going to jail or whatever.

21

Q Let me ask you this --

22

23

A I don't think you had gone to jail yet at that time, when you were in front of Lowe.

24

Q That's right.

25

A Are you saying that you were finished with jail?

1
2 Well --

3 Q You told us that on July 31st, three days be-
4 fore you put it on my desk, when I was in jail --

5 A When I put it on your desk, you were in jail.
6 I don't know what date you were in jail.

7 I know you were in jail when your daughter picked
8 up your mail.

9 I don't remember what date you were in jail.
10 As I remember --

11 Q Let me --

12 A -- when you were in front of Lowe, you are
13 arguing about not going to jail.

14 Maybe it was the second time. I don't know. You
15 were in jail twice, I believe.

16 Q Is it not a fact, Mr. Raffe, to refresh your recol-
17 lection, that on Wednesday, July 31st, I was in jail and
18 within a day or two, I was out under a writ of habeas
19 corpus?

20 A I can't say that.

21 MR. STRAUS: Objection. The witness said he
22 didn't know.

23 Your repeating doesn't help. He's indicated
24 several times.

25 A I don't know when you got out. I only know you

were in jail when I put the letter on your desk.

Q Let me ask you this. Was there an appeal on your behalf from Judge Klein's order of conviction?

MR. STRAUS: If your Honor pleases, I'm going to object at this point to this line of questioning.

The charge, Charge 6, specifically states, and the letter specifically states that Mr. Sassower was to institute no litigation relating to Puccini.

The terms of the letter -- I don't know what the facts are. It wouldn't make any difference one way or the other, because if there had been an appeal pending, it wouldn't be covered by the terms of the letter, which speaks for itself, and also Charge 6, which tracks the language of the letter.

So, Mr. Sassower is pursuing an area which is unrelated, and has no bearing on this charge.

MR. SASSOWER: Mr. Straus made up his own charge.

MR. STRAUS: The evidence and charge are both part of these proceedings.

MR. SASSOWER: The testimony is different.

1
2 We have testimony from a witness that he
3 told me I'm out of the case in January of 1985.

4 MR. STRAUS: The language, he said over and
5 over, and it's exactly consistent with his letter,
6 was that you were to institute no new litigation
7 pertaining to Puccini.

8 He didn't care if you did it on your own be-
9 half.

10 He didn't want you to do it on his behalf.

11 He said it over and over, and you keep
12 pursuing an appeal which was, obviously, a matter
13 in existence before Mr. Raffe gave you the in-
14 structions.

15 MR. SASSOWER: It was not; that's the point.

16
17 THE REFEREE: Overruled.

18 Q Who, on behalf of you --

19 A What?

20 Q Who, if anybody on behalf of you appealed
21 the Klein conviction on your behalf?

22 THE REFEREE: When?

23 MR. SASSOWER: In June or July.

24 THE REFEREE: What about to the August 2, '85
25 before Judge Lowe, are you all through with that?

1
2 MR. SASSOWER: Yes. I was there and I argued
3 on his behalf.

4 THE WITNESS: I don't know whether it was on
5 my behalf.

6 You were talking on your own behalf, that
7 you shouldn't go to jail and the Judge told you
8 that you have to go the state appeal and not go
9 through her.

10 I remember that because it was as far as you
11 were concerned, and Polur was there in handcuffs,
12 and that's what the argument was.

13 I wasn't mentioned there. You spoke for a
14 moment, and then she stopped you, and she closed
15 it up and she told you to go to the appeal.

16 You were arguing, or trying to argue,
17 "What's the good in going to the appeal, you'll
18 be in jail by that time."

19 Q Let me ask you something, so that we understand
20 each other, Mr. Raffe.

21 Are you saying that in January of 1985, when you
22 told me whatever you did tell me, that I was to continue
23 on existing cases?

24 A I didn't tell you that you were to continue on ex-
25 isting cases.

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Q What did you tell me?

A I told you not to represent me with anything as far as Puccini was concerned with my name on it. You said you had other things without my name on it, and, I couldn't talk about that, to tell you what to do or not to do.

Q You are saying I did not represent you after January of 1985 with regard to Puccini?

A I'm not saying that.

MR. STRAUS: Objection. There is no --

A I'm saying that I told you not to represent me.

Q Who was present when you told me this?

A I don't remember George, if Lillian was present, or, if anybody else was present. I don't remember. I didn't make notes on who was present.

Q Did you --

A I didn't think I needed any witnesses.

Q No. Did you ever mention the fact that I was not to represent you anymore with respect to Puccini in February of 1985?

MR. STRAUS: Objection. We're going through it all over again.

THE REFEREE: We went through each --

Q Did you mention it to me again in February?

MR. STRAUS: Objection.

A I'm not sure.

MR. STRAUS: This is repetetive to the point of being argumentative.

THE REFEREE: Overruled.

You spoke to him in July and sent him a letter. In between those two dates, did you have any further conversations with Mr. Sassower about re-presenting --

THE WITNESS: I don't remember. Certainly not after you moved out of the office.

MR. SASSOWER: That's October.

THE WITNESS: All right. Puccini is hard to remember, dates and times of what went on, I'd rather not remember.

Q His Honor asked you a question whether you spoke to me about Puccini frmm October 10, 1983, to October 19, 1984.

A Whether I spoke to you?

MR. STRAUS: Excuse me. If the Referee has asked the question, and I assume he responded to it, what's the point of repeating it?

MR. SASSOWER: He didn't respond to it.

THE WITNESS: I think I got it on that sheet,

whether I spoke to you, I think those dates are in '83 and '84.

MR. STRAUS: His testimony -- he answered specifically.

He said, "I didn't make note of it, but I spoke to him between October of '83 and October of '84."

He answered the Referee's --

Q How many times would you say you spoke to me in that year period?

A I can't remember.

Q When you signed papers and affidavits, did you speak to me?

A Most of the times, not.

Q Did we have lunch together every day?

A Well, we had lunch very often. I had mentioned that before, not just you and I, we had other people.

Q Was there a time when Larry Katz was involved in Puccini?

A He's dead now, but he was involved, yes, and a lot of other people in my office were involved.

Q Mr. Raffe, let's take the case of 15604 of '82, which is Hyman Raffe against the Arutt Firm.

Do you recall me getting a decision sometime

in June of 1985 regarding the refusal of Judge Cohen to dismiss your action against the Arutt Firm, based upon the switching of papers?

MR. STRAUS: Objection.

Q Do you recall that?

THE REFEREE: Oberruled.

A No.

Q Do you recall -- do you know of any such decision?

A No, I don't.

Q Do you know of any lawsuit that was instituted in 1982, based upon the switching of papers?

A In particular, I don't know.

THE REFEREE: The witness says he didn't discharge you until January of '85.

MR. SASSOWER: But the decision of Judge Cohen came down on May 30th or 31st of 1985.

THE REFEREE: I know, but he says he told you in January, "You're out." Go ahead.

MR. SASSOWER: Okay.

Q So, if we have this '82 case, could you tell me whether you signed a stipulation of substitution of attorneys on this case in January, or February, or March, or April, dismissing me as your attorney on this case, yes or no?

MR. STRAUS: Objection. I don't know if he

understands the terms, your Honor.

MR. SASSOWER: He's very intelligent.

THE REFEREE: You were apprized by Mr. Sassower sometime in 1985 that there was an appeal pending.

MR. SASSOWER: No, no, no. If I was discharged in January of '85.

THE REFEREE: What papers are you referring to?

MR. SASSOWER: A substitution of attorneys.

THE REFEREE: In what action?

MR. SASSOWER: The Hyman Raffe against the Arutt Firm?

THE REFEREE: You are suing the Arutt Firm?

MR. SASSOWER: Yes, defendnded by an insurance company.

THE REFEREE: In 1985, what was -- that matter was on the calendar for what purpose?

MR. SASSOWER: They made a motion for summary judgment, and we cross-moved for summary judgment, and a decision came down in his favor.

THE REFEREE: Did Mr. Sassower bring that to your attention?

THE WITNESS: I don't remember.

1
2 Q The question is this, if I was discharged in
3 January of 1985, as you say, did you tell Howard Bergson
4 to take over this case, yes or no?

5 MR. STRAUS: Objection. We're back to the
6 same thing.

7 He's testified a half dozen times. He knew
8 that he retained him. He didn't know for what,
9 and, that's not going to help his recollection.

10 THE REFEREE: Overruled.

11 A I don't remember telling Howard Bergson whether
12 or not to take over the case that you mentioned.

13 Q Did you sign any papers for Howard Bergson after
14 January of 1985 with respect to this paper?

15 A I don't remember.

16 Q Did you get any bills from Howard Bergson with
17 respect to this case after January of 1985?

18 A I don't remember.

19 Q But you have records in your office.

20 A I have bills from Howard Bergson.

21 Q Do any of the bills from Howard Bergson relate to
22 this particular case, yes or no.

23 A I can't answer that, I don't know.

24 THE REFEREE: At any time between January
25 and July of 1985, did Mr. Sassower discuss with you

that particular case?

THE WITNESS: No.

Q Did I ever give you papers on that particular case?

A I don't remember receiving any papers on that particular case.

THE REFEREE: The period between January and July, is that the period we're addressing ourselves to?

MR. SASSOWER: Right.

A I don't remember receiving any papers that you are mentioning.

Q Did I give you papers on that particular case after July of 1985 and I draw your attention to a demand for interrogatories, and a notice of an examination before trial.

A If you sent me papers after July of '85, I sent them to Mr. Postel.

Q ~~That's~~ why we need Mr. Postel's --

THE REFEREE: No, no.

MR. STRAUS: Object to the editorializing.

Q When you went them to Mr. Postel --

MR. STRAUS: Objection. That's not his testimony. His testimony was if he received them, he sent them, not that he did receive them and did send them.

It's a big difference, Mr. Sassower.

Q If you received papers on this particular case after July, 1985, you said you would have sent it to Mr. Postel.

A That's what I said.

Q Would you keep a copy for yourself?

A Probably not.

MR. SASSOWER: Would you give me a moment, your Honor, I want to see if I can get something.

(Off record ensues)

MR. SASSOWER: I'll have to get something from the car.

Q Mr. Raffe, I show you another "UU" -- is it for identification?

MR. STRAUS: For identification.

Q For identification, and ask you when you signed that?

THE REFEREE: What number was that?

MR. SASSOWER: "UU."

Q When you signed that stipulation.

A The question is when I signed it.

Q Yes.

A I don't remember when I signed it. Evidently in November of '85. I don't have the exact date here on this

1
2 thing. I can't remember the date.

3 Q Would your diary or something show what date it
4 is?

5 A No. I keep a diary of when I signed this?

6 Q Don't you usually write when you receive something
7 on the top sometimes? Not sometimes, almost always when
8 you receive something? Yes or no.

9 A No.

10 Q Mr. Raffe, who told you to sign that stipulation?

11 A Mr. Postel. He didn't tell me. He asked me to.

12 Q Did you ask him what it was all about?

13 A No.

14 MR. STRAUS: Objection.

15 A I just read it, and didn't ask him what it was
16 all about.

17 MR. STRAUS: At this point, there is an object-
18 ion.

19 This is an area, this is an agreement enter-
20 ed into. Whether the agreement or the terms of
21 the agreement has no relevance to Mr. Sassower's
22 charges --

23 MR. SASSOWER: I'm saying this story --

24 THE REFEREE: Go ahead. Continue your cross-
25 examination.

1
2 Q Prior to receiving that document, did you receive
3 any papers from me with respect to this particular case?

4 A I wouldn't know, Mr. Sassower. I received a lot
5 of papers from you.

6 Q I'm talking about a few weeks before.

7 A I wouldn't know. I'm not studying any of these
8 papers in any way.

9 Q Well, if you received papers from me in this
10 particular case --

11 A I send it to Mr. Postel.

12 Q Did you tell Mr. Postel, "Why don't you tell
13 Mr. Sassower what is he doing on this case?" "I knocked him
14 off a year before."?

15 A No, you were knocked off in every case, so why
16 should I say you were knocked off? Which one weren't you
17 knocked off?

18 Q Discharged a year before.

19 A No, I didn't tell him. He knew when you were
20 discharged. I didn't have to tell him.

21 Q When did you tell him that I was discharged?

22 MR. STRAUS: Objection, over and over, your
23 Honor.

24 Q Mr. Raffe, you knew -- why did you send a copy
25 of this letter -- by the way, you didn't dictate this

1
2 this letter?

3 THE REFEREE: Which letter?

4 MR. STRAUS: Exhibit 38.

5 It's not marked.

6 MR. SASSOWER: It's not marked.

7 MR. STRAUS: The one in evidence is marked.

8 Q I show you 38 in evidence. You testified that
9 was dictated by Mr. Postel.

10 A Right.

11 Q Was that dictated by Mr. Postel while he was
12 at your office or by phone?

13 A I don't remember.

14 Q How long after I spoke to Mr. Postel with you,
15 was that letter dictated?

16 A Sometime after.

17 Q It was after?

18 A After.

19 Q During this conversation I had with you and Mr.
20 Postel, did you, at any time, during that conversation, say
21 to Mr. Postel or say to me, "You were knocked off this case
22 six months ago."

23 Did you ever say that, yes or no?

24 A I never said that word for word that you were
25 knocked off the case six months ago.

Q Isn't it true, Mr. Raffe, that after Judge Klein's order, you had an appointment with Irwin Brownstein, former Supreme Court Justice?

A I had an appointment with Mr. Brownstein with you. I don't remember if it was before or after, or whatever.

Q And, didn't I go with you -- you wanted to speak with him, yes or no?

A Yes. I went with you. I don't remember when it was, but I went with you.

Q What was the purpose of me going with you?

A The purpose of going with you was when --

Q As you told it to me.

A Was to make Mr. Brownstein, Judge Brownstein aware of the case, what was involved, and I went there with you for the purpose of possibly having Mr. Brownstein handle --

Q Instead of me?

A Yes.

THE REFEREE: Was that before January of 1985?

THE WITNESS: I don't remember when it was.

Q This was after --

MR. STRAUS: Objection. Mr. Sassower, will testify --

MR. SASSOWER: I'm going to ask a question.

THE REFEREE: You said you discharged him in January, sometime.

THE WITNESS: Yes. It would be -- I'm not sure.

Q Let me refresh your recollection.

A I think it was after that. You didn't want to go. I prevailed upon you to go. I remember that.

Q Wasn't it true --

THE REFEREE: Was it your suggestion that Mr. --

THE WITNESS: I asked him to do me a favor and go with him to Judge Brownstein.

THE REFEREE: Who made the contact with Judge Brownstein?

THE WITNESS: I did. Through me.

THE REFEREE: He had already resigned from the Supreme Court bench.

THE WITNESS: Yes.

Q Wasn't it after you had been convicted of criminal contempt?

A I believe so.

Q And you were convicted of criminal contempt in June of 1985, is that correct?

1
2 A I can't tell you when it was.

3 Q Is it not true that I went into the office with
4 you, to Judge Brownstein's office, right, and, isn't it
5 not true that you started to explain to Judge Brownstein
6 what happened, and then you said, "Maybe George can explain
7 it better, my lawyer can explain it better as to what
8 happened?" Yes or no. In sum and substance.

9 MR. STRAUS: Objection. That assumes a lot
10 of testimony not in evidence.

11 THE REFEREE: Did you ever refer to Mr.
12 Sassower in front of Judge Brownstein as "My
13 lawyer"?

14 THE WITNESS: No.

15 Q Did you ever tell Judge Brownstein that you had
16 discharged me in January?

17 A I never mentioned anything to Judge Brownstein.

18 Q Mr. Raffe, while I was in jail, did you sign an af-
19 fidavit for Mr. Postel which you submitted to Judge Klein?
20 Yes or no.

21 A Possibly. I don't remember.

22 Q Is it not true, Mr. Raffe, that in the end of
23 November of 1985, I telephoned you and told you in sum and
24 substance that I had heard from the Arutt insurance company
25 that you had executed a stipulation of discontinuance on

that case?

MR. STRAUS: Objection. What is the relevance of this, your Honor, that Mr. Sassower called and conveyed information?

What does this have to do with the charge?

A I don't remember specifically, you know, that you mentioned that, but I remember telling you that I was going to sign anything that was going to keep me out of jail, and help close the Puccini case.

Q You'll sign anything.

A I was going to sign --

Q Wait a second.

MR. STRAUS: He hasn't finished his answer.

You cut him off.

A I was going to sign all papers relating to the Puccini case that was going to help close it, that Mr. Postel would arrange for me to sign and to stay out of jail.

Q If you signed all these papers you would stay out of jail?

A If I signed?

Q Yes.

A Nobody said that to me. I said that that's what I was attempting to do.

1
2 Q Did you not tell me that you asked Mr. Postel
3 whether this releases Dann, their attorneys or their insur-
4 ance carrier and Mr. Postel told you --

5 MR. STRAUS: Objection. Now, we're going
6 into the terms of the settlement, and, it has no
7 relevance to this charge.

8 THE REFEREE: Sustained.

9 MR. SASSOWER: Your Honor, I'm trying to
10 prove that as of the end of November, he still
11 recognized me as the attorney in this case.

12 THE REFEREE: Just ask him directly.

13 Q Did you tell me that you specifically asked Mr.
14 Postel, and he told you that you were not releasing Dann
15 and the attorneys and the insurance company?

16 A I'm not sure that I remember, Mr. Sassower. I
17 can't answer definitely.

18 Q Mr. Raffe --

19 A It wasn't important to me.

20 Q Did you ever ask Mr. Postel in the papers that
21 you signed whether you were releasing Dann? Yes or no.

22 MR. STRAUS: If your Honor please, what does
23 this have to do with whether or not Mr. Sassower
24 was representing Mr. Raffe?

25 Again, he's trying to go into the terms of

whatever the settlement was.

None of this indicates that Mr. Sassower was representing Mr. Raffe.

He's indicated time and again that he wasn't. What's the purpose of this area?

MR. SASSOWER: I'm saying he specifically said, "No." In fact --

THE REFEREE: I know. You are saying what the witness says --

MR. SASSOWER: As a result of that conversation --

MR. STRAUS: Objection.

MR. SASSOWER: I can't bring him back.

MR. STRAUS: What's the cross-examination? That's the issue.

THE COURT: Continue with his cross-examination.

MR. SASSOWER: I am.

Q Mr. Raffe, do you remember that within a day or two later, I submitted an affidavit to the court, sending you a copy, where I stated I spoke to you and you had told me --

MR. STRAUS: Objection.

Q -- that you did not settle this case? Yes or no.

Q Okay. You don't remember.

MR. STRAUS: Wait for a ruling by the Referee; if I make an objection, wait for a ruling. All right, Mr. Raffe?

Q But, if you received such an affidavit, would you have turned it over to Mr. Postel?

A I would have.

Q In this particular case, did you discharge Mr. Bergson also?

THE REFEREE: Which case?

Q Raffe against Arutt.

A I never discharged Mr. Bergson from anything, the way you put it.

I never said to Mr. Bergson, "You're not my attorney." If that's what you mean or send him a letter that he can't represent me, or whatever.

Q The question is this, Mr. Raffe, and I'm going to straighten it out before I go to the next case, who represented you on this particular case?

A Which case?

Q The Arutt case, we're talking about.

A I don't know who represented me. I don't know anything about the Arutt case. I know the name, but I can't discuss it, in any kind of detail about what the case is all

about.

Q Is it not a fact that you personally argued the switching of papers?

A Well, are you talking about at the Appellate Division?

Q Right.

A Yes.

Q Do you remember -- this is before we had the hard evidence that there was stealing going on?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q And you knew also that based upon the switching of papers, we had an action for your attorney's fees and damages resulting from the switching of papers; yes or no?

MR. STRAUS: Objection.

Q Yes or no?

THE REFEREE: Sustained.

Q Mr. Raffe, you testified --

MR. SASSOWER: Your Honor, I have two more boxes in the car. I understand it's just a few minutes to one, can we break now, because --

THE REFEREE: All right, we'll resume at 2:15.

(Recess ensues)

* * * * *

(Afternoon session)

THE REFEREE: Mr. Sassower, may I suggest that you bring up your request with respect to next weeks' sessions at this time rather than later.

MR. SASSOWER: Well, it's a good suggestion, your Honor, because Mr. Raffe is on the stand, and can verify the facts.

I was hospitalized three times in the last two years for a leg condition and which hits me all of a sudden, and throws me into the hospital with about 105 temperature.

I've been able to recognize the pre-conditions that cause it, and I'd be very, very doubtful about next weeks, because certain signs are appearing that that's the first thing.

So, I would like to cancel next week because I don't want anybody to be hanging, and, even if it doesn't flare up next week, the added strain will be such that it might flare up on Wednesday, Thursday. I'm sure on Tuesday I'll have no problem because I'll rest for the next three or four days, but then if I come in Wednesday, I have a problem.

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2 MR. STRAUS: Your Honor, I can only say
3 that when we met at our pre-hearing conference,
4 on January 30, it was Mr. Sassower who request-
5 ed that we start the hearing immediately, that
6 we meet five days a week, at his request.

7 We have now been in session, I think, since
8 early February and have yet to complete our case.

9 Mr. Raffe is our last witness.

10 Should Mr. Sassower find himself unfit to
11 continue, at some future date, I would ask that,
12 at that time, he notify you. That he provide
13 some documentation from a medical doctor to
14 that effect.

15 At this point, I'd like to go forward
16 and bring this matter to a conclusion.

17 I'm as anxious as Mr. Sassower to reach a
18 conclusion to this proceeding which we are now
19 in our second month on.

20 THE REFEREE: Mr. Sassower, may I suggest
21 the following. If you want to have time off in
22 between -- Tuesday there's no objection to meet-
23 ing.

24 MR. SASSOWER: No, because I'll have enough
25 rest.

THE REFEREE: Suppose we cancel the Wednesday, and then you will have a day's rest Wednesday and we'll put Wednesday's scheduled date over to the following Tuesday?

MR. SASSOWER: Fine, yes.

MR. STRAUS: Can we make it Tuesday and Thursday of the next week?

THE REFEREE: Tuesday and Thursday of next week, then Tuesday, April 1.

MR. STRAUS: All right. We'll make those arrangements, your Honor.

That would be Tuesday, the 1st of April and Thursday, the 3rd of April.

THE REFEREE: No, no, Tuesday the 25th and Thursday, the 27th, and Tuesday April 1.

MR. STRAUS: Do you want to schedule the room for the 3rd of April as well?

THE REFEREE: Will we be going beyond that time? All right. Thursday, April 3rd.

MR. STRAUS: I'm doing this on the assumption that we'll conclude Mr. Raffie's testimony today.

THE REFEREE: The Wednesday hearing scheduled is off.

Are we ready now?

MR. SASSOWER: Yes.

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Raffe, I show you these three pages and ask you just identify the handwriting on it.

A The handwriting looks like mine.

Q It looks like it, or it is yours?

THE REFEREE: What document did you hand him?

MR. SASSOWER: Just scrap paper.

THE WITNESS: Nothing, really.

THE REFEREE: I know, but let's identify it.

MR. STRAUS: May we have it identified for the record?

THE REFEREE: Yes. It will be identified as Exhibit DDD for identification.

MR. SASSOWER: It's three eight and a half by eleven sheets with some writings on it, which

Mr. Raffe identified as his writings.

MR. STRAUS: I think that was not his answer. I don't believe he said "It was my writing."

I think he said something a little more equivocal than that.

THE WITNESS: It looks like mine. Do you want me to look at the three sheets?

MR. SASSOWER: Please.

MR. STRAUS: We better have it marked for
identification first.

THE WITNESS: Yes.

(So marked)

Q Do you remember the circumstances under which
Exhibit DDD was written?

A No, I don't.

Q Do those notes signify anything to you, sir?

THE REFEREE: Well, they haven't been
characterized as notes yet.

Q Writings.

A I see some family names, but otherwise there
are names here which, at the moment, I don't know what
they mean, except that it's my handwriting, but I don't
remember.

I see Dann's name, Sorrentino's name, IT&T,
Federal Express, Pan Am.

I don't know what they relate to.

Q On the third sheet besides Dann and Sortentino,
what other names do you recognize that are familiar to you?

A Dal Zimmer, the florist; he's familiar. He did
the florist work --

Q Just tell us which ones are familiar.

A He's familiar to me.

Q Who else?

A None of them are familiar to me except the florist who did work at my home twenty-five years ago. I don't know how he got on this piece of paper.

Q Mr. Raffe, I show you --

A Helen J-O-E-R-G. I think she was a bookkeeper for Puccini, I think.

Q Mr. Raffe, aren't most of the names listed on the third sheet or many of the names listed on the third sheet, names of people who worked for Puccini, yes or no?

A I just recognized Helen's name. I think that was her last name.

MR. STRAUS: If your Honor please, may I inquire, what is the relevance of this line of questioning?

THE REFEREE: I'll let him go further. Go ahead.

Q Any other names you recognize on there?

A No.

Q Mr. Raffe, I show you this document.

MR. SASSOWER: Would you mark it for identification?

THE REFEREE: Is that a new document, sir?

MR. SASSOWER: Yes, your Honor.

THE REFEREE: Mark it as Exhibit EEE.

(So marked)

MR. STRAUS: Well HH was a document marked for identification.

I don't know if that's what you're referring to, and I don't know what your purpose is, but there was a--

THE REFEREE: That was a transcript of judgment.

MR. SASSOWER: That's the same thing.

THE REFEREE: Well, delete Exhibit EEE.

Q I show you what is a transcript of judgment, and ask you if you are familiar with the facts underlying that judgment?

It's a judgment in your favor against Dann, Sorrentino and Puccini.

A Except that's a judgment against Dann, Sorrentino and Puccini, otherwise I wouldn't know how else to answer it.

Q You are familiar with that judgment.

A No, except if it's the same judgment that I mentioned originally when they got a judgment against me, and you said you got a judgment against them, I don't know

1
2 if it relates to the same thing.

3 Q All right. Would you say, Mr. Raffe, that you
4 understood the situation, that for any judgment that
5 Kreindler and Relkin got on behalf of their clients,
6 against you, you were entitled to judgment over against
7 Puccini for the full amount? Yes or no.

8 A That's the way you explained it to me, yes.

9 Q And, is it not true that for any judgment
10 they got against you, you got a two-third's judgment against
11 Dann and Sorrentino?

12 A I'm not fully aware of that in the legal sense at
13 this moment.

14 Q Were you ever aware of it?

15 A No, except for the first judgment that you mention-
16 ed.

17 Q As part of the same judgment, as part of the
18 same judgment, weren't you also entitled to full indemnifi-
19 cation from Puccini and two-thirds indemnification from --

20 A I don't know how it was broken up, but, I know
21 that you explained that whatever they got against me on the
22 original judgment, you had gotten for me against them, I
23 don't know who or what.

24 Q And by, "them," we mean Puccini?

25 A Puccini.

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Q Dann and Sorrentino.

A Well, however it was, I don't know; it wasn't important to me.

Q Okay. Now, you know, sir, that as to the judgment against you, for which you got judgment over, an action had been started to collect that judgment.

Were you aware of that fact?

THE REFEREE: When?

MR. SASSOWER: In 1980 even before it became a judgment.

MR. STRAUS: If your Honor please, at this point, I'm going to object.

The charge and the subject of Mr. Raffe's direct testimony has to do with a charge that Mr. Sassower against Mr. Raffe's instructions and after being discharged in January of 1985, continued to bring litigation.

Now we're going back to a 1980 judgment. I don't know.

Mr. Sassower may chose to pursue everything from 20 years ago when he first came in contact with Mr. Raffe, but can we limit the cross-examination to the subject of the charge?

This is 1980 he's talking about.

THE REFEREE: He's --

MR. SASSOWER: I'm going to '85.

THE REFEREE: --he's going to '85.

MR. SASSOWER: That's all. I'm just bringing it up to date.

MR. STRAUS: The objection is going back to 1980.

There was no need to go back to 1980 as to this charge.

MR. SASSOWER: No, I'm telling you what the basis of it was.

THE REFEREE: Go ahead.

Q Mr. Raffe, I show you, and, if it was marked before, tell me --

I show you a notice of motion dated January 13, 1986, returnable January 29, 1986, where I state that I represent you and it indicates -- I'm sorry --- "II" for identification.

I ask you, it indicates that a copy was sent to you. Did you receive it?

A I couldn't answer whether it was or if it did come to me.

I sent it to Mr. Postel. I can't identify whether it came to me or not.

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Q You didn't keep any record?

A No.

Q When you sent it to Mr. Postel --

MR. STRAUS: Objection, objection. That's not his testimony.

THE REFEREE: He says if he received it, he sent it to Mr. Postel.

MR. SASSOWER: This is why, your Honor, I'm being severely prejudiced by not having Mr. Postel's file here.

MR. STRAUS: Objection. Would you please? Mr. Sassower is cross-examining the witness.

Q If you sent it to Mr. Postel, did you tell him to communicate with me, and in sum and substance, tell me "what am I doing representing you?"

A No, I did not. I didn't read it. I don't remember reading it. I just put it in the mail and sent it to him, period.

Q Were you interested in saying that judgement, which is marked EEE for identification --

A At the time you said you got it, I was interested.

Q Aren't you interested in collecting the money now? It's \$400,000.

Are you interested --

MR. STRAUS: Would you let him answer the question?

MR. SASSOWER: I'll withdraw it.

Q You have a judgment here against -- a judgment of \$316,950.57 against Dann and Sorrentino, okay?

A Yes.

Q Did you understand that Respondent's II was --

A What's Respondent's II?

Q That's this document.

A All right.

Q Did you understand --

THE REFEREE: Show him the document.

Q -- that that document was an attempt to satisfy the judgment, EEE, yes or no?

A No, I didn't understand. I didn't read it. I don't remember reading it.

Q Mr. Raffe, I know you for many, many years, is that correct?

A Yes.

Q You know I think you are an extremely intelligent man.

A Thank you.

THE REFEREE: Question.

A So how did I get into this position, if I'm so

intelligent?

THE REFEREE: You had to ask the question.

Q I'll give you a good answer, I'll give you a good answer.

A I'm going to go down in history in the law books. So, if I had a judgment --

Q Okay, wait a second.

A -- why didn't you collect the money?

Q I am collecting it.

A Not only didn't I collect it, but I got another judgment.

Q Wait a second. Let's go one step at a time.

A All these judgments that I'm going to get, almost broke me.

Q Let's understand one thing, at a time. When you sent -- if you sent it to Mr. Postel --

MR. STRAUS: Objection. He said --

A If I got it, I sent it to Mr. Postel.

MR. STRAUS: I'm objecting to Mr. Sassower placing in evidence something which is not part of the witness' testimony.

MR. SASSOWER: Excuse me. It's obvious from Mr. Postel's testimony --

THE REFEREE: No, no.

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MR. SASSOWER: -- that he cross-moved.

THE REFEREE: You are again editorializing.

Inquire of the witness.

MR. SASSOWER: Well, can we interrupt for a second?

THE REFEREE: No.

MR. SASSOWER: And ask Mr. Postel if he received it?

THE REFEREE: Let's go on with this witness.

MR. SASSOWER: Again, I want to ask him, Mr. Postel, if he received it.

THE REFEREE: Mr. Raffe, will you ask Mr. Postel if he received it?

THE WITNESS: Mr. Postel, did you --

THE REFEREE: Mr. Postel is not on the witness stand.

MR. SASSOWER: I know. That's not my fault. Let the witness consult with his attorney.

MR. STRAUS: Mr. Postel was on the witness stand two days, as I recall.

MR. POSTEL: I believe I testified then that I had received it.

Q Now, Mr. Raffe, did you have a conversation with

1
2 respect to this motion with Mr. Postel? Yes or no.

3 A No.

4 Q You testified also that you signed an affidavit
5 wherein you sought to have him substitute me, is that cor-
6 rect?

7 A That's correct.

8 Q And, did you know that at the time you signed this
9 affidavit of substitution, that that related to my attempt
10 to satisfy this judgment? Yes or no.

11 A I do not know that.

12 Q So you just signed it because it was given to
13 you?

14 A Signed what?

15 Q The substitution of attorneys.

16 A I signed it because it was given to me to sign,
17 yes.

18 Q Without any explanation?

19 A No, I knew, making sure that you weren't represent-
20 ing me and that he was.

21 Q And let's -- I show you, I show you this document.
22 I turn to the --

23 MR. STRAUS: If your Honor please, if
24 Mr. Sassower is using exhibits, which were pre-
25 viously marked for identification, I would request

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Q Yes, please.

A I see.

Q Do you remember when you signed it, where you signed it?

A Where?

Q Yes.

A Well, in Feltman and Karesh and Major's office according to the signature here.

Q Was it signed at their office?

MR. STRAUS: If your Honor please, at this point, I'm going to object.

We're going into the same area.

If he signed it, the circumstances, previously -- previously, Mr. Sassower has attempted to go into the terms of the stipulation, which Mr. Raffe entered into.

This has -- there is no indication on that document that Mr. Sassower appears in any capacity.

MR. SASSOWER: It doesn't?

MR. STRAUS: This is not relevant to this proceeding.

Q Did you read that document, before you signed it?

A I can't remember whether I did or not. It wouldn't have made any difference to me.

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MR. SASSOWER: I offer it in evidence.

MR. STRAUS: Objection, unless you can make an offer of proof as to the purpose of a stipulation entered into in January of '86 after the charges had been served on you.

MR. SASSOWER: It completely, among other things, it's completely at variance with the allegations of the Petition.

THE REFEREE: Whose motion is it?

MR. SASSOWER: This is signed by Feltman. It's no motion. It's an agreement.

THE REFEREE: An agreement?

MR. SASSOWER: Right. For example --

THE REFEREE: That's the agreement --

MR. SASSOWER: Of November 4.

THE REFEREE: -- of November 4, 1985.

MR. SASSOWER: Right. Now, may I just briefly --

Will your Honor read it?

MR. STRAUS: It's not in evidence.

MR. SASSOWER: I offer it in evidence.

THE REFEREE: What's the relevance of it?

MR. SASSOWER: First of all, it doesn't speak of George Sassower.

Q I direct your attention to Paragraph 3 on Page 5.
Did you read --

THE REFEREE: Of Exhibit TT.

MR. SASSOWER: Yes, your Honor.

MR. STRAUS: For identification.

A I read it.

Q Did you read it at the time you signed it?

A Not that I remember.

Q Did you read it since then?

A No.

THE REFEREE: He just read it now.

Q Between --

A Not that I remember. I don't remember reading
it at any other time.

Q Did anybody explain this to you, this paragraph

A Maybe. I don't remember. I wouldn't have paid
that much attention to it, being Mr. Postel was with me.

Q I show you Paragraph 2 and ask you if anybody
explained or you read --

MR. STRAUS: He can go through the whole
document.

He already said what his recollection was,
and it's pointless to go through the whole docu-
ment.

1 Q You would sign anything they gave you.

2 A Like I signed anything you gave me.

3 Q We'll go --

4 A Mr. Postel gave me the papers. I had confidence
5 in him and I signed it.

6 Q Did you read the document afterward?

7 A Not that I remember.

8 Q Did anybody tell you or explain to you the terms
9 of the document?

10 A They may have at the time, but I wasn't paying
11 that much significance to it.

12 I knew it was all for a good purpose.

13 Q Let's talk about purpose.

14 MR. STRAUS: I'm going to object to the
15 purpose of entering into a stipulation.

16 THE REFEREE: Mr. Sassower, this is January,
17 '86.

18 It follows the institution of the charges
19 against you.

20 MR. SASSOWER: But it shows that the charges
21 are false and I'll show you why, Judge.

22 MR. STRAUS: Judge, I believe we have been
23 through this many times before.

24 THE REFEREE: Overruled.
25

that he use the documents that have been marked for identification.

MR. SASSOWER: I'm trying to save time. It's -- I'm drawing this up for everybody's benefit, and unfortunately, with cross-indexes, so we can find these fast.

THE REFEREE: What's the title of the document?

MR. SASSOWER: It's called a stipulation, and order, dated November 4.

THE REFEREE: Go ahead.

MR. SASSOWER: I'm sorry. "TT."
"TT" is an agreement signed by Mr. Raffe, his attorneys, or the attorneys and Mr. Postel, dated November 4, 1985, "TT" for identification.

Q I show you TT for identification, and ask you, does that contain your signature?

A It's my signature.

Q Do you remember where you signed it?

A Where? No. I don't remember where.

Either in my office and Mr. Postel's office.

Q Will you turn the next page, and, see the other signatures, next --

A Next page?

1 THE REFEREE: What's the relevance?

2
3 MR. SASSOWER: It shows that George
4 Sassower, as the attorney, even in January of 1986.

5 MR. STRAUS: You are representing that
6 there is a statement in there that George Sassower
7 is the attorney for Hyman Raffe, is that what
8 your representation is?

9 MR. SASSOWER: Let me read it. It's implicit.

10 THE REFEREE: Does it say it?

11 MR. SASSOWER: Let me explain how it says
12 that he will discharge me.

13 Now, one does not discharge somebody in
14 January of '86 who was already discharged in
15 January of 1985.

16 MR. STRAUS: May I see that, Mr. Sassower?

17 MR. SASSOWER: Sure, read the whole document.

18 MR. STRAUS: Who is it that you are directing
19 Judge Potoker's attention to.

20 MR. SASSOWER: I'll read the few paragraphs
21 involved.

22 MR. STRAUS: Show me what it is. If you're
23 offering it in evidence --

24 THE REFEREE: Mr. Sassower, are you through
25 with it?

MR. SASSOWER: Haven't you got a copy?

THE REFEREE: Just point out to Mr. Straus the portion --

MR. SASSOWER: It's for a lot of reasons.

THE REFEREE: Point out that portion which you were reading.

MR. SASSOWER: The whole document speaks that way.

MR. STRAUS: If your Honor please, I object on the grounds of relevance to a document which clearly does not say what Mr. Sassower says.

It's terms of a stipulation of settlement.

The witness has testified at least a half a dozen times that he discharged him in January of '85.

That document, in no way, contradicts his testimony.

MR. SASSOWER: It says he'll deliver a copy of such termination and its receipt by Sassower.

Now, how could this man state in 1986 that he is going to send me a termination letter when he's already testified that he terminated my --

MR. STRAUS: Precisely the point, because after he discharged you, he kept -- you kept acting

in his behalf.

MR. SASSOWER: I'll go on.

THE REFEREE: Do you want to ask him about it?

MR. SASSOWER: May he --

He didn't read it.

THE REFEREE: Are you aware of the fact --
let me see that, sir.

Which paragraph?

MR. SASSOWER: Three, your Honor.

THE REFEREE: Are you aware of the fact, Mr.
Raffe, in this stipulation and order, dated November 4, 1985, there is a paragraph that reads,
"Raffe shall not authorize or retain George Sassower, Esquire, to act as attorney or advisor but --
or to serve in any other capacity in connection with any pending or future Puccini-related litigation. Simultaneously herewith, Raffe shall discharge Sassower in writing from representing him in pending Puccini-related litigations and deliver to the receiver a copy of such termination letter as proof of this receipt by Sassower."

THE WITNESS: This was November '85 and I
discharged him in January, the January before, yes,
I'm aware of that.

Q Mr. Raffe, --

MR. SASSOWER: Whichever way your Honor wants --

Q -- I want to draw your attention to Paragraph 6 of that exhibit, which is TT for identification, and ask you if you are aware of that paragraph, having read it before you signed it, read it after you signed it, but before today.

Before today, were you aware of that paragraph? Yes or no.

A Do you want me to answer it?

Q Just yes or no.

MR. STRAUS: If you can answer it yes or no. Judge Potoker, he's indicating, I think, an inability to answer yes or no.

THE REFEREE: Can you answer that yes or no?

If not, just say you can't.

A I can't answer it yes or no.

Q The question was, were you familiar with that paragraph before today?

THE REFEREE: He already answered he couldn't answer yes or no.

Ask him --

Q The question is, could you tell us why you cannot

answer that yes or no.

A Because I know that it was all related to doing everything possible, to make sure that you weren't going to handle anything in my behalf, in relation to Puccini which we were trying to do.

The specific paragraph, I can't answer it, but I know generally that's what it all pertains to.

THE REFEREE: You're saying, in other words, that this was a re-emphasis on your part that Mr. Sassower was no longer representing you.

THE WITNESS: That's correct.

MR. SASSOWER: Your Honor, that's not what he says.

THE REFEREE: I know. I didn't say he said it.

MR. SASSOWER: You stated --

Q I show you, after November 4, 1985, did you inquire as to whether anyone attempted to have me execute a stipulation substituting attorneys?

A I don't remember.

Q Did Mr. Postel ever tell you after November 4, 1985, that he, attempted to obtain a stipulation substituting attorneys, yes or no?

A Attempted to obtain from whom?

Q From me.

1 don't you put it in writing?"

2 A No, I don't know any other time.

3 Q And you don't know the circumstances under which
4 I told him to put it in writing.

5 A Yes, I do know, that particular circumstance.

6 Q You weren't there when I told him to put it in
7 writing.

8 A No, I wasn't there. I was told the circumstances.

9 Q By Mr. Postel.

10 A Of course.

11 Q You didn't ask me what the circumstances were.

12 A I wrote you what happened. I wrote the entire
13 circumstances in writing which you said was a beautiful
14 letter but you never answered.

15 Q Let me ask you something, Mr. Raffe, when, if
16 ever, did you send me a copy of the agreement of November 4?

17 MR. STRAUS: Objection.

18 THE REFEREE: If he did.

19 MR. SASSOWER: If he did.

20 Q Did you ever send me --

21 A Me, personally? No.

22 Q Do you know, who, if anybody, ever sent it to me?

23 A Who, if anybody? Mr. Postel would, if anybody.
24 I don't know who else would be applicable to send it to you.
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A I don't remember.

Q Did you ever ask --

A I know if he did, he wasn't very successful.

Q But you don't know if he attempted it, even?

A I don't know for certain whether he attempted or was able to attempt to get that done.

Q The question is, did he ever advise you that he attempted it; that's the question.

Did he ever advise you that he attempted after November 4 to get a substitution of attorneys?

A I can't say for sure. I can't say for sure whether he did.

I won't be able to answer that. There are so many intermingling things that went on here, because you weren't talking to him, and not talking, that I really don't remember just that detail, to what extent. I know he had trouble communicating with you. That I knew.

Q What trouble did he have communicating?

A The same trouble I had.

Q What trouble did you have communicating with me?

A He tried to talk to you in the courtroom. You said, "Put it in writing." That's how I come to write the letter; that type of communication.

Q Do you know of any other time when I said, "Why

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Q Did you ever ask me, sir, whether I was aware of the agreement of November 4?

A No, I never asked you whether you were aware.

Q When you wrote your letter of November 22, 1985, which I said then, and which I saw now, is a beautiful letter, it shows you're a very intelligent man, and very sensitive --

A So where did it get me? It was so good, you never answered it.

Q Did I tell you why I never answered?

A Yes, you were waiting for something. You're saying the same kind of thing that I wrote on April 20, May 5, next week, two weeks, three weeks, you were going to get a verdict.

Q Mr. Raffe, when I did speak to you, did I not tell you to keep notes of what you said?

A I don't remember you're telling me to keep notes. You told me not to sign anything.

I remember you telling me that.

Q Mr. Raffe, were you aware --

Let's go back to July 15.

A July 15, '85, which was when?

Q Middle of July.

A I guess, that's right, yes.

Q I'll put it in context to refresh your recollection.

A Before jail, after jail, in jail.

Those are the situations I remember a little bit.

Q Let's talk about July.

A All right.

Q The order was entered on July 1, 1985.

A What order?

Q Judge Klein's order.

A I don't know when it was entered.

Q I'm telling you.

A You're telling me Judge Klein's order was entered July something.

THE REFEREE: He says he doesn't know.

MR. SASSOWER: Pardon me?

THE REFEREE: He doesn't know anything about Judge Klein's order.

If you are going to question him about Judge Klein's order --

Q When I say "Judge Klein's order," that's the order which sentenced you to be incarcerated for 30 days.

A Okay.

THE REFEREE: When?

MR. SASSOWER: It was entered July 1st, 1985.

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2 Q There is no question that I had an opinion as
3 to its legality, right?

4 A No question as far as you're concerned that it
5 was illegal.

6 Q Is it not true that --

7 A In the meantime I was going to jail and you were
8 out.

9 Q I realize that, Mr. Raffe.
10 Did Mr. Bergson tell you the whole thing was il-
11 legal?

12 A Mr. who?

13 MR. STRAUS: Objection. What relevance?

14 A Mr. Bergson did not tell me it was illegal.

15 Q Didn't Judge Brownstein tell you?

16 MR. STRAUS: Objection.

17 THE REFEREE: Whether or not it was illegal,
18 Judge Klein's order was affirmed by the Appellate
19 Division, was it not?

20 MR. SASSOWER: Yes.

21 THE REFEREE: Let's go on.

22 Q I show you, I show you Respondent's Y; you signed
23 that, Mr. Raffe, did you not?

24 A I signed it.

25 Q Did you read it before you signed it?

THE REFEREE: That's Y for identification,
a letter from Mr. Postel, right?

MR. SASSOWER: Right.

A No, I don't remember the letter. I signed it,
but I don't remember much else about it.

Q Mr. Postel testified, if it refreshes your re-
collection, that it was signed in Referee Diamond's chamb-
ers.

A Yes. I remember signing papers in Referee
Diamond's chambers.

Q What papers did you sign?

A I don't remember what I signed in Referee Diamond's
office. Was it the last one I signed?

Q How many times did you go to his office to sign
papers?

A Well, I have been in Referee Diamond's office
a number of times, but I think I only signed once. I'm not
sure.

Q Was that the last time?

A I don't remember the dates but if you want me
to ask Mr. Postel -- I can't remember if that was the
time.

I told you I'm not very clear on dates. It may
have been. I think there were some other papers with it.

1 A I don't know.

2 Q Could you tell us the other papers that were
3 signed with it?

4 A What?

5 Q Will you tell us the other papers signed with it?

6 A No, I didn't read them, like I didn't read this
7 one.

8 Mr. Postel was there, and, it was in negotiations
9 that were going on with Puccini, and me, as far as trying
10 to settle the thing.

11 Q Who else was there?

12 A Gerstein and Schneider.

13 Q And Relkin?

14 A Relkin was not there. I know he wasn't there.

15 Q But Diamond was there.

16 A Sure.

17 Q Oh, sure, did Diamond take part in negotiations?

18 MR. STRAUS: Judge, objection.

19 THE REFEREE: Sustained.

20 MR. SASSOWER: I'll show you the relevance.

21 In two questions, I'll show the relevance.

22 THE REFEREE: I don't care who was a party
23 to the negotiations.

24 Go ahead.

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2 Q Mr. Raffe, shortly after July 15, 1985, you
3 got a document from Referee Diamond which said that he
4 found you in 71 counts of criminal contempt.

5 MR. STRAUS: Objection. What's the relevance?
6 I insist on an offer of proof at this point, be-
7 cause what that has to do with whether or not
8 Mr. Sassower was authorized --

9 THE REFEREE: I assume he'll be able to con-
10 nect it with that, otherwise it's irrelevant.

11 MR. SASSOWER: Right.

12 A What's the question?

13 THE REFEREE: The Court Reporter will read
14 the question back.

15 MR. STRAUS: I'll object, because there is no
16 testimony to that.

17 First, it has to be established that he did.

18 THE REFEREE: That having received that docu-
19 ment, are you aware of the fact?

20 THE WITNESS: I remember something about 71
21 counts, but I don't remember any dates or anything
22 like that.

23 Q I show you the first --

24 THE REFEREE: Do you know what happened to that
25 matter?

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2 THE WITNESS: No, I don't know what happen-
3 ed.

4 THE REFEREE: Mr. Sassower represented you
5 in that matter.

6 THE WITNESS: Was it after -- I don't know
7 whether Mr. Bergson represented or anybody
8 represented.

9 Q In effect, there were no hearings at all.

10 MR. STRAUS: Now, he's going to attack
11 the validity of the contempt conviction which he
12 can't do.

13 MR. SASSOWER: No, I'm not.

14 MR. STRAUS: You can't ask the witness
15 circumstances under which it came into being.

16 Q Is it not true that you never went to any hearings
17 on it?

18 THE REFEREE: Mr. Sassower, you hold a
19 document in your hand.

20 You ask the witness a question, then you
21 tell the Court that there is no document.

22 MR. SASSOWER: I didn't say that.

23 Q The first page, does that refresh your recollect-
24 ion, Mr. Raffe?

25 THE REFEREE: What are you showing him?

MR. SASSOWER: The first page of --

THE REFEREE: Of what?

MR. SASSOWER: -- which recites --

THE REFEREE: Is that "TT"?

MR. SASSOWER: Yes.

THE REFEREE: With reference to the first page -- question.

Q Does that refresh your recollection of Referee Diamond's holding you or recommending that you be held in contempt?

THE REFEREE: What's the difference if he did or not?

The question is, whether or not you represented him, and, whether or not you were authorized.

MR. SASSOWER: Give me three questions.

THE REFEREE: That's the only matter before me.

MR. SASSOWER: I'll show you why it's important.

THE REFEREE: It may be important, but it's not relevant.

MR. SASSOWER: Relevant?

THE REFEREE: Well, why is it relevant?

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MR. SASSOWER: Okay, I'll show you why.

THE REFEREE: There's nothing in the document, unless you were --

MR. SASSOWER: I'll show you what it says here.

THE REFEREE: What document is it?

MR. SASSOWER: This is between him and Feltman, Postel and Feltman.

Listen to what it says here.

THE REFEREE: Just show me.

MR. SASSOWER: Look at 21. This is why Feltman is drawing up these papers.

THE REFEREE: Wait.

MR. SASSOWER: Twenty-one, and then look at the end, about the criminal contempt, the indulgences, the compounding of crimes.

THE REFEREE: What does it say here?

MR. SASSOWER: Let's look at it.

THE REFEREE: It says "Raffe shall at any time from time to time hereinafter execute and deliver to the receiver or his attorneys any and all further instruments and assurances and perform any acts that the receiver or his attorney may reasonably request for the purpose of giving full

Raffe-cross

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force and effect to the provisions of this stipulation."

There is nothing here about Mr. Sassower.

MR. SASSOWER: Right.

THE REFEREE: So what's the relevance of it?

MR. SASSOWER: "To give full and force effect to this stipulation" they had to do certain things.

THE REFEREE: Mr. Sassower --

MR. STRAUS: Objection.

THE REFEREE: -- are you attempting to say that you represented Mr. Sassower, but, Mr. Raffe, but at a point where everything was going to be resolved, they pushed you aside and they settled it themselves without you?

MR. SASSOWER: I go one step further.

THE REFEREE: Are you saying that?

MR. SASSOWER: Not exactly, but I'll go along with the Court.

MR. STRAUS: I'll ask that he repeat what it is that he's trying to say.

MR. SASSOWER: I'm trying to say, and I'll put this on the record, and I'll have witnesses

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2 that the agreement was with the Court, put
3 Sassower and Postel -- put Sassower and Polur
4 in jail, Postel will come and negotiate on be-
5 half of Raffe. We weren't even discharged at the
6 time, as a matter of law, as a matter of fact,
7 and this was between Mr. Postel and Mr. Feltman
8 and the Kreindler firm to stick us in jail.

9 THE REFEREE: Mr. Sassower --

10 MR. SASSOWER: I'll have witnesses.

11 THE REFEREE: Mr. Sassower, as far as I'm
12 concerned, my jurisdiction is limited, and it's
13 limited only to the extent that whether or not
14 you were authorized to represent him or not to
15 represent him.

16 MR. SASSOWER: I'll go one step further.

17 MR. STRAUS: I would ask that he take one
18 step back.

19 THE REFEREE: It has nothing to do with
20 this proceeding.

21 MR. SASSOWER: I'm saying that this testimony
22 is contrived.

23 THE REFEREE: I know you know that.

24 MR. SASSOWER: Let me show it to you.

25 THE REFEREE: No. You told me --

MR. SASSOWER: Look at 14.

THE REFEREE: I'm not going to continue reading every paragraph.

MR. SASSOWER: Look at 14.

THE REFEREE: Go ahead. You told me to read it, and it didn't say what you said it said.

MR. SASSOWER: It doesn't?

THE REFEREE: No.

MR. SASSOWER: Didn't you hear the testimony that documents that were signed by Raffe were prepared by the Feltman firm?

THE REFEREE: Well, 14 does not refer to Mr. Sassower.

MR. SASSOWER: It doesn't. I offer this in evidence, your Honor.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds?

THE REFEREE: Go ahead. Sustained. Irrelevant. Go ahead. Next question, sir.

MR. SASSOWER: Most illegal document I've ever seen in my life, bar none.

THE REFEREE: It maybe, but it's not before me.

Q Mr. Raffe, did you sign documents --

MR. SASSOWER: Withdrawn.

Q When was the first time after July 1st, 1985, that you spoke to -- as to a matter of substance, to either the Kreindler firm or the Feltman firm without my presence or without my knowledge?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds, your Honor? I was not discharged.

MR. STRAUS: He testified that you were discharged.

THE REFEREE: He said he discharged you in January orally, and in writing in July.

MR. SASSOWER: Fine.

You want me to say it again, say it again, your Honor?

Q I show you this affidavit --

THE REFEREE: Don't pull a document apart, sir.

MR. SASSOWER: Just the affidavit apart.

THE REFEREE: Of what document? It's already been identified.

MR. SASSOWER: No.

THE REFEREE: This is a new document.

MR. SASSOWER: Yes.

Q I show you an affidavit --

THE REFEREE: That will be Exhibit FFF.

Q -- dated blank day of August, 1986, and ask you if you signed that document.

MR. STRAUS: Let's have it marked for identification.

(Marked EEE for identification)

Q Did you sign that document, sir?

A Yes.

Q Did you read it before you signed it?

A I don't remember reading it. My memory isn't refreshed by anything that's in here.

Q Let me ask you this --

A Because all of them sound the same; that's why I can't identify it.

Q Who wrote that out for you?

A I didn't write it up.

Q Who did?

A I don't know what the date is, but the only one that I know --

Q It would have been me.

A If it was the date that you were my attorney, it would be you.

1 Q What date was it?

2 A August '85.

3 Q Was I your attorney?

4 A August '85? Were you? January -- August --
5 July '85 you weren't, no. August you weren't my attorney.
6 If I discharged you in July of '85 --

7 Q That's "if."

8 A That's not "if."

9 Q If --

10 A If it goes with the rest of my sentence.

11 Q Let me ask you something.

12 A I'll change it. When I discharged you in July,
13 then you couldn't be my attorney in August, so this looks
14 like it's possibly signed by Howard Bergson as a notary.

15 Q Okay.

16 A It looks like his signature.

17 Q Let me ask you this, is there anything in that
18 affidavit that says that I was discharged in or about
19 January of '85?
20

21 MR. STRAUS: If your Honor please, this is --

22 THE REFEREE: Sustained.

23 MR. STRAUS: May I point out, this, I believe
24 is the sixtieth document which has been marked for
25 identification.

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2 I think we may have had three or four
3 received in evidence, and, the practice seems
4 to be, Mr. Sassower offers Mr. Raffe or another
5 witness a document, which he's not going to of-
6 fer in evidence, asks him a question, which
7 pertains to an area that's been foreclosed from
8 questioning on, and then proceeds as though the
9 rulings had never been made before.

10 MR. SASSOWER: I offer it in evidence.

11 MR. STRAUS: May I see it, if you're going
12 to offer it in evidence?

13 MR. SASSOWER: Sure.

14 MR. STRAUS: Would you hand it to me, please,
15 so I can look at it?

16 A I don't know why you asked me if you wrote it.
17 You know you didn't write it.

18 You know that's Bergson's signature.

19 THE REFEREE: You want to offer this in evi-
20 dence?

21 MR. SASSOWER: Sure.

22 MR. STRAUS: May I see it?

23 THE REFEREE: Mr. Straus, you may look at it.

24 MR. STRAUS: Judge, it's dated August, 1985.
25

Clearly, it was not prepared by Mr. Sassower. It says "Howard Bergson" on it.

I object. It's totally irrelevant and it's after the time that he said he discharged him.

MR. SASSOWER: It doesn't say I'm discharged even then.

MR. STRAUS: You may introduce a thousand documents that don't say you were discharged, but there is no reason for it to say one way or the other.

Objection.

MR. SASSOWER: No, if he was, if I was discharged in January, he shouldn't have been held in contempt in April.

MR. STRAUS: What does that have to do with whether or not you were his attorney?

MR. SASSOWER: If I was discharged in January, you put down on an affidavit I was discharged in January, something Sassower did in April could not lead to his contempt, because he was not authorized.

THE REFEREE: Mr. Sassower, in plain English, "I never authorized Mr. Sassower to bring this action."

MR. SASSOWER: This action, but, he testified --

MR. STRAUS: I withdraw my objection.

MR. SASSOWER: That's it.

THE REFEREE: It's received in evidence. Fine.

MR. SASSOWER: This action --

THE REFEREE: That's Respondent's -- did we
mark it?

It's Respondent's EEE now in evidence.

(So marked)

MR. STRAUS: Your Honor, may we have the
cross-examination continued?

THE REFEREE: Yes.

MR. SASSOWER: I'm waiting for your Honor.

THE REFEREE: You're not waiting for me.

MR. SASSOWER: I always wait for the Court to
give me an okay.

CROSS EXAMINATION

BY MR. SASSOWER:

Q I show you an affirmation dated August 6, 1985.

THE REFEREE: Is that a new document?

MR. SASSOWER: Yes.

Q Which was signed by Mr. Postel.

THE REFEREE: That's FFF for identification.

MR. STRAUS: Your Honor, at this point,

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2 please don't answer, Mr. Raffe.

3 It seems apparent that the newest ploy
4 by Mr. Sassower is to introduce a series of
5 documents which fail to say that he was dis-
6 charged.

7 I imagine that the libraries are full of
8 books and records and even comic books which
9 don't say that Mr. Sassower was discharged.

10 However, unless Mr. Sassower has some
11 foundation-document which would indicate that
12 there was a requirement that that allegation be
13 made, then it's pointless, irrelevant and immater-
14 ial as to whether any number of documents don't say
15 that he was discharged previously.

16 There can be no relevance to this.

17 MR. SASSOWER: Give me one document, one piece
18 of paper, one anything, between January and July --

19 THE REFEREE: Well, 38 is a letter.

20 MR. SASSOWER: Dictated by him. I'm asking you,
21 anything.

22 MR. STRAUS: You also have Exhibit 65 in evi-
23 dence, which says the same thing.

24 MR. SASSOWER: That's November.

25 MR. STRAUS: Between July and November.

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2 MR. SASSOWER: Show me one thing between
3 January when you say that he discharged me, and
4 July.

5 MR. STRAUS: If your Honor pleases, we don't
6 have to --

7 MR. SASSOWER: January 30, 1985, that says --

8 THE REFEREE: Mr. Sassower, he said, number
9 one, in January '85, he told you orally, on
10 July 31, 1985 by letter and again on November 22.

11 MR. SASSOWER: Fine. I'm asking --
12 there was none since July 30.

13 Will you concede that?

14 MR. STRAUS: Yes, of course.

15 THE REFEREE: Next question.

16 MR. SASSOWER: Because I'll bring in a hundred
17 documents that he signed.

18 MR. STRAUS: I'll object to the line of
19 questioning.

20 MR. SASSOWER: Fine.

21 THE REFEREE: Go ahead.

22 MR. SASSOWER: Now, your Honor, I'm going to
23 renew my demand that Mr. Postel bring his files,
24 because, it will show his files that Mr. Raffe turn-
25 ed over to Mr. Postel, will show papers and

documents, galore, that Mr. Raffe signed for me in the Puccini matter after January 31st, and before July, which --

THE REFEREE: Mr. Sassower, if he signed them for you, then you have the copies.

MR. SASSOWER: Excuse me, but that's not what I want to prove.

I want to prove that Mr. Postel, when he dictated this letter knowingly dictated a false document.

MR. STRAUS: Obviously, since the witness testified that's true --

THE REFEREE: Next question.

MR. SASSOWER: I want his papers.

THE REFEREE: Your application is denied.

MR. STRAUS: Unless Mr. Sassower is prepared to continue, with cross-examination --

MR. SASSOWER: I'm going to continue, don't worry.

THE REFEREE: No, I'm worried.

MR. SASSOWER: I'm worried also with this kind of -- with this judicial treatment where you denied subpoena power.

THE REFEREE: That record will speak for itself.

Go ahead. What happened to your action in the Appellate Division?

MR. SASSOWER: Which one?

THE REFEREE: You filed a motion with the Appellate Division.

MR. SASSOWER: I'm making my record, and --

THE REFEREE: To have the subpoena power taken away from me.

MR. SASSOWER: I'm preserving my record.

THE REFEREE: Sir, I want to know what happened.

MR. SASSOWER: Did we get a decision?

MR. STRAUS: I don't think Mr. Sassower ever filed the papers with the Appellate Division.

MR. SASSOWER: The last statement that you said about the Appellate Division proved to be wrong.

MR. STRAUS: I don't think I ever made a statement.

Can we continue with the cross-examination of this witness, who's been on the stand since this morning?

THE REFEREE: There will be a five minute recess. You call the Appellate Division. I want

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2 to know what happened. I maybe here on a fool's
3 errand. I may have been disqualified.

4 MR. SASSOWER: They'll deny it, but --

5 THE REFEREE: A moment ago you said they
6 didn't hear it.

7 MR. SASSOWER: I said they didn't decide it
8 as far as I know.

9 I'm preserving my record, your Honor.

10 THE REFEREE: Five minute recess.

11 (Recess ensues)

12 MR. SASSOWER: Could your Honor tell us what
13 his Honor's notes show for Exhibit N, II, JJ and
14 KK?

15 Those are the only four, right?

16 MR. STRAUS: We have nothing pertaining to
17 "N."

18 THE REFEREE: A letter from George Sassower
19 dated January 28, 1985, for identification, and
20 "FF."

21 "FF," I don't have anything. All I have
22 is "FF" for identification. It was never iden-
23 tified any further.

24 MR. SASSOWER: And, "II," --

25 MR. STRAUS: Is a motion of George Sassower

dated January 13.

THE REFEREE: Dated 1986.

MR. SASSOWER: And, "JJ"?

THE REFEREE: No identification other than JJ for identification.

MR. SASSOWER: And KK?

THE REFEREE: A reply affidavit.

MR. SASSOWER: Date?

THE REFEREE: I don't have any date.

MR. SASSOWER: Okay.

MR. POSTEL: We have two that we have to look up, FF and JJ.

THE REFEREE: Continue with your cross-examination.

MR. SASSOWER: One more thing, your Honor, if I may.

Can the Court make some arrangements with Mr. Straus so that I can get a copy of the Postel notice of cross-motion, so I can send it out to Nassau County, and ask them if they have a copy of it, or, would -- is that the document that you didn't want received in evidence?

I want the original or a conformed copy.

MR. STPAUS: Can we continue with the cross-

examination of this witness?

MR. SASSOWER: This is very important to me.

THE REFEREE: Exhibit EEE is in evidence.

It's an affidavit.

MR. SASSOWER: The notice of cross-motion;
it's 63, your Honor.

MR. STRAUS: It's 63 for identification, sure,
we can give him a copy.

Now, can we continue with the cross-examination
of Mr. Raffe?

THE REFEREE: Well, 63 is not in evidence.

MR. STRAUS: No, it's for identification.
I'll give him a copy right now.

Anything that will allow us to continue.
Here's a copy.

May the record indicate that I am giving
Mr. Sassower a copy of the document that he re-
quested?

THE REFEREE: Any further cross-examination
of this witness?

MR. SASSOWER: Quite a bit, your Honor.

THE REFEREE: So far, we're dragging.

MR. SASSOWER: If we could bring documents
here --

THE REFEREE: No. You don't have to come here with a truckful of documents.

You only come here with relevant documents.

MR. SASSOWER: He'll come with his diary. Mr. Postel could also.

THE REFEREE: Are you talking about yourself, Mr. Sassower?

MR. SASSOWER: No, but Mr. Postel could bring some more documents.

THE REFEREE: If you don't have any more cross-examination, I'll excuse the witness.

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Raffe, I show you -- let me give it to you all at one time.

THE REFEREE: Mr. Sassower, I want an offer of proof before you show him all those documents coming from your files.

MR. SASSOWER: Right.

THE REFEREE: What's the relevance of those documents that you want to show him?

MR. SASSOWER: I'm showing him that I have always contended, even recently --

THE REFEREE: Mr. Straus has already conceded

that other than the oral instructions of January '85, the written instructions of July 31 and November 22, there is no other document and no other reference to your discharge.

You already have a concession.

MR. SASSOWER: That's not the point. The point is that having researched certain documents, there is a duty --

Let's talk about law now.

The law is very clear.

THE REFEREE: Sorry. You have told me what the law is, that it should have been a discontinuance or a court order.

MR. SASSOWER: There is a second prong to it, and there are plenty of cases on it, that even assuming, arguendo, that Mr. Raffe says, "Mr. Sassower, you're discharged in January." If I continue acting for five, six, seven, a year later, and he says nothing, then he's --

THE REFEREE: Let's ask him whether or not he recalls that you acted on his behalf.

MR. SASSOWER: I'm going to go through a thousand documents.

THE REFEREE: Let's do it.

MR.SASSOWER: I'm going to show that he never said that I am not representing him.

THE REFEREE: Before you show the documents, ask the question.

Q I show you --

THE REFEREE: Before you show a document, if that document relates to a certain date, in a certain action, ask him about it.

If he can't recall, then show him a document.

Q Did you receive --

THE REFEREE: Not, did he receive. Was he aware of the fact or was he present or were you there? Specifics.

MR. SASSOWER: I am giving specifics.

Q During January, February and March of 1986, did you receive numerous papers, letters, et cetera, before, I said that I represented you in Supreme Court, Nassau County, Raffe against Dann; yes or no.

A I received letters. I don't know what county or whatever, but I received letters that you were representing me, yes. It had my name on it and your name on it.

Q Right.

A Right.

Q From January until March.

1 A I got papers, yesterday, and the day before.

2 Q As to any of these papers that you got, did you
3 have Lillian call me up, Pat call me up, Frank call me
4 up, anybody?

5 A I sent you a letter begging you to stop.

6 THE REFEREE: Let the --

7 A I sent you a letter begging you to stop. Did you
8 want me to tell Lillian to call you and say "please stop"?
9

10 Q No, wait a second.

11 A Did you want me to send you a letter every time
12 you sent me something in the mail, "Please stop."?

13 Q Did you send me some of my mail that comes to
14 your office?

15 A Sure, I sent it to you. I should throw it
16 in the waste basket, maybe.

17 Q With the mail that comes to your office, which
18 for some reason they don't forward --

19 THE REFEREE: This is a private conversat-
20 ion that you and he want to have, have it outside
21 the courtroom.

22 Q Do you know that Mr. Postel, on your behalf -- not
23 on your behalf -- purportedly on your behalf, promised that
24 you would pay --

25 A I would what?

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Q You would pay.

A Pay?

Q Yes.

A For anything that I did whether you authorized it or not, that I would pay what?

Q The Feltman firm or Kreindler firm?

A For anything that you did?

Q Yes, even though you didn't authorize it?

MR. STRAUS: Excuse me.

THE REFEREE: I don't understand. What's the relevance of that?

THE WITNESS: I don't understand.

THE REFEREE: Even though you didn't represent him, if he wanted to be a nice fellow and give you money --

MR. SASSOWER: No.

THE WITNESS: He doesn't mean pay him, your Honor.

MR. STRAUS: I don't understand the question. I'm not sure the witness understands.

MR. SASSOWER: The November 22nd letter was a blackmail letter, okay?

THE REFEREE: Sir, I don't deal in blackmail.

MR. SASSOWER: You'll learn about it.

1
2 THE REFEREE: Sir, it's not before me.

3 MR. SASSOWER: I'm saying --

4 THE REFEREE: I'm telling you it's not be-
5 for me, and I'll not address myself to it.

6 MR. SASSOWER: Let me, let me --

7 THE REFEREE: No, not let you, let you.
8 Any further cross-examination?

9 So far you haven't done any.

10 Q Did you not agree to pay the Feltman firm and the
11 Kreindler firm for any litigation by me even though you
12 didn't consent to it or authorize it?

13 MR. STRAUS: Objection. They all testified
14 as to attorney's fees.

15 MR. SASSOWER: That he had authorized.

16 MR. STRAUS: If your Honor pleases, --

17 THE REFEREE: Sustained, without -- go ahead.
18 It's irrelevant.

19 MR. SASSOWER: This is why the November 22nd
20 letter was written, not because of his personal
21 interest.

22 He's interested in collecting his judgment.
23 Postel is not. Postel is interested --

24 I offer this document as the most perfidious
25 document ever produced.

THE REFEREE: Mr. Sassower, it may be true, but it is not a matter before me.

MR. SASSOWER: I tell you that this thing is contrived because of the contents --

THE REFEREE: That may be, but Mr. Raffe insists that he discharged you on three different occasions and you continued to allegedly represent him.

MR. SASSOWER: I'm sorry. July 31st, your Honor, which Mr. Postel dictated, does not discharge me.

THE REFEREE: It's in evidence. I'll make that determination.

MR. SASSOWER: The letter of November 22nd doesn't discharge me either.

THE REFEREE: We also have the oral discharge.

MR. SASSOWER: There's nothing to support it.

MR. STRAUS: If the proof is insufficient --

THE REFEREE: You have Mr. Raffe's testimony.

Q Mr. Raffe, there was an application made for fees in -- before Judge Nickerson.

THE REFEREE: When?

MR. SASSOWER: I'll give you the date. Withdraw that.

Q Mr. Raffe, I made a motion --

THE REFEREE: No, no, then you're testifying.

Q Did you get a copy that I sent you of a motion to vacate your conviction based on a document that I had just received, namely the July 31st, that letter?

THE REFEREE: When did you send it?

MR. SASSOWER: October or November, November of 1985.

A I don't remember.

THE REFEREE: November when?

MR. SASSOWER: It's, it's a notice of motion of November 2nd, 1985.

THE REFEREE: All right, but on the 22nd, you, he sent you a letter too; did you get that letter?

MR. SASSOWER: I got it a few days after this, about two days later, three days later, on November 23rd --

THE REFEREE: Is that identified?

MR. SASSOWER: No.

THE REFEREE: Exhibit GGG for identification.

(So marked)

THE REFEREE: That's the first time you said that in the entire proceeding.

MR. SASSOWER: That's the first time he's right.

THE REFEREE: Did you ever see that document, sir?

THE WITNESS: I can't remember ever seeing it.

THE REFEREE: Mr. Sassower, next question.

Q You don't remember seeing this?

A No.

Q If you did get it from me, you would send it to Mr. Postel.

A Yes.

Q In response to that document, Mr. Postel submitted an affidavit.

MR. STRAUS: Objection.

Q Signed by you?

MR. STRAUS: Objection. Is that a question?

Q Is this your signature?

THE REFEREE: Is that a new document?

MR. SASSOWER: Yes, your Honor.

THE REFEREE: Exhibit HHH for identification.

Mr. Sassower, again, in this document, Mr. Raffe reiterates what he contended right along --

MR. SASSOWER: That document was not prepared

by Mr. Raffe or Mr. Postel.

THE REFEREE: Is this your signature, sir?

THE WITNESS: It is.

Q Did you read it before you signed it?

A I don't remember whether I read it or not.

MR. STRAUS: If your Honor pleases, whatever, let me at least make my record.

MR. SASSOWER: It was given by the adversary to him.

MR. STRAUS: Now we're back to --

THE REFEREE: Wait, Mr. Sassower. Mr. Sassower, just be quiet for one moment.

MR. SASSOWER: Sure, your Honor.

A I don't remember, per se, word for word, no more than I remember most of the others, but I know what it says, and I know that I signed it, and I know what it pertains to.

Q Who prepared that, if you know?

A Who prepared it?

MR. STRAUS: Your Honor, may I, at this point--

THE REFEREE: Do you know who prepared it?

THE WITNESS: The only one that I know, I assume, would be Mr. Postel.

Q You knew Mr. Postel was still in Florida during that period.

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A What did you say?

Q Mr. Postel was still in Florida during that time.

A I can't say.

Q Did you speak to the Feltman firm about this affidavit?

A I don't remember talking to them about it.

THE REFEREE: He signed the affidavit. It's his, regardless of who prepared it. He signed it. He stands by it.

Mark that, please, HHH for identification.

MR. STRAUS: If your Honor please, at this point, I would like to object on this basis.

Mr. Raffe has testified to discharging Mr. Sassower.

He's given full testimony as to his oral discharge and as to his written discharge, and as to his subsequent discharge, a re-affirmation of the discharge.

He's been on the stand since this morning. As of this time, Mr. Sassower has yet to introduce anything which goes to refuting the direct examination.

He's parading a group of documents, apparently,

1
2 an endless number, before Mr. Raffe, none of
3 which, if introduced in evidence, would have any-
4 thing to do with Charge 6 or the discharge of Mr.
5 Sassower.

6 You can't just pull out of your hat whatever
7 it is you want to talk about.

8 If it doesn't relate to the charge and it
9 doesn't relate to the direct examination, he doesn't
10 have a right to conduct what he calls a cross-ex-
11 amination to establish his contrived theories.

12 THE REFEREE: It's Mr. Sassower's contention,
13 one of his contentions, that unless there was a
14 stipulation discharging him as attorney or a court
15 order, he was not discharged.

16 That's one of his contentions.

17 MR. STRAUS: That's correct, your Honor.

18 That means --

19 MR. SASSOWER: That's not precisely right.

20 MR. STRAUS: We have introduced our evidence.
21 If our evidence is not sufficient to establish
22 that, then the charge fails, but this has nothing
23 to do with whether or not the evidence is sufficient
24 to establish the charge.

25 THE REFEREE: You offer this document in evidence?

MR. SASSOWER: Yes.

THE REFEREE: Let Mr. Straus look at it.
He's offering this document in evidence.

MR. STRAUS: If your Honor pleases, this is
a reiteration.

There is obviously nothing which is harmful
to our case in receiving it, except that it
doesn't do anything, but prolong the cross-exami-
nation endlessly, because he affirms the fact.

THE REFEREE: That's right. It will be re-
ceived in evidence.

All right, received in evidence.

MR. SASSOWER: A man cannot oppose vacating
his own conviction.

THE REFEREE: It will be marked in evidence.

(Marked in evidence)

Q I show you this letter dated December 28.

THE REFEREE: Sir, I asked you for an offer
of proof on all of the documents that you have in
front of you.

You are pulling them out one by one.

MR. SASSOWER: No, this is one paragraph.

Q Look at 3B.

MR. SASSOWER: Your Honor, whether he read

that, that's all.

THE REFEREE: This is a copy of a letter that you sent to Judge Klein.

MR. SASSOWER: Right, with a carbon copy to him.

Do you want to read the last paragraph into evidence, into the record?

THE REFEREE: What's the relevance of this document?

MR. SASSOWER: Your Honor, as a matter of law, okay, if a motion is made, which clearly has merit, to vacate a conviction and the guy who is convicted opposes the vacature of his own conviction, the man is, number one, crazy, or there has to be an explanation.

THE REFEREE: Sir --

THE WITNESS: Whoever heard of a plaintiff having to pay a million dollars?

THE REFEREE: Mr. Sassower, again, it has nothing to do with the proceeding before me.

If you were not authorized to represent him, then, even if you were a million percent right on what you were trying to do on his behalf, he says you were not authorized. "I told you I don't want

you."

MR. SASSOWER: In January.

THE REFEREE: January, July, November, December.

MR. SASSOWER: No, no.

THE REFEREE: You have four different dates now.

MR. SASSOWER: No, no.

THE REFEREE: Next question.

MR. SASSOWER: My contention is not what your Honor wants to put it, and please don't let it solidify in your head.

I offer it for identification.

MR. STRAUS: I'll object. All this does is prolong it.

THE REFEREE: Exhibit III for identification.

(So marked)

MR. STRAUS: If your Honor pleases, the witness has testified over and over that he didn't --

THE REFEREE: I know what he testified to. Continue.

Q Mr. Raffe, in the cases against you, starting, it's say 16792, where the --

THE REFEREE: I want dates, not index numbers.

MR. SASSOWER: Barr against Raffe, okay?

Q Where they were suing you for costs.

THE REFEREE: When?

Q In April of 1985.

THE REFEREE: Ninteen when?

MR. SASSOWER: '85.

Q Who was representing you in defense of that case?

A I couldn't answer that question at this time.

Q There was a trial that lasted four or five --

THE REFEREE: Were you aware of a case involving you in April of 1985?

Q Where you were the defendant.

A I'm not aware of it. I don't remember. This thing has gone on for seven years.

THE REFEREE: Did Mr. Sassower ever talk to you in April of '85 about a matter that was pending?

THE WITNESS: Not that I remember.

Q Didn't Mr. Polur represent you as attorney of record?

A I don't know. I was never in court with Mr. Polur and I never hired him.

Q Did you pay him?

A Some money I paid him.

Q Was Mr. Bergson representing you on this case?

A I don't know whether or not he was. I know he didn't go to court, for me, for four days like you just said.

Q Are you saying that you were unaware of that trial, when it was taking place?

A At this time, I'm unaware of it, yes. I don't remember it. I'm unaware of it.

Q Were you told about it?

A Not that I could remember, not by you.

Q I never told you about it?

A I don't remember.

THE REFEREE: Mr. Raffe, did you have any discussions with Mr. Sassower after you claim you originally told him orally in January of 1985, that he's no longer to represent you?

Did you have any discussions with him thereafter about any case that was pending or any case that was started?

THE WITNESS: No.

THE REFEREE: On your behalf?

THE WITNESS: Not that I remember ever having any discussions.

Q Weren't we having lunch every day in January, in February, in March?

A Yes.

Q With one or two exceptions, when you went to Atlantic City.

A We had lunch whenever you were there and we were talking, you had lunch and you did very well; you cleaned up every plate and we spoke and we laughed a little bit, yes. I remember. And we joked a little bit. Then you made a statement and I wrote it down.

I said, "George, I'm writing it down. In two weeks it's going to blow up. We're doing great."

You said you were doing great when you were in jail.

Q Wait a second.

A You were still doing great. That's when I left. Forget about it.

Q Wait a second. Let's talk about it, okay?

THE REFEREE: No, let's not talk about it.

MR. SASSOWER: He brought it up.

THE REFEREE: Sir, let's talk about the one issue, whether or not you and he ever engaged in any conversation in which you were to be continued as his attorney or you were acting as his attorney with his full knowledge and authorization.

Q Mr. Raffe, I'm talking now about claims against

1
2 you.

3 A There were claims against me, claims for me,
4 the ones that cost me were the ones where I was suing the
5 other people.

6 Q You say you discharged me in January. The claims
7 by you --

8 Let's talk about claims.

9 A Repeat that, the claims what?

10 Q You testified --

11 A The claims by January what?

12 Q You testified.

13 A Yes.

14 Q That, sometime in January you discharged me.

15 A Right.

16 Q On cases where I represented --

17 A Puccini.

18 Q -- you on behalf of Puccini.

19 A Yes.

20 Q Claims against other people.

21 A I don't know which claims against other people,
22 or whatever, for or against, either way.

23 Q Fine. You discharged me on -- against also --

24 A Against or for, it didn't make any difference,
25 anything where my name was involved.

Q Let me ask you this, who answered the claim against you in federal court before Judge Nickerson?

MR. STRAUS: He testified as to Mr. Bergson and Mr. Postel.

MR. SASSOWER: There's no affidavit.

MR. STRAUS: If there are no affidavits, that doesn't help to ask the same questions over and over again, nor does it constitute cross-examination.

If you want to testify, do it.

You don't have to belabor the poor witness.

You have done it for six years.

MR. SASSOWER: Why don't you keep quiet?

MR. STRAUS: I won't keep quiet so long as you keep subjecting him to it.

THE REFEREE: Mr. Straus, please.

MR. SASSOWER: I want to know who represented him before Judge Nickerson.

THE REFEREE: When?

A I don't know.

MR. SASSOWER: Throughout 1985.

THE REFEREE: Were you aware of any actions involving you before a federal Judge Nickerson?

THE WITNESS: Yes, I am. That's the one that

that assessed us for one hundred some odd thousand dollars.

THE REFEREE: Were you represented by counsel at that time?

THE WITNESS: He was the one that represented me, when they were awarded the four hundred some odd thousand dollars for legal fees.

MR. SASSOWER: No.

MR. STRAUS: Objection. Will you please direct Mr. Sassower not to argue with the witness?

Q Who represented you in 1985?

A I don't know who represented me. If you didn't represent me then it was Bergson or Postel. If it wasn't Postel, it was Bergson.

THE REFEREE: Did you authorize Mr. Sassower to appear on your behalf before Judge Nickerson in federal court?

THE WITNESS: Is it during that date where I discharged him?

THE REFEREE: After January of '85.

THE WITNESS: In -- I didn't -- no, I didn't authorize him.

Q Did you ever write to Judge Nickerson and tell him --

1
2 THE REFEREE: We have already gone through
3 this.

4 MR. SASSOWER: Him?

5 THE REFEREE: Yes, him. Other than the
6 letters of July and November and December --

7 A I know Bergson --

8 MR. STRAUS: It's been answered.

9 Q You know what?

10 A Never mind.

11 THE REFEREE: Next question.

12 Q I show you a document.

13 MR. SASSOWER: I hope you don't mind if I
14 sit every once in a while?

15 Would you mark this, please?

16 (Marked JJJ for identification)

17 MR. STRAUS: If your Honor pleases, I would
18 ask that you examine the document in line with
19 my objections before the witness is asked to look
20 at it.

21 THE REFEREE: I've attempted --

22 A Same stuff all over again.

23 THE REFEREE: This is Respondent's JJJ for
24 identification.

25 MR. SASSOWER: I'm sorry. Did your Honor

1
2 finish examining it?

3 THE REFEREE: This is a stipulation with-
4 drawing appeals.

5 MR. SASSOWER: Yes.

6 THE REFEREE: In which --

7 MR. SASSOWER: I'm the attorney of record.

8 THE REFEREE: -- in which the Appellant's
9 brief and appendix -- and, it indicates the
10 typewriting and not otherwise, "George Sassower,
11 Esquire, attorney for Appellant.

12 MR. SASSOWER: That's the cover page of the
13 brief and appendix.

14 THE REFEREE: Pardon?

15 MR. SASSOWER: The first page is a photostatic
16 copy made at the Appellate Division.

17 THE REFEREE: Yes.

18 MR. SASSOWER: Of a brief and appendix that I
19 filed.

20 THE REFEREE: In this matter.

21 MR. SASSOWER: In this matter. The second
22 page is a stipulation signed by Mr. Raffe and
23 Kreindler and Relking without any attorney.

24 THE REFEREE: Are you saying now that Page 1
25 which you attached thereto was not part of the

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stipulation withdrawing appeals?

MR. SASSOWER: Right.

THE REFEREE: Why did you staple this together?

MR. SASSOWER: It's the same case.

THE REFEREE: That's a big difference. I'm returning it to you.

This will be marked KKK for identification.

(So marked)

THE REFEREE: Question, Mr. Sassower, with reference to KKK --

Q Is that your signature?

A Yes, it is.

Q And do you remember where you signed it?

A No, I do not.

Q Do you remember who was with you when you signed it?

A No, I don't remember when I signed it. How can I remember who was with me.

THE REFEREE: I show you Respondent's JJJ for identification, entitled Appellant's Brief and Appendix.

Did you ever see that document?

THE WITNESS: Not that I can remember.

1
2 Q You testified on direct examination that there
3 was a lot of discussion or some discussion about the
4 Lane opinions.

5 MR. STRAUS: Objection. He never testified
6 to that.

7 MR. SASSOWER: He certainly did.

8 MR. STRAUS: He testified that you said some-
9 thing.

10 A And I marked the date.

11 MR. STRAUS: He didn't say there was a lot
12 of discussion.

13 He said you said something and he made a
14 notation of it.

15 A "The Lane decision was going to wipe everything out."

16 MR. STRAUS: He indicated that that's what
17 you said.

18 THE REFEREE: Continue, please.

19 Q Did you know those appeals were from the Lane
20 decision?

21 A No.

22 Q Who advised you to sign a stipulation discontinuing
23 an appeal which was perfected by me?

24 MR. STRAUS: If your Honor pleases, he's
25 already testified that he doesn't remember the

the facts of signing it and again, it has no relevance as to whether or not Mr. Sassower was authorized.

He hasn't even touched that issue in a whole day's worth of cross-examination.

THE REFEREE: Were you aware of the fact or did Mr. Sassower tell you that he was filing a brief on your behalf to appeal Judge Klein's order?

THE WITNESS: Not -- no --

THE REFEREE: Did you authorize him?

THE WITNESS: I did not.

Q You didn't authorize what?

THE REFEREE: To file an appeal on your behalf?

THE WITNESS: The Judge asked me if I authorized you to file an appeal.

I said, "No."

Q What do you mean by "authorize?"

A What do I mean? The Judge said that.

Q What do you mean by that?

A Did I tell you to file an appeal.

Q Okay. I leave the oil business to you and leave the legal business to me.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

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Were you aware of the fact that he did
file it?

THE WITNESS: I wasn't.

Q Were you buying xerox paper --

MR. STRAUS: Objection.

Q -- for the office?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: He was talking about how much
xerox paper --

MR. STRAUS: When you're on the witness stand,
you can testify.

MR. SASSOWER: I can ask him.

MR. STRAUS: The Judge ruled that the question
was irrelevant.

Q MR. Raffe, I show you this document, and ask
you --

THE REFEREE: Which document?

MR. SASSOWER: SS for identification.

Q -- did you ever see it before?

THE REFEREE: What is it?

MR. SASSOWER: It's an affidavit.

THE REFEREE: What is it?

MR. SASSOWER: SS.

THE REFEREE: An affidavit of Mr. Gerstein.

MR. SASSOWER: Right.

THE REFEREE: Did you ever see that?

Q Why don't you look at it?

A Because I couldn't tell you. I never ready any of these papers.

I wouldn't know one from another, so, how can I say I read it.

Q This one came in after I left your premises.

MR. STRAUS: Objection.

THE REFEREE: You're testifying.

MR. SASSOWER: What?

THE REFEREE: You're testifying.

MR. SASSOWER: I'm not.

Q It's dated the end of October.

THE REFEREE: He says he never saw the document, sir.

MR. SASSOWER: Judge, let me try to establish that it was he that sent it to me to respond, okay?

THE REFEREE: Okay.

Q Mr. Raffe, did you send me that affidavit?

A I wouldn't know if I sent it to you or not, because I don't even know what it is.

What's the date of it?

THE REFEREE: October 31, 1985. Go ahead,
Mr. Sassower.

Q Did you send a copy of that document to anybody
else?

MR. STRAUS: Your Honor --

THE REFEREE: He just says he doesn't know
anything about this document?

You're asking him if he sent it to anybody
else.

MR. SASSOWER: I would suggest, your Honor,
if my request that witnesses come with papers and
documents -- no -- I'll ask that the witness come
back.

THE REFEREE: The witness doesn't have to
come with any documents.

You have a right to subpoena any documents
that are relevant to this proceeding.

MR. SASSOWER: All relevant documents.

THE REFEREE: Thus far, you have not submitted
any subpoenas to me that contain relevant docu-
ments.

MR. SASSOWER: I want the four or six boxes
that Mr. Postel has, which, according to Mr. Raffe,

has all his documents in the --

THE REFEREE: If that's a formal request for me to sign that subpoena, it's denied.

Q Who's David Cook, Mr. Raffe?

MR. STRAUS: Objection.

THE REFEREE: Pardon?

Q Who is David Cook?

MR. STRAUS: Objection.

THE REFEREE: Do you know anybody by the name of David Cook?

THE WITNESS: I think that's the Attorney-General's Office of the State of New York, I assume.

Q And you made some reference to him and what was his --

MR. SASSOWER: Withdrawn.

Q You said in your notes that I made a reference to David Cook, and you recall what the reference was about?

A Can I see the document?

MR. STRAUS: It's 64 for identification.

A "On December 20, '84, I spoke to Cook. I think it will be all over in January."

What it was in reference to?

Q Yes.

A "That the whole case was going to be over and we'll win."

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Q What was going to happen with Cook?

A You were talking about -- as far as I could understand --

Q At that time --

A And, remember, from what you told me in your conversations with Cook, that you were talking to Cook, telling Cook how they were all wrong and illegal and so on and so forth, the opposition, and you mentioned that Cook was on your side and it looks like everything will be all over and in our favor by January.

Q Did there come a time when you testified about the larceny of assets in Puccini Clothes; yes or no.

A Do you have reference to Referee Diamond's office?

Q Yes.

A No, I didn't talk about larceny or whatever.

Q Do you remember testifying --

A I remember somewhat testifying. I remember testifying, yes.

Q When you testified you had seen the Rashba-Pokart report --

A Pokart.

MR. STRAUS: Mr. Sassower is again pursuing his conspiracy theory. This has nothing to do with whether or not Mr. Sassower, after January

of 1985, was authorized to represent Mr. Raffe, which is the one issue in this entire day that Mr. Sassower has been unable to touch upon.

MR. SASSOWER: Of course, I'm touching upon it, because everything else shows that I wasn't discharged.

THE REFEREE: Sir, question is irrelevant.

MR. SASSOWER: I'll show you how it is relevant.

THE REFEREE: When?

MR. SASSOWER: I'll tie it in with testimony from other witnesses.

THE REFEREE: We have Mr. Raffe on the stand.

MR. SASSOWER: If there are three witnesses to establish a particular fact, I can only go one at a time, your Honor.

THE REFEREE: What's the question at this moment, of this witness?

Q Did you testify before Referee Diamond?

THE REFEREE: When?

Q In 1984?

THE REFEREE: What month? What date?

MR. SASSOWER: One was November 1st, 1984, and one was August something, 1984.

MR. STRAUS: Your Honor --

THE REFEREE: August of '84 and November of '84, as far as Mr. Raffe was concerned, you were still his attorney.

He didn't dismiss you until January of '85.

So, anything you did in August or November of '84, he may have found fault with what you did, but you were still his attorney.

Q You say I was discharged in January of 1985.

What were the events that occurred that day or the day before or the week before that caused you to say I'm fired?

A I don't remember exactly. It's the whole case up to that time, and all the money that I had laid out, the possibility of going to jail.

Q You weren't going to jail in January.

MR. STRAUS: Objection.

THE REFEREE: Wait a minute.

A I think there was enough that went on that was against me to warrant dismissing you, in my mind.

Q Before you discharged me, did you discuss with anybody, the method by which you can discharge an attorney?

A No.

THE REFEREE: Sir, he's discharged you

by word of mouth. He's not denying that. He said so, and in July he sent you a letter; in November, he sent you a letter; in --

MR. SASSOWER: Excuse me, your Honor. The July letter does not say that he discharged me.

THE REFEREE: The letter will speak for itself.

MR. SASSOWER: The letter is a contrivance by Postel and who won't bring his papers to show, from his own --

MR. STRAUS: It's the same speech.
I move to terminate the speeches.

MR. SASSOWER: He won't bring his own papers to show that.

MR. STRAUS: Will you direct him to lower his voice?

THE REFEREE: You're shouting, sir. Do you have any more cross-examination?

MR. SASSOWER: Yes, I have quite a bit.

THE REFEREE: If not, I'm putting you on final notice that I will excuse this witness as I was constrained to do with the last two witnesses.

MR. SASSOWER: You weren't constrained to do it, your Honor.

1
2 Q I show you this document, and ask you --

3 MR. SASSOWER: Would you please mark it,
4 please?

5 MR. STRAUS: I would ask your Honor to examine
6 it.

7 THE REFEREE: Mr. Sassower, I asked you not to
8 present any more documents, unless I have an offer
9 of proof as to what their relevance is.

10 MR. SASSOWER: The relevance is that Mr.
11 Raffe gave me that document and spoke to me about
12 it.

13 THE REFEREE: What document and when did he
14 speak to you about it?

15 MR. SASSOWER: It shows --

16 THE REFEREE: This is your document. If you
17 are seeking to introduce it or --

18 MR. SASSOWER: Let me ask the witness.
19 I can find out.

20 MR. STRAUS: I'd ask that he make an offer
21 of proof before we go on with this endless parade
22 of documents for identification.

23 Q At any time did you give me this document?

24 THE REFEREE: That will be LLL for identifi-
25 cation. That will be LLL for identification.

National Bank of North America.

Did you ever see this document, sir? It's LLL for identification.

THE WITNESS: No. I don't remember seeing it.

(So marked)

THE REFEREE: Is that a bank statement, Mr. Sassower?

MR. SASSOWER: It's a number of bank statements, your Honor.

THE REFEREE: All from the same bank?

MR. SASSOWER: Yes.

THE REFEREE: The witness has indicated that he never saw those.

Q Do you know what that document is?

A No.

Q Why don't you look at it?

THE REFEREE: He never saw it before.

MR. SASSOWER: It may refresh his recollection to look at something.

Q You can't say you didn't see it without looking at it, unless that's what you have been told to say.

THE REFEREE: Mr. Sassower, --

A It looks like possible bank statements.

Q Bank statements from whom?

THE REFEREE: Did you ever see it?

THE WITNESS: I said I never saw it before.

Q Mr. Raffe, is it not true, that you told me that unless you cooperate with the Feltman firm in particular, that they were going to put you in jail?

MR. STRAUS: Objection.

THE REFEREE: Again, it's irrelevant to this proceeding.

MR. SASSOWER: That's why he's giving this contrived testimony manufactured by Postel.

MR. STRAUS: Objection.

MR. SASSOWER: This is Postel's testimony.

THE REFEREE: This is Mr. Raffe's testimony.

Q Mr. Raffe, do you tape record telephone conversations to and from your office?

A Do I what?

Q Tape record.

A No.

Q Did you ever tape record any of my messages?

A No.

Q Telephone conversations?

A No.

Q I show you this document and ask you if you ever saw that before?

MR. STRAUS: Can we have an offer of proof?

MR. SASSOWER: It's a completely inconsistent statement with his testimony.

Q Look at it.

MR. SASSOWER: Your Honor, it's drawn up --

THE REFEREE: Just give it to me.

MR. SASSOWER: I'll give you the part that I'm interested in.

THE REFEREE: You offered the entire document.

MR. SASSOWER: For identification.

THE REFEREE: All right, MMM for identification.

(So marked)

THE REFEREE: It bears no date.

MR. SASSOWER: Pardon me?

THE REFEREE: No date on it.

MR. SASSOWER: That's Mr. Postel's.

THE REFEREE: I don't care. It's undated.

MR. SASSOWER: I'll give you the date.

THE REFEREE: You can't give it to me from that document; it's undated.

Q In the meantime, did you ever see this document?

THE REFEREE: Did you ever see this document?

THE WITNESS: No.

1
2 Q Do you know what document is?

3 A No. I have to read it to see what it is.

4 THE REFEREE: Read it to yourself. It's
5 two and a half short pages.

6 THE WITNESS: I have an idea what it is.

7 THE REFEREE: You didn't see the document be-
8 fore.

9 THE WITNESS: No.

10 Q Did you know it existed; were the matters con-
11 tained in that document discussed with you?

12 MR. STRAUS: If your Honor please, again,
13 this, I believe, is a document which would have
14 been prepared by Mr. Postel after Mr. Postel was
15 retained.

16 I again ask, can Mr. Sassower relate this to
17 the allegations that he was not authorized to act,
18 which is what the charge is?

19 Now, by the testimony of several witnesses,
20 we've had people testify that there are truckloads
21 of documents, that there are rooms full of docu-
22 ments, that there are elevators full of documents,
23 and, I have no doubt that since we're on almost
24 our fourth trip through the alphaet with Mr.
25 Sassower having been up to MMM, that he can introduce

1
2 any number of unrelated documents to show on this
3 examination.

4 THE REFEREE: In any event, Mr. Sassower,
5 again, this reiterates the contentions made.

6 MR. SASSOWER: Let's see.

7 THE REFEREE: By the Grievance Committee that
8 you are continuing to ignore court orders, and --

9 MR. SASSOWER: I'm not talking about that.
10 That's Postel's document.

11 THE REFEREE: Why don't you sit down and read
12 them to yourself before --

13 MR. SASSOWER: Let's read this.

14 THE REFEREE: No, it's not in evidence.

15 MR. SASSOWER: Wait.

16 THE REFEREE: No, you will read it to your-
17 self, not on the record; it's not in evidence.

18 MR. SASSOWER: I offer --

19 MR. STRAUS: Objection.

20 THE REFEREE: Counselor, that's it.

21 COURT OFFICER: You are an Officer of the
22 Court. Listen to what the Judge is saying. Do
23 not argue with him. That's all. He gave you an
24 order. Obey it. I'm here to make sure you obey
25 it.

1 THE REFEREE: Mr. Sassower, that's not in
2 evidence.
3

4 Do you want to offer that document in
5 evidence?

6 MR. SASSOWER: Only for Paragraph 8.

7 THE REFEREE: Show it to Mr. Straus.

8 MR. SASSOWER: It's self-serving. Eight
9 is the only one in issue.

10 THE REFEREE: Wait a minute.

11 MR. STRAUS: Judge, with all due respect,
12 it is entirely consistent with the witness' testi-
13 mony. The fact that it helps our case, I don't
14 really think we need any additional help, but
15 I must object to it being offered on cross-examinat-
16 ion because it is entirely consistent with the
17 witness' testimony.

18 MR. SASSOWER: Why object to it? I'm offering
19 Eight.

20 MR. STRAUS: The reason I'm objecting is because
21 there is no question that Mr. Sassower can prolong
22 what he calls a cross-examination until the end
23 of time, if allowed to.

24 I object only because it is pointless. It's
25 irrelevant. It in no way contradicts the witness'

testimony.

THE REFEREE: Objection sustained.

MR. SASSOWER: May I read it for the record as an offer of proof?

THE REFEREE: No. I asked you for an offer of proof before we started.

MR. SASSOWER: I'm --

THE REFEREE: Before you produced all of those documents.

MR. SASSOWER: Then I misunderstood you.

THE REFEREE: Sir, this is a complaint drawn by Mr. Postel and has nothing to do with this witness, and it has nothing to do with -- to support your contention that you were still his attorney during the period in question.

As a matter of fact, it's just contrary.

MR. SASSOWER: No, your Honor, it says on July 15, he discharged me; not January.

THE REFEREE: Sir, that's when Mr. Postel came into the picture but Mr. Raffe discharged you as he contends, in January.

MR. SASSOWER: Okay.

THE REFEREE: I recall Mr. Postel's testimony that he met you on or about July 15, at which time,

you were told by Mr. Raffe, and by him, that he was the new attorney.

Then, on July 31, a letter was sent to you to that effect.

MR. SASSOWER: Not to that effect, your Honor. Which I never got.

MR. STRAUS: The letter speaks for itself.

Q Did you read Exhibit Y before you signed it?

A What do you mean Y?

THE REFEREE: That's a letter from Mr. Postel.

MR. STRAUS: He's referring to the document Number Y.

A What's the question.

THE REFEREE: Did you ever see a copy of that letter?

THE WITNESS: No.

MR STRAUS: He testified to that earlier.

THE WITNESS: I may have seen it. I never remember reading it. I may have read it, but I don't remember.

It had no big significance to me.

Q This letter which you signed --

THE REFEREE: What's the question?

Q The question is, that you discharged me effectively

July 15, 1985, approximately; do you recall that statement?

A I don't remember reading the letter. Okay.
Effective as -- effective as of July 15, '85. I see that.
This is from Mr. Postel.

Q Signed by you.

A Yes.

Q In Diamond's chambers.

A I see.

Q What is it?

A What's the question? Do I remember reading it?
No.

Q Do you recall this portion? It says, "I further
confirm to you that we have requested stipulations of
substitution but have not been able to obtain same from
Sassower and Polur."

When did you request of me a stipulation of
substitution?

MR. STRAUS: Objection, your Honor. He said he
didn't prepare the letter. He may have signed it,
but he didn't recall the contents.

MR. SASSOWER: If he signed it --

MR. STRAUS: He testified as to his recol-
lection of it, and that clearly does not permit
him to respond to your question.

1
2 THE REFEREE: Mr. Raffe, did you ever dis-
3 cuss with Mr. Sassower the signing of any stipu-
4 lation or any letter that he is no longer your at-
5 torney?

6 THE WITNESS: No, I did not. Mr. Postel did
7 it.

8 Q Did Mr. Postel ever request of me a stipulation
9 of substitution in your presence?

10 MR. STRAUS: Objection. Asked and answered.

11 THE REFEREE: Overruled.

12 A I can't answer that.

13 Q What do you mean you can't?

14 A I can't tell you whether he did.

15 Q In your presence?

16 A Not in my presence.

17 MR. SASSOWER: Would you mark this for iden-
18 tification, please.

19 (Marked NNN for identification)

20 THE REFEREE: Question. Did you ever see
21 this document, sir? It's a notice from a bank
22 stating that they have received a restraining order
23 on your account?

24 THE WITNESS: I think I did, your Honor.
25 There were a number of these.

THE REFEREE: That's dated October 4, '85.

Next question.

Q Do you recall mailing me this restraining notice when I couldn't find my copy?

MR. STRAUS: Object to the last part of the question.

Q Do you recall me telling you --

A I don't remember whether I mailed it to you or whether I didn't. I don't remember, because, I don't remember.

Q This document restrains your account for twice the amount of \$11,500.

You remember that?

A There were a number of them, Mr. Sassower. I don't remember this particular one, per se, because there were a number of restraining orders, and I can't associate one with the other.

THE REFEREE: Did you authorize Mr. Sassower to act on your behalf?

MR. SASSOWER: No, that's not the question.

THE REFEREE: That's my question.

THE WITNESS: At that time?

THE REFEREE: At that time.

THE WITNESS: No, I didn't.

THE REFEREE: Did he ever discuss with you this restraining order?

THE WITNESS: Not that I would remember.

Q Is it not a fact that you told me, "I told you that there was no such judgment against you."

THE REFEREE: When?

A This was in the summer. There were a few of them, but, this one came in in the beginning of October or maybe even before that. There were a few of them, that came in restraining this account.

THE REFEREE: When did you discuss it with Mr. Raffe?

MR. SASSOWER: This started in April and --

THE WITNESS: April of '85.

MR. SASSOWER: April of '85, were there any restraining his account without any judgment.

THE REFEREE: That was not the question.

Q Did we discuss it?

A I don't remember.

We discussed a lot of them. I don't remember them, whether they're in the office, if any of them came in and you were in the office, I would have shown it to you, and most of them you said it's illegal, they can't do it and so on and so forth, but --

1
2 Q Is it not a fact, that restraining notices were
3 coming in for twice the amount, and, in many cases, many
4 restraining notices on the same amount, so, you would be
5 restrained ten times the amount, or, in one time you had been
6 restrained four hundred times the amount by 200 restraining
7 notices?

8 THE REFEREE: Again, the only question before
9 us is whether or not you represented him at that
10 time.

11 Q Mr. Raffe, is it not a fact, that the first of them
12 came in --

13 A The first what?

14 Q -- the first restraining notices that came in,
15 that didn't have a judgment against it, where I said
16 restraining twice the amount of the judgment is unconstitut-
17 ional, and I took it up to the Court of appeals, and I told
18 you --

19 THE REFEREE: Mr. Sassower --

20 Q -- isn't it a fact, that by bringing a proceeding
21 to declare it unconstitutional, I, alone, was incarcerated
22 and not you?

23 A I can't answer that question.

24 MR. STRAUS: Objection.

25 THE REFEREE: Did you authorize Mr. Sassower

1
2 to bring any action to nullify the restraining
3 order?

4 MR. SASSOWER: Against his order?

5 THE REFEREE: That it was unconstitutional.

6 A While you were still in the office?

7 Q Yes.

8 A I never, per se -- if you were in the office, I
9 showed you the restraining order, and I said, "What the
10 hell is this, George?"

11 And, you said, "I don't know, it's illegal." So
12 on and so forth.

13 And the restraining order was stayed, and the
14 money was paid irregardless of what you said.

15 If you were in the office, went out of your office,
16 and we got a restraining order, I never discussed it with you,
17 because I knew it was a waste of time.

18 THE REFEREE: You mean when he occupied an
19 office in the same building.

20 THE WITNESS: Yes. Obviously, I was going to
21 tell him, "What the hell is this?"

22 Q And restraining notices came in and I said they
23 were illegal.

24 A You said they were illegal like all the other money
25 was illegal that I paid.

THE REFEREE: Anything else of this witness, sir?

MR. SASSOWER: Yes, quite a bit. If he would come with his diary and notes.

THE WITNESS: I don't have a diary.

THE REFEREE: If he had a --

Q Where did you get these notes from?

A You know where I got them from, George, from the office. You were there every time I wrote one down.

Q Where did you write it down?

A When you mentioned it.

Q What kind of book did you write down?

A No book. On a piece of paper.

Q Wasn't it in your diary also?

A Maybe one or two until I got it in a piece of paper.

Q Let's talk about --

MR. SASSOWER: Could I see the July 31st statement?

MR. STRAUS: You mean Exhibit 38 in evidence?

MR. SASSOWER: Yes.

Q You testified that I was in jail when you --

MR. STRAUS: Object to repeating the same cross-examination.

This is the fifth time he said it.

That doesn't constitute cross-examination.

Q Did you send one to the prison?

A What?

Q Did you send one to the prison?

A No.

Q You knew where I was, didn't you?

A In prison.

THE REFEREE: He's already testified, sir.

Q Which prison?

A In the Bronx some place.

THE REFEREE: And that your daughter picked it up. Next question.

Q Mr. Postel told us this was a Wednesday. Do you remember me coming back on a Friday?

A No.

Q Do you remember me coming back at sometime?

A I remember you coming back at sometime, unfortunately.

Q Did you ever discuss that letter with me?

A No.

Q Did you ever mention --

A It wasn't anything that I was happy to talk about.

Q No, no.

MR. STRAUS: Wait a minute. Will you allow

him to answer?

THE REFEREE: Sir, we have gone through this. If you have no further questions that are relevant to this proceeding --

MR. SASSOWER: I have a lot of questions.

THE REFEREE: You continued to say it with the other witnesses, and it didn't work, and it is not going to work here.

If you have any more questions --

MR. SASSOWER: We can save a lot of time if they would bring documents.

THE REFEREE: Sir, you made that spiel time and time again.

He's not required to bring any documents, you know that.

MR. SASSOWER: If your Honor please, while I'm asking questions, if you'd like to look at these papers --

THE REFEREE: Sir, subpoenas? Sir, do you have any more cross-examination?

MR. SASSOWER: Yes.

THE REFEREE: Don't hand me subpoenas.

Q I show you a case of Raffe against Citibank and Barr. Do you know what this case was all about?

THE REFEREE: Offer of proof, sir.

MR. SASSOWER: This offer of proof is very similar to many other cases -- wait a second -- wherein I consistently gave or sent Mr. Raffe copies of all papers when I was on the premises. I always gave papers.

THE REFEREE: When?

MR. SASSOWER: Throughout the whole proceedings.

THE REFEREE: When?

MR. SASSOWER: And when I left the premises, I mailed it to him.

THE REFEREE: When?

MR. SASSOWER: Since October 16 to the very present whenever I sent out a paper, one copy.

THE REFEREE: Let's assume you sent it to him, what's the relevance of it?

That doesn't make you the authorized attorney for him once he discharged you.

MR. SASSOWER: Your Honor, that is not true.

THE REFEREE: Mr. Raffe --

MR. SASSOWER: There's --

THE REFEREE: Mr. Raffe, did you ever get any legal papers or letters from Mr. Sassower with

reference to the Puccini dissolution since January, 1985?

THE WITNESS: I received papers. I don't know what they were in reference to, but I received papers.

THE REFEREE: What did you do when you received those?

THE WITNESS: I sent them to Mr. Postel.

THE REFEREE: Did you ever discuss calling Mr. Sassower or speaking to him saying, "Listen, George," or, "Mr. Sassower, I got these papers, what do you want me to do?" Or anything to that effect?

THE WITNESS: No, except what I wrote in the letter to him.

MR. SASSOWER: That was November.

THE REFEREE: July 31, 1985, the first letter.

THE WITNESS: No. I'm talking about what I wrote in the last letter in November that I told him to please stop and he's still continuing, and I have, I begged him to stop.

Q I haven't sent anything to your attorney.

A I know you are not.

Q You have no expenses because of me with your attorney,

that I know of.

THE REFEREE: Mr. Sassower, continue.

Q When I spoke to you at home --

THE REFEREE: When?

MR. SASSOWER: February, 1986.

THE REFEREE: Did he speak to you at home?

THE WITNESS: In relation to the airport thing, whenever that date was.

THE REFEREE: Go ahead. You told him you wanted to talk to him.

Q I said I was leaving in a few days, and since the airport was not that far from his house --

A You were leaving the next day.

Q You told me I should call you.

MR. STRAUS: Your Honor, can we have some cross-examination?

MR. SASSOWER: You're right.

Q I'll refresh your recollection. You recall that you said you were at home and I should call you at your office and the next day I couldn't call you at the office? I called you the day after. In any event, did you make notes of the conversation?

A No.

Q Did I ask you to make notes of the conversation?

1
2 A There was nothing to make notes of. You wanted
3 me to meet you. I didn't want to. There was nothing to make
4 a note of.

5 Q Do you recall me calling you one time --

6 A I asked you to answer my letter.

7 Q -- after I left the premises and I said, "Would
8 you please note that this is the first time I spoke to you
9 since I left the premises?"

10 A I don't remember that conversation, no.

11 Q You don't remember that conversation?

12 A I remember talking to you, but I don't remember
13 that conversation as you just stated it.

14 Q One of the things that I just said is, "Please,
15 when you make notes of the conversations, write down this is
16 the first time we spoke."

17 A Why would I have?

18 THE REFEREE: Mr. Sassower, again, it has
19 nothing to do with whether or not he authorized
20 you either directly or indirectly to represent him.

21 That's the only issue before me.

22 MR. SASSOWER: No. According to the Grievance
23 Committee, I was never discharged. I'm trying to
24 find out --

25 MR. STRAUS: There is absolutely no such

such representation. Mr. Sassower distorts a fact, then gets it in his head for all times.

MR. SASSOWER: I have your letter, Mr. Straus.

MR. STRAUS: So does Judge Potoker and if it says anything close to what you think it says --

MR. SASSOWER: The letter says --

MR. STRAUS: Can you finish with the cross-examination?

MR. SASSOWER: I'd like --

MR. STRAUS: I move to terminate the cross-examination since there hasn't been any.

MR. SASSOWER: I want to get something straight for --

THE REFEREE: You better make it straight.

MR. SASSOWER: I'll make it very fast. I have read the complaint and I've read Mr. Straus' letter --

THE REFEREE: I don't want to hear about it. I want any relevant cross-examination.

If not, I think we've exhausted our time.

Q Did you write a letter to Mr. Pular discharging him?

MR. STRAUS: Objection.

THE REFEREE: Sustained. Next question.

1
2 MR. SASSOWER: I'm going to show --

3 THE REFEREE: Sustained. Not here. Sustained.

4 MR. SASSOWER: You don't know what I am going
5 to try to prove.

6 THE REFEREE: Sustained.

7 MR. SASSOWER: I'll produce the subpoena for
8 the man to bring his documents.

9 THE REFEREE: You are through with this
10 witness.

11 The witness is excused. Thank you, very much.

12 Mr. Straus? Mr. --

13 MR. SASSOWER: I must tell you about some-
14 thing, okay, before, I don't want you to make a
15 decision, then get the facts afterward.

16 May I make a short statement?

17 THE REFEREE: Yes.

18 MR. SASSOWER: Before you make your decision.

19 THE REFEREE: Go ahead, sir. I didn't read
20 your subpoenas yet. How am I to make a decision?

21 Go ahead.

22 MR. SASSOWER: I've tried to reproduce docu-
23 ments in the County Clerk's Office, and what I
24 think your Honor fails to understand is that
25 Referee Diamond, who holds sessions in a closed

1
2 courtroom, does not file 95 percent of the docu-
3 ments. In fact, I could find not a single motion
4 where all the documents used on the motion were
5 filed. In most cases, none of the papers are filed.
6 Any paper he doesn't like, he destroyed or he
7 secretes. This is a long-standing situation.

8 Now, when I requested that files are brought,
9 one of the purposes was that a lot of these docu-
10 ments I do not have, could never get, could never
11 get, because they are in Diamond's courtroom.
12 Can't get them. Can't blast them out of there.

13 So, how am I supposed to produce documents,
14 which I know exist, which are public documents,
15 but he sits on them and he sat on them for two years
16 and can't get ahold of them?

17 THE REFEREE: Sir, who appointed Referee
18 Diamond?

19 MR. SASSOWER: Judge Riccobono. I have written
20 to Judge Riccobono.

21 THE REFEREE: Then go to the Appellate Divis-
22 ion, First Department, and say that Judge Ricco-
23 bono refuses to let you have the file, et cetera.

24 MR. SASSOWER: Okay, then I'll go back to the
25 Appellate Division again.

THE REFEREE: Mr. Sassower has handed me seven judicial subpoenas, the first one addressed to Xavier C. Riccibono, who's the Administrative Judge of the Supreme Court, New York County; Ira Gammernan, Referee Donald Diamond, and you want them to appear before you as a witness, before this Referee as a witness for what purpose?

MR. SASSOWER: Well, for many things.

THE REFEREE: Let me go through the entire list.

Number Two is addressed to Donald Relkin, Esquire; Robert J. Miller, Esquire; Jerome H. Barr, Esquire; Mr. Charles Sangarra; Lee Feltman, Esquire; Barton Nachamie, Esquire; Arthur Goldstein, Esquire.

Judicial subpoena, Number Three is addressed again to Judge Riccobono and Referee Diamond.

MR. SASSOWER: There's a mistake there.

THE REFEREE: These are yours. Next which will be Number Four is addressed to --

MR. SASSOWER: This is a subpoena duces tecum.

THE REFEREE: It's entitled, "Judicial subpoena." In any event, Riccobono and Diamond.

Fourth is addressed to Judge Alvin H. Klein, Supreme Court, New York County; Justice Martin

Evans, Supreme Court; Justice David Saxe, who, I assume is a justice of the Supreme Court, New York County.

Next, Number Five, is addressed to the Honorable Francis T. Murphy, who is the Presiding Justice of the Appellate Division, First Department; Honorable Theodore Kupferman, who is an associate justice of the Appellate Division, First Department; as is Honorable Joseph Sullivan, Bentley Cassal and Ernest H. Rosenberger, also associate justices of the Appellate Division, First Department.

Judicial Subpoena Number Six is addressed to Senior Attorney, David S. Cook, Esquire, who, I assume is with the Attorney-General's Office of the State of New York.

And, Number Seven is addressed to Timothy B. Butler, Esq., who is an attorney.

What is the relevance of subpoenaing these people here as your witnesses?

MR. SASSOWER: It's all not the same subject. For example, Goldstein would testify, I assume, I haven't spoken to him, that he never got, for example, the notice of cross-motion by Postel. He would testify as to a lot of other things.

MR. STRAUS: What?

MR. SASSOWER: Excuse me?

MR. STRAUS: I would ask that he explain what it is.

THE REFEREE: That's what I asked him to do.

MR. SASSOWER: You want me to go on as each one completely, as to every piece of testimony, gentlemen?

Goldstein would testify that, if given proper latitude, that all the litigation that I instituted --

THE REFEREE: Let's start with Number One. Justice Riccobono and Justice Gammernan and Referee Diamond.

MR. SASSOWER: I think Referee Diamond, I told you, all his proceedings are secret, confidential, in a closed courtroom, where I'm not even permitted.

His conduct is absolutely -- it's out of orbit. He's an extortionist.

THE REFEREE: Sir, those matters are not before me.

MR. SASSOWER: Yes.

THE REFEREE: No, siree.

1
2 MR. SASSOWER: Okay. Every schedule that
3 Mr. Straus put in through Mr. Bergstein, I can
4 show is false, contrived, misleading by Referee
5 Diamond's testimony.

6 MR. STRAUS: If your Honor pleases --

7 MR. SASSOWER: All the schedules.

8 THE REFEREE: Mr. Sassower, I'll return
9 these subpoenas to you now and ask you between
10 now and the next scheduled date, which is next
11 Tuesday, to prepare for me with a copy to Mr.
12 Straus, as to the reasons why you want each one
13 of these persons subpoenaed.

14 MR. SASSOWER: Judge, I haven't got time to
15 serve it, but may I make a suggestion? I have
16 no -- I can make arrangements with some of these
17 people to have their presence in the courtroom,
18 in this courtroom or nearby, at their convenience
19 and --

20 THE REFEREE: Sir, that is not what I am
21 concerned with.

22 I am concerned with the relevance.

23 MR. STRAUS: If your Honor pleases, most of
24 those subpoenas have to do with people he's
25 already -- he's already stated on the record at

1 the prehearing, conference and many times here,
2 that he intends to attack the validity of his
3 contempt convictions. Those are the judges that
4 signed the orders.
5

6 MR. SASSOWER: I think I know Judge Kupferman
7 and Judge Cassal and Judge Sullivan better than
8 anybody in this courtroom.

9 I think that they would -- at least, I hope I
10 know my people --

11 THE REFEREE: Tell you what --

12 MR. SASSOWER: -- they will tell you that the
13 convictions were sham in sum and substance.

14 THE REFEREE: Sir, I couldn't care less if
15 they told it to me.

16 If the conviction is still on record, then it's
17 a conviction.

18 MR. SASSOWER: Now we have what should have
19 been done.

20 Mr. Straus has contended that he has no
21 obligation to disclose to the Court and to me
22 exculpatory information.

23 MR. STRAUS: Absolutely untrue, an unvarnished
24 lie.

25 MR. SASSOWER: Which I'm capable of obtaining

1
2 by my own subpoena, by my own efforts. That's
3 what he has said, substantially, and having said
4 that, he started off by saying that, "I have no
5 exculpatory nor mitigating material." All right.

6 Therefore, I am doing what he says is equally
7 available to me.

8 May I say this, he had in his possession for
9 five months now, six months now, Brady requests.

10 MR. STRAUS: Not only did Mr. Sassower make
11 lengthy speeches on this subject, but, it's been
12 covered time and time again.

13 The convictions stand. You cannot go behind
14 them.

15 He refuses to acknowledge that.

16 THE REFEREE: I've reiterated that from the
17 first day at a pre-trial conference.

18 MR. SASSOWER: Now he --

19 MR. STRAUS: Now he proposes to bring the
20 judges in who made the decisions, to state on the
21 record they didn't mean it.

22 THE REFEREE: I'll not sign these proposed
23 subpoenas as presented to me.

24 MR. SASSOWER: How about Justice Cook's,
25 because he can only come on Tuesday.

THE REFEREE: Don't worry about the time.

MR. SASSOWER: He can't come after Tuesday.

THE REFEREE: Who can't?

MR. SASSOWER: David Cook.

THE REFEREE: Sir, if you spoke to him and he wants to testify in your behalf, then have him come here. You have a right to call him. It doesn't mean that I have to subpoena him.

MR. SASSOWER: Would your Honor have any objection if I make requests?

THE REFEREE: You can make any requests that you want.

Whether or not their testimony will be offered here or not, is another matter.

MR. SASSOWER: I'd like also some of these justices to testify that there was nothing frivolous about any of the actions or motions that made.

MR. STRAUS: They have embodied their decisions in these cases, in their decision. That, again, would be going behind the decisions, attempting to attack it collaterally.

I may also add as to the notice of cross-motion, which he referred to, which is the one thing

which hasn't already been ruled on, that was a collateral issue raised by Mr. Sassower.

He cannot now bring extrinsic evidence to try to disprove responses on collateral issues, not relevant to this proceeding.

THE REFEREE: I have stated to you my position on the record with reference to these subpoenas.

MR. SASSOWER: Can we have a meeting on Monday, or even on Tuesday?

I want these people on the stand before I testify, not after I testify, so, I'm not going to be prepared on Tuesday.

THE REFEREE: If they will be called, you will be granted sufficient time.

MR. STRAUS: May I state at this point that we have -- the Petitioner has concluded its case.

THE REFEREE: Petitioner rests.

MR. STRAUS: Yes.

MR. SASSOWER: I want to say one more thing.

THE REFEREE: Petitioner has rested.

MR. SASSOWER: Then I'll make motions on Tuesday.

THE REFEREE: You want to make it today or

Tuesday?

MR. SASSOWER: Tuesday.

THE REFEREE: Petitioner rests. All right.

MR. SASSOWER: One more thing --

THE REFEREE: No. Petitioner has rested.

That's it.

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LIST OF EXHIBITS

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