

1 SUPREME COURT OF THE STATE OF NEW YORK

2 APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

3 - - - - -x

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

5 GRIEVANCE COMMITTEE FOR THE SECOND :
6 AND ELEVENTH JUDICIAL DISTRICTS

7 Petitioner, :

8 GEORGE SASSOWER,

9 Respondent. :
10 - - - - -x

11 Brooklyn, New York

12 March 25, 1986

13
14 B e f o r e:

15 HON. M. MICHAEL POTOKER,
Referee

16
17 A p p e a r a n c e s:

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

20
21
22
23 ARTHUR BLAUSTEIN
Certified Shorthand Reporter
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE REFEREE: Are you ready, gentlemen?

MR. STRAUS: Ready, your Honor.

THE REFEREE: Mr. Sassower?

MR. SASSOWER: Your Honor, first of all,
did your Honor receive my letter of March 22,
1986?

THE REFEREE: The only letters I have from
you are copies of letters dated March 14.

MR. SASSOWER: Mr. Straus, do you have it?

MR. STRAUS: I have a copy of a letter
dated March 22nd.

THE REFEREE: Apparently -

MR. SASSOWER: Apparently your Honor didn't get
it.

Would your Honor care to glance at it before
we proceed?

THE REFEREE: Yes.

(Pause ensues)

THE REFEREE: The Court has read the letter.

MR. SASSOWER: I'm sorry. I can't hear you.

THE REFEREE: I said I read the letter.
You gave me a copy of the letter and I just read
it.

MR. SASSOWER: Could we mark it, your Honor?

THE REFEREE: It will be marked Respondent's Exhibit 000 for identification.

(So marked)

MR. SASSOWER: I think, at this point, the onus is upon Mr. Straus to make some comment with respect to the matters contained in there.

THE REFEREE: Mr. Straus, do you wish to --

MR. STRAUS: If your Honor pleases, it seems at this point, it is our position that Mr. Sassower has adopted a strategy of attempting to harass our witnesses by bringing them back, questioning them for extended periods of time, attempting to have them attend here on numerous occasions, disrupting their lives, which has been, in fact, the strategy that he has followed for some six years.

With respect to Mr. Raffae, it was always Mr. Sassower's position, I believe, he stated it on the record at the pre-hearing conference, and, in fact, in proceedings here, that he did not intend to cross-examine Mr. Raffae, because to do so, would be a violation of the attorney-client privilege.

That is a statement which he made over and

over.

Despite that fact, we were, of course, present in this courtroom when Mr. Raffe testified, and, we had on hand, a transcript of testimony provided to you at the time, I believe, by either Mr. Postel, Mr. Gerstein, or Mr. Schneider. At no time, did Mr. Sassower ask for such statements. He didn't ask for any writings or any previous statements or any testimony given by Mr. Raffe on any prior occasion.

If Mr. Sassower had asked for such a transcript, we were prepared to provide it to him.

However, in view of his previous statements, to the effect, that he felt that he was not permitted to cross-examine Mr. Raffe because of his attorney-client relationship, I don't know what his thought processes were.

However, since receiving his letter, I have examined it, both the Referee's report, which is referred to, which I might only indicate I have a copy here in court, I don't know what the relevance would be to this proceeding, what another fact-finder may have determined on similar facts, and, I certainly don't think they do have any relevance to

your findings, but I would certainly say that without any question, Referee Diamond characterized this as a mere continuation of the type of behavior which Mr. Sassower has engaged in.

MR. SASSOWER: Excuse me.

THE REFEREE: We let you talk. Now --

MR. SASSOWER: I'm asking your Honor --

THE REFEREE: No, just wait, extend a courtesy to Mr. Straus.

I'll let you talk after he's through.

MR. STRAUS: Specifically, because I direct my attention to this, because Mr. Sassower in his letter, he wants Referee Diamond here. He wants him produced with a copy of his report and a transcript, and this goes directly towards Mr. Sassower's requests.

The report indicates and says, and I quote, this is from Page 2 of the report --

"It was thought that the termination of the relationship between Mr. Raffé and Mr. Sassower would end the interminable, repetitive, meritless, vexatious proceedings brought in behalf of Mr. Raffé. Mr. Sassower has not stopped. He is a lawyer without a client and without standing to

1
2 sue." And it goes on. This report goes on
3 for some twenty pages in the same vein.

4 I don't know, under those circumstances, how
5 Mr. Sassower would feel that Referee Diamond
6 would be helpful to him, but, of course, if he
7 can make a presentation to you that he would be,
8 that would be appropriate.

9 I've also examined the transcript of pro-
10 ceedings before the Referee and reading from
11 Page 56 -- this is not dated -- I'm not sure
12 it's the one that Mr. Sassower was referring to --
13 Mr. Raffe was asked by Mr. Gerstein, I believe,
14 "Did there come a time when you terminated Mr.
15 Sassower's legal services in the Puccini proceed-
16 ing?"

17 Answer: "I did."

18 Question: "And when did that occur?"

19 Answer: "I don't know the exact date but it
20 was done with a written letter to him, you know.
21 I think it was --well, I could tell you -- maybe
22 you could help me out about the time. I could tell
23 you if I was in the office, but it was at the time
24 he was in jail."

25 Question: Would that have been the summer

of 1985?

"Answer: Yes.

"Question: And you communicated your decision to terminate his service in writing?

"Answer: Yes, I did."

There is additional testimony on this.

I think there was some earlier testimony to the effect that Mr. Sassower was the only attorney that Mr. Raffe had until he terminated his services by this letter in the summer of 1985, when Mr. Sasssower was in jail.

As far as I know, that is entirely consistent with Mr. Raffe's testimony here.

If, again, Mr. Sassower wanted any previous testimony of Mr. Raffe, he had only to ask for it. He chose not to do so.

Now that Mr. Raffe has completed his testimony, Mr. Sassower comes up with a request for something, and an application to put Mr. Raffe back on the stand, put Mr. Postel back on the stand, and, call in Judge Diamond.

I've only made this brief presentation to indicate to your Honor that I think the claim is totally lacking in merit, and done solely for the

purpose to harass the witnesses further.

MR. SASSOWER: Your Honor, first of all, may I strenuously object to all the comments made by Referee Diamond.

If you want any comments from Referee Diamond, put him on the stand, subpoena him, as you originally intended.

Secondly, it was only Friday, the day after we were here that I got this report and it said, and I got it from another place also, your Honor, that Mr. Raffe told Referee Diamond, and a number of other people, that he phoned me while I was in jail.

THE REFEREE: Wait, what do you mean in front of other people? At a hearing?

MR. SASSOWER: I don't know. Everything is secret up there.

THE REFEREE: Can I look at that Exhibit 000?

MR. SASSOWER: I quoted exactly from the report.

THE REFEREE: In Paragraph 2, you say, "Next to the notice of appeal is a copy of such purported order of Referee Diamond, which contains the following statement." You have that, that statement.

1
2 MR. SASSOWER: Mr. Straus has it.

3 MR. STRAUS: I don't know whether I have
4 what he's referring to.

5 What I have is a document which is undated.
6 It's Index Number 1816 of 1980, in the matter of
7 Barr for the Dissolution of Puccini Clothes" and
8 I read an excerpt from that.

9 I don't know if that is what Mr. Sassower
10 is referring to.

11 MR. SASSOWER: What page do I say in my
12 letter?

13 THE REFEREE: You say Page 8.

14 MR. SASSOWER: Look at Page 8. It's exactly
15 as I read it.

16 MR. STRAUS: Yes, the quote is accurate.
17 I have read to you the portions of the transcript
18 which is apparently the hearing before Judge
19 Diamond.

20 Whatever, apparently, error Judge Diamond
21 has made, or whether or not he has, wouldn't be
22 in any way relevant to this proceeding.

23 Any fact-finder can make a finding in another
24 proceeding.

25 The question is here, the facts presented to

1
2 you for you to make findings to the Appellate
3 Division --

4 MR. SASSOWER: It was a statement made --

5 THE REFEREE: This is not the statement he
6 made.

7 This is a statement made by Referee Diamond.

8 MR. SASSOWER: Right, saying that Raffie made
9 that statement.

10 MR. STRAUS: That would be triple hearsay,
11 at this point.

12 MR. SASSOWER: That's why I want Diamond on
13 the stand.

14 I want Diamond on the stand for a lot of
15 reasons.

16 THE REFEREE: Don't tell me for a lot of
17 reasons.

18 We went through that several times.

19 MR. SASSOWER: Yes, okay.

20 One. Ninety-five percent of the papers that
21 go through Diamond's hands are not filed in the
22 County Clerk's Office.

23 THE REFEREE: I'm not interested in what
24 Referee Diamond did or did not do in another case.

25 It has no bearing on the matter before me.

1
2 MR. SASSOWER: There are documents which I
3 need, which I can't get ahold of.

4 For example, this undated order. I only
5 received it on Friday.

6 There is a wealth of information there that
7 leads to other matters.

8 How am I supposed to get it?

9 THE REFEREE: Leads to other matters relating
10 to what?

11 MR. SASSOWER: To this litigation.

12 THE REFEREE: In what respect?

13 MR. SASSOWER: Judge, in what respect?
14 I am charged with vexatious litigation.

15 Now, when you make a motion and it doesn't
16 wind up in the County Clerk's Office, well, there
17 can be a mistake. It could have been lost in
18 transit.

19 So, you do it a second time. It happens
20 again. You do it the third time. By this time,
21 you have three shots. You know what's happening.
22 You don't go over to people and get confessions.
23 You have to do it by analysis, in some respects.

24 We'll show through Referee Diamond that it
25 wasn't repetitive litigation, but it was litigation

1
2 in some respects which the Court was advised by
3 the Attorney-General. I'll give you one example.

4 "Mr. Gerstein knows better between -- the
5 difference between reargument and renewal made
6 as of right, based upon newly discovered evidence."

7 When we made a motion properly returnable
8 before Judge Danzig, according to all law, ac-
9 cording to all rules, Diamond went into Judge
10 Danzig's part and directed her Honor to deny it
11 without prejudice to make that motion before
12 Judge Sinclair.

13 We made that motion before Judge Sinclair.

14 Judge Sinclair said, in effect, "You make
15 it before Judge Danzig," according to Diamond's
16 rules.

17 So, we went to the Appellate Division, and
18 we made an Article 78 proceeding against Judge
19 Danzig and Judge Sinclair, and said "We won't
20 care where it's made returnable, but it has to be
21 one place or another place."

22 The Attorney-General --

23 THE REFEREE: Mr. Sassower, the only question
24 was whether you were authorized to be there,
25 whether you were authorized to represent Mr. Raffe.

1
2 MR. SASSOWER: No question about it, okay,
3 we'll go one step further.

4 THE REFEREE: When you say, "No question about
5 it," what about the orders of the judges who
6 held you in contempt because you had no right
7 to represent Mr. Raffe?

8 MR. SASSOWER: I was never held in contempt
9 for that.

10 I was held in contempt for Judge Gammerman's
11 order.

12 I'm omitting Judge Evans' order which imposed
13 no penalty upon me.

14 I was not held for violating Judge Sinclair's
15 order, because, if your Honor will see it, it is
16 virtually impossible for me to violate Judge Sin-
17 clair's order.

18 In fact, I'll go one step further. I would
19 be violating my professional obligation if I did
20 otherwise, but that's beside the point.

21 MR. STRAUS: If your Honor please, may I --

22 MR. SASSOWER: These motions were made pur-
23 suant -- because, when I didn't know where to go,
24 and there was a representation made to the Appellate
25 Division and with Sol Summers of the Appellate

1
2 Division, with David Cook and there was a con-
3 ference and we didn't know where to make the mot-
4 ion, so I made seven or eight motions precisely
5 the same, one returnable before Judge Danzig,
6 one returnable before Judge Sinclair, one before
7 Referee Diamond, one in Special 1 and said,
8 "Look, you decide. Diamond was giving contrary
9 directions to everybody."

10 We knew what Diamond's game was at that
11 point, and when it came the end of 1984, none of
12 the judges, none of them were following Diamond,
13 because they knew his game.

14 They knew what he was trying to do, but that's
15 besides the point.

16 THE REFEREE: I refer you to Charge 4,
17 Charge 5.

18 MR. SASSOWER: You're assuming that the
19 charges are correct.

20 THE REFEREE: I'm referring you to Charge 5.

21 MR. SASSOWER: Okay, Charge 5.

22 THE REFEREE: Which refers to --

23 MR. SASSOWER: What page?

24 THE REFEREE: -- which refers to the order
25 of Judge Schwartz, Justice Schwartz, Justice

Sinclair, Justice Greenfield, Justice Ricconbono,
Referee Diamond, Justice Hughes, Justice Gammerman.

MR. SASSOWER: Let's go one by one.

THE REFEREE: Judge Conner and in each and
every instance you violated --

MR. SASSOWER: No, and you can mark this
down because you are going to testify.

MR. STRAUS: If your Honor please, at this
point, the only question --

MR. SASSOWER: Wait a second -- no judge --
one hundred times -- I was charged with violating
the order of Judge Schwartz -- not one judge
found that I violated Judge Schwartz' order.
Judge Greenfield charged one hundred times with
violating Judge Greenfield's order; not one judge
found it.

Judge Sinclair, Judge Sinclair's order --

THE REFEREE: Sir, Justice Schwartz's
order, according to this petition, is that you
were relieved as counsel in certain proceedings
pertaining to Puccini Clothes, and was directed
to turn over your legal file.

MR. SASSOWER: Who says I didn't comply with
it? Nobody ever said I didn't comply with it.

1
2 MR. STRAUS: You are charged with being in
3 violation of that order.

4 MR. SASSOWER: Fine, but nobody ever found
5 that I violated it.

6 MR. STRAUS: That's up to Referee Potoker to
7 make that determination.

8 MR. SASSOWER: If it goes before different
9 judges for a hundred times and they find no
10 violation, at a full and fair hearing, this is
11 nonsense. In fact, I never violated Judge Hughes'
12 order.

13 I didn't even violate Judge Gammerman's order,
14 okay? But, that's besides the point.

15 The point is this --

16 THE REFEREE: We are not here, as I told you at
17 the inception, to go behind the orders, of those
18 charges.

19 MR. SASSOWER: This is what you are doing.

20 THE REFEREE: I'm not going behind them. I'm
21 going by the result.

22 MR. SASSOWER: Yes, you are, because Mr.
23 Straus tells your Honor --

24 THE REFEREE: We have gone through it.

25 MR. STRAUS: The question is, your Honor, at

1
2 this point, Mr. Sassower --

3 MR. SASSOWER: The point is this --

4 THE REFEREE: Are you ready to proceed?

5 MR. STRAUS: Is this a filibuster?

6 THE REFEREE: Mr. Sassower, are you ready to
7 proceed?

8 The Petitioner has rested.

9 Are you ready to proceed?

10 MR. SASSOWER: I want subpoenas signed.
11 I can't proceed without them.

12 I want the Arutt firm here, and Howard Berg-
13 son.

14 THE REFEREE: We went through that, and I
15 told you you had five days in which to send me
16 specifics.

17 MR. SASSOWER: Send you? You didn't say
18 "Send me."

19 THE REFEREE: I told you to send me a propos-
20 ed subpoena with what specific information you
21 want to obtain from the persons you wish to have
22 subpoenaed.

23 MR. SASSOWER: Your Honor, I'm not going to
24 disclose my hand, but, it is obvious.

25 THE REFEREE: Sir --

MR. SASSOWER: In Small Claims Court --

THE REFEREE: Sir --

MR. SASSOWER: May I make a record, sir?

THE REFEREE: I'll not sign the subpoenas.

Let's go.

MR. SASSOWER: I'd like an adjournment so I can go to federal court.

By the way, I don't know what the Appellate Division did.

I called yesterday.

THE REFEREE: Rule on what subject matter?

MR. SASSOWER: On the question of subpoenas.

THE REFEREE: You told me last week that they dismissed your petition, but you wanted it in writing.

MR. SASSOWER: They dismissed my petition?

THE REFEREE: That's what you told me at the close of the session.

MR. SASSOWER: No, no. In fact, your Honor --

THE REFEREE: I told you to go over there and then you said, "Well, they dismissed my petition."

MR. SASSOWER: No, no, no. You're turning that around, your Honor. I didn't.

THE REFEREE: Sir, I know everybody is turning

everything around, except you. I can hear.

MR. SASSOWER: Judge, I don't want to get into a personality --

I know what I said.

THE REFEREE: I know what you told me.

MR. SASSOWER: In any event, I am not prepared.

I don't have these documents. I've been trying to get certain documents.

THE REFEREE: What documents are you trying to get?

MR. STRAUS: If your Honor pleases, before Mr. Sassower responds, may I interject at this point?

THE REFEREE: Yes.

MR. STRAUS: Mr. Sassower said on January 30, sometime ago, that he was prepared for this hearing.

He wanted to start that day, and he wanted to go five days a week from that point on.

It's very obvious from the nature of the requests that he is making -- first of all, he's had ample opportunity to submit to you subpoenas because this hearing has been going on for five

1
2 or six weeks, at this point, I believe, which he
3 has failed to do. He submitted two subpoenas.
4 You indicated to him that they were overly broad,
5 to submit correct supoenas with a proper basis for
6 issuing them. He chose not to do that.

7 He's requested your Honor, he was out sick
8 one day, he requested that this matter be adjourned
9 all of this week because he was going to be sick.
10 He's asking for now what amounts to nothing less
11 than discovery of various items, because things
12 lead to other things.

13 He wants various people to come in for dis-
14 covery purposes.

15 At this point, if Mr. Sassower doesn't have
16 any witnesses to produce, if he doesn't have any
17 documents to produce, if he intends to testify
18 on his own behalf, I would suggest that he be
19 directed to take the stand, at this point, and to
20 begin his case, if he has nothing else to do at
21 this point. That's the only option remaining, I
22 believe, and I would as that he be directed to begin
23 his case.

24 MR. SASSOWER: First of all, let me --
25 I'm very accurate when it comes to facts -- first

1
2 of all, at our first meeting on January 30, the
3 question was specifically raised by me about sub-
4 poenas and it was Mr. Straus who said, "Take them
5 over to the Appellate Division" and I promptly
6 took them over to the Appellate Division and the
7 Appellate Division told me, "Mr. Straus doesn't
8 know what he's talking about," which he admitted
9 later on, so, I took them to your Honor.

10 Then I got a song and dance from your Honor
11 about the subpoenas.

12 THE REFEREE: Sir, you didn't get any song
13 and dance from me.

14 I told you exactly my position with respect
15 to your subpoenas and that's not a song and dance.

16 This is not show business.

17 This is a serious matter.

18 MR. SASSOWER: That's right, and I have a
19 right to subpoena my witnesses, and your Honor
20 said to me, on Thursday, "Well, if they want to
21 come voluntarily, I won't stop them from testifying."

22 THE REFEREE: Sir, on Thursday, I told you
23 to send me exactly what you wished to ascertain
24 specifically from your witnesses.

25 MR. SASSOWER: Every witness.

1
2 THE REFEREE: And to put it into a subpoena
3 and I'll sign it at that point.

4 You are not going to hand me a subpoena
5 asking the lawyers to clean out his entire law
6 office or bring all his papers here.

7 MR. SASSOWER: Your Honor, if Ira Postel
8 would come with his four or six boxes, the five
9 different testimonies of Hyman Raffé would be shot.

10 Secondly, I did not examine Hyman Raffé
11 as to anything confidential, which was my intention.

12 When he makes --

13 THE REFEREE: What's the purpose of this
14 colloquy at this point?

15 MR. SASSOWER: I want my subpoenas signed.

16 THE REFEREE: You show me the subpoena,
17 and, I'll let you know right now if I will sign it
18 or not.

19 MR. SASSOWER: Would you sign a subpoena, your
20 Honor?

21 THE REFEREE: Show me the subpoena. You want
22 me to sign something, let me see it.

23 MR. SASSOWER: I want Howard Bergson. Let me
24 put it on the record.

25 THE REFEREE: Sir, I know we're putting everything

1
2 on the record.

3 Let me see the subpoena or subpoenas.

4 MR. SASSOWER: I want all the records of
5 Howard Bergson in this matter, which would be
6 a briefcase-full including his time records.

7 THE REFEREE: Sir, no discussion. I want
8 to see your subpoena.

9 MR. SASSOWER: I'll write it out, your Honor,
10 right now.

11 I have blank subpoenas.

12 I'm supposed to telegraph beforehand what I
13 want these files for so they can change their re-
14 cords?

15 First of all, your Honor, according to the
16 Public Officers Law --

17 THE REFEREE: Mr. Sassower --

18 MR. SASSOWER: Excuse me --

19 THE REFEREE: No, just --

20 MR. SASSOWER: These are public records that
21 I want.

22 THE REFEREE: Let me have your subpoenas.

23 MR. SASSOWER: Okay. I want a subpoena
24 signed, Rashba and Pokart, their papers and every-
25 thing else which I understand should fit into a very

small briefcase in this matter. And, these are public records under the Public Officers Law.

I haven't been able to get them for two years.

THE REFEREE: That's the same subpoena you showed me the last time.

MR. SASSOER: That's right.

THE REFEREE: I said it was overly broad then and it still is.

I refuse to sign it. Do you have copies of this?

I'll mark it for identification. That will be PPP for identification.

MR. SASSOWER: They're all material on this whole stuff and it fits into a small briefcase. These are public records, your Honor.

MR. STRAUS: Your Honor, as I understand it, from the discussion last week, Mr. Sassower again wishes to pursue what was done prior to various orders being entered; that's for the purpose of attacking the orders collaterally.

MR. SASSOWER: No, I don't.

MR. STRAUS: Let me finish.

MR. SASSOWER: That's --

MR. STRAUS: These were the accountants,

1
2 by the testimony, I believe, of Mr. Schneider,
3 who were hired by the receiver with respect to
4 the dissolution of Puccini.

5 This would have nothing to do with the
6 charges against Mr. Sassower.

7 Again, it's just to extend this proceeding
8 endlessly.

9 It has no purpose. No way does it relate
10 to the allegations of misconduct.

11 MR. SASSOWER: Absolutely. He charges
12 me with frivolous litigation.

13 There are a number of motions that were made,
14 just to find out who Rashba and Pokart was.

15 We found out.

16 Rashba and Pokart were not just accountants.

17 To investigate charges of larceny, the
18 receiver goes ahead and recommends Rashba and
19 Pokart who happen to be the accountants for Kreind-
20 ler and Relkin, first of all.

21 Previously, Rashba and Pokart received a
22 check for \$6200 from the Arutt firm. The Arutt
23 firm took \$10,000.

24 THE REFEREE: Mr. Sassower --

25 MR. SASSOWER: Let me --

1
2 THE REFEREE: The question is whether or
3 not you were authorized to do anything as a law-
4 yer for Mr. Raffé in any proceeding.

5 MR. SASSOWER: No Judge found me guilty of
6 that.

7 MR. STRAUS: It is pointless to discuss it.

8 There are four criminal contempt convictions
9 which have been entered into evidence.

10 If we have failed to carry our burden, as
11 you have indicated to Mr. Sassower, and over and
12 over again, then I am prepared for your finding
13 that a charge is not sustained.

14 If, as Mr. Sassower maintains, we have
15 failed to carry our burden, and, if no judge
16 has ever found him to be in violation of these
17 orders, and, if, in fact, none of these actions he
18 brought violates the orders in evidence, then the
19 charges will not be sustained.

20 But, this is not the forum to re-try the same
21 issues, which he tried in civil courts over and
22 over again, in which, for bringing such liti-
23 gation he was to be held in contempt of court.

24 MR. SASSOWER: I was only held in contempt of
25 court for Judge Gammerman's order without a trial.

1
2 So the charges here -- I'm not talking about
3 those charges. Your Honor ruled on those
4 charges. "You are not going behind it." Okay.

5 I'm going to Charges Number -- Number 4
6 beginning in or about May of 1980, that I
7 interfered and obstructed, et cetera, et cetera,
8 et cetera, with a lot of litigation.

9 I want to show that it was good litigation,
10 it was valid litigation, it was not frivolous,
11 it was not vexatious.

12 Can I not produce evidence to show that I
13 was right on target?

14 I'm not talking about the convictions, your
15 Honor.

16 I've argued my lungs dry on it.

17 I'm talking about other charges which I say
18 have merit.

19 THE REFEREE: It's the way you want to
20 accomplish it that I object to.

21 MR. SASSOWER: Then, your Honor, help me out.
22 You tell me how I should accomplish it.

23 THE REFEREE: If you had specifics -- you have
24 a proposed subpoena for Rashba and Pokart.

25 Specifically, what do you want from them?

MR. SASSOWER: I want all their records which would fit in a small briefcase, I understand.

THE REFEREE: You're not entitled to that. Not for this proceeding.

MR. SASSOWER: If I'm right, as the facts show that I am right, I have been charged with litigation which would prove that I was right --

THE REFEREE: Like what?

MR. SASSOWER: That there was a tie-in between the investigator and the ones that are being investigated.

You don't think for one moment, your Honor, that I was convicted and incarcerated without a trial because I was on the wrong path? Every judge tells me that I'm on the right path. Then, that's going on there?

I'm practicing thirty-five years. I know most of the judges there. I know what I hear. I know what they tell me.

THE REFEREE: You are practicing thirty-five years and you believe in hearsay?

MR. SASSOWER: Do I believe in hearsay? For the purpose of testimony --

THE REFEREE: Let's go on.

I want Rashba and Pokart.

THE REFEREE: This subpoena you handed me --

MR. SASSOWER: Tell me --

THE REFEREE: -- Mr. Sassower, I will not repeat myself.

MR. SASSOWER: In Small Claims Court I can get a subpoena.

Tell me what you will allow me to get.

THE REFEREE: I'm not going to tell you.

I want you -- I want to know specifically what you want; not all the records.

MR. SASSOWER: I --

THE REFEREE: Put it in writing. I'm not going to discuss it with you.

(Exhibit PPP marked for identification)

THE REFEREE: Take all your subpoenas and you tell me specifically what you want from each and every one of them, and then we'll go back on the record.

You take them out.

MR. SASSOWER: I'm supposed to know what they have there.

THE REFEREE: You are supposed to know what you want.

1
2 MR. SASSOWER: I know what I want.

3 THE REFEREE: You want to clean out their
4 offices.

5 MR. SASSOWER: I said it's a small brief case
6 full. I said it's a small briefcase full.

7 THE REFEREE: Sir --

8 MR. SASSOWER: Okay.

9 THE REFEREE: We'll stand in recess until Mr.
10 Sassower is ready again.

11 (Recess ensues)

12 MR. SASSOWER: Your Honor, can I make motions
13 in the meantime?

14 THE REFEREE: Do one thing at a time, sir.

15 (Recess ensues)

16 MR. SASSOWER: I don't think there is any
17 question about the law, that plain subpoenas,
18 not duces tecum, I'm entitled to those as a
19 matter of right, because it's the obligation of
20 any witness who has knowledge of facts to testify.

21 The subpoena only serves to enforce that
22 obligation, which is an obligation of the individ-
23 ual.

24 So, I'm asking that your Honor countersign these
25 subpoenas as distinguished from the subpoenas duces

tecum.

THE REFEREE: Let me see what you have, sir.

MR. SASSOWER: I'm trying to get the original copies, the ribbon copies.

THE REFEREE: You want the following subpoenas. Donald Relkin, Esquire. Robert Miller, Esquire. Jerome H. Barr, Esquire. Mr. Charles A. Garrett. Lee Feltman, Esquire. Martin Nachamie, Esquire. Arthur Goldstein, Esquire.

Under Subpoena Number 2, you want to subpoena the Appellate Division, or Xavier C. Ricconbono, Honorable Ira Gammernan and Referee Donald Diamond.

Number 3, you wish to subpoena Justice Alvin Klein, Justice David Saxe.

On Number 4, you want to subpoena five associate justices of the Appellate Division of the First Department; Honorable Francis Murphy, Theodore Kupferman, Joseph Sullivan, Bently Kassal and Ernest Rosenberger.

The next subpoena you wish to subpoena Timothy P. Butler, Esquire. Then you want another subpoena for Klein, Justice Klein, Justice Evans, Justice Saxe.

You already have their names appearing on earlier

subpoenas. Then you want to subpoena again Riccobono, and Diamond. You have already --

MR. SASSOWER: That's a duplication.

THE REFEREE: Let's take the proposed subpoena for Relkin, Miller, Barr and Garret, Feltman, Nachamie, Arthur Goldstein, for what purpose?

MR. SASSOWER: Do you want to start with Relkin?

THE REFEREE: I don't care who you start with.

MR. SASSOWER: If anybody would think about it --

THE REFEREE: Sir --

MR. SASSOWER: I want to show the Court through Relkin's own testimony that this was strictly a litigation started by their firm with Citibank to channel funds from the estate for estate chasing, and the needless litigation was theirs, not mine.

Secondly, I want to show that, as Raffe testified, and as Dann testified, and I can't find the transcript in Supreme, New York, the conflict was not with me, but with Citibank. Citibank had the conflict. I had no conflict.

1
2 Everything got turned around. That it was he,
3 who started this needless litigation, for no pur-
4 pose whatsoever. It was self-destructive, as your
5 Honor will see. It made no sense.

6 Then, when there was massive larceny, which I
7 suspected, they put in perjurious affidavits
8 denying it and everybody, and I'm going to say
9 this, everybody said, "George, would you dis-
10 believe" -- here, Citibank puts in an affidavit,
11 do you disbelieve it?" and I said, "Judge, I just
12 want to see. It just doesn't make sense."

13 They put in the perjurious affidavits and
14 three and a half years later they admitted that
15 they were perjurious and they admitted that
16 there's larceny.

17 MR. STRAUS: There's never been an admission
18 by Citibank of committing larceny.

19 I'm not going to contest it with you, but,
20 if you are making a representation to Judge Potok-
21 er that these people will come in and confess
22 larceny on the stand, then you are making a mis-
23 representation.

24 MR. SASSOWER: Sign a subpoena for Sangarra,
25 vice-president of Citybank.

1
2 MR.STRAUS: He'll come in and say "I stole
3 the money."?

4 MR. SASSOWER: Do you have the transcript?

5 MR. STRAUS: I know that you have made htis
6 application twenty or thirty times and every court
7 that ever heard it moved against you.

8 MR. SASSOWER: Never. You want to take the
9 stand?

10 I want Charles Sangarra.

11 THE REFEREE: We started with Relkin.

12 MR. SASSOWER: If you want to see good faith,
13 let's get Charles Sangarra here, vice-president
14 of Citibank, and lets see if he admits that the
15 affidavit that he put in were perjurious or not.

16 Sure, if there was a lot of litigation regard-
17 ing -- to find out about the perjury.

18 Relkin prepared these affidavits. Miller
19 put in these affidavits, knew there was perjury
20 there.

21 This corporation raped -- Judge -- I'm going --
22 I want to give it to you from your own lips --
23 this is not something as Mr. Straus points up,
24 you don't go over to Citibank and say, "Did you
25 commit perjury?"

1
2 It took a couple of motions to confirm
3 that the perjury had been committed. It took a
4 couple of months to find out that Feltman was in on
5 the scam.

6 It took a couple of months to find out that
7 Arutt was in on the scam.

8 By the way, your Honor, since November 7 --

9 THE REFEREE: You reached the conclusion
10 that they were in on the scam.

11 Did anybody else reach the conclusion?

12 MR. SASSOWER: They all do. I'll tell you
13 something better --

14 THE REFEREE: Don't show me better. You made
15 a statement.

16 MR. SASSOWER: When you see my testimony,
17 you will see it.

18 MR. STRAUS: No, that's the point, your Honor.
19 These things exist only in Mr. Sassower's mind.

20 If Mr. Sassower --

21 Let me finish.

22 I'm all in favor of you. Let me argue in
23 your behalf.

24 I have no doubt, based on his past performance
25 in court, that Mr. Sassower can probably keep this

1
2 proceeding going on for a week just arguing his
3 subpoenas. No question he has an endless capacity.
4 His lungs are healthy and his voice is healthy.
5 And, he's had a lot of experience and has tremen-
6 dous stamina.

7 The point is, Mr. Sassower, could, if he
8 had them, introduce into evidence anything which
9 would substantiate or would have substantiated his
10 claims. Instead, he proposes to bring these same
11 people that he's been harassing for six years,
12 into this courtroom, to continue their harassment,
13 by having them testify to things which exist only
14 in his mind.

15 If there was a single court finding that
16 Citibank had committed larceny, there wouldn't be
17 a charge of frivolous and repetitious and vexat-
18 ious litigation.

19 If there was a single court which had rendered
20 a finding of conspiracy, we would have not charged
21 him with bringing frivolous, repetitious, vexatious
22 litigation.

23 He can repeat the picture that he has in his
24 own mind, ad finitum, and he can try to paint
25 it in words on the record of this proceeding, but,

1
2 I think it's inappropriate. He knows that there's
3 never been such a finding and that he has brought
4 this litigation time after time.

5 There was never a successful outcome and at
6 this point, he's repeating himself.

7 As to the subpoenas, clearly none of these
8 people are going to come in and say, "Yes, Mr.
9 Sassower, I did commit larceny. Yes, Mr. Sassower,
10 I did commit perjury."

11 They have had ample opportunity, since he's
12 brought them in time and time again, to do it in
13 other proceedings.

14 If he has anything, I'd ask that he make the
15 representation.

16 If he doesn't, I'd ask that the subpoenas
17 be declined and that we go forward with this case.

18 MR. SASSOWER: Let me tell you what happened.

19 He's wrong, but let me tell you what happened.

20 No Judge has found that larceny and perjury
21 was committed.

22 No, that was not before the court.

23 THE REFEREE: You made a statement that larceny
24 was committed and perjury was committed.

25 It's up to you to prove it.

MR. SASSOWER: I want to prove it.

THE REFEREE: Not here. You are not going to prove it here.

MR. SASSOWER: Will you listen for a moment?

THE REFEREE: I've listened --

MR. SASSOWER: No, because you have the wrong point.

THE REFEREE: Every time I rule against you, I have the wrong point.

MR. SASSOWER: Just listen.

THE REFEREE: That's what I have been doing here now since January 30.

MR. SASSOWER: What happened was that Diamond refused to allow these motions to go forward as did Judge Gammernan and none of these motions, not one has been determined on the merits.

As I started to say before, Diamond said -- we took it to Judge Danzig --

MR. STRAUS: Because you were disqualified from bringing them. It's been said over and over again.

THE REFEREE: Sir, I suggested to you two weeks ago if you have any evidence of any --

MR. SASSOWER: Who says I'm not?

THE REFEREE: -- of any violations of law --

1
2 MR. SASSOWER: Judge --

3 THE REFEREE: Wait a minute. Bring it
4 to the authorities in law enforcement agencies.

5 MR. SASSOWER: Judge, you are going to be
6 surprised.

7 THE REFEREE: I'm not going to be surprised
8 at anything that happens in this case.

9 MR. SASSOWER: I'm --

10 THE REFEREE: I try to conduct an orderly hear-
11 ing and you are making it impossible to do so.

12 MR. SASSOWER: I'm not here to prove larceny.
13 I'm merely trying to prove that these were not
14 frivolous. These were not vexatious. These were
15 directly on the point.

16 In fact, if you want to see confessions, I'll
17 bring them in next week -- confessions.

18 Now, you want to hear about confessions?

19 THE REFEREE: Sir, I don't want to know
20 anything about confessions.

21 MR. SASSOWER: Do you want to show that's not
22 frivolous, Judge? I'm positive. I am positive
23 that you will find the statement in Wigmore, in
24 New York Jurisprudence, 2nd, a subpoena is a matter
25 of right.

1
2 THE REFEREE: Sir, every time you cite
3 law, I check up on it, as I did on 140.30 of
4 the CPL, as I did on the case you handed me
5 at the end of the last session, and, none of them
6 support your position, and this goes back all
7 the way since January 30, all the cases you cited
8 and I've read, each and every one of them.

9 MR. SASSOWER: I'm not going to argue about
10 something collateral.

11 THE REFEREE: Now it's collateral?

12 MR. SASSOWER: I'll argue it. It's -- look
13 at Corpus Jurisprudence. Look at Judge Shapiro's
14 decision.

15 THE REFEREE: Sir, you went to the Appellate
16 Division on the specific question of whether or not
17 I had the right to determine the proper forum for
18 the subpoenas.

19 MR. SASSOWER: No. Mr. Straus misquoted you.
20 Edmunds -- the only discussion between Edmunds and
21 upstairs was who, when it had to be so ordered,
22 who should so order, the Appellate Division or your
23 Honor.

24 THE REFEREE: Did you get a decision from the
25 Appellate Division?

1
2 MR. SASSOWER: No.

3 THE REFEREE: All right. So, then my ruling --

4 MR. SASSOWER: You mean on the last motion?

5 THE REFEREE: -- my ruling still prevails.

6 MR. SASSOWER: The only thing that Edmunds
7 told me, and, Judge, please, if you want, verify
8 it -- the only thing that Edmunds told me was that
9 where subpoenas have to be so ordered or duces tecum
10 have to be so ordered, they are to be so ordered
11 by your Honor rather than the Appellate Division.
12 That's all.

13 Now, these subpoenas don't have to be so order-
14 ed, but --

15 THE REFEREE: If they don't have to be so
16 ordered then why are you handing it to me?

17 MR. SASSOWER: Because that's what your Honor
18 ruled, that's what your Honor ruled, so --

19 THE REFEREE: You just ruled that it doesn't
20 have to be.

21 MR. SASSOWER: I'm telling you what they told
22 me at the Appellate Division.

23 THE REFEREE: You got me. I want to know
24 specifically what they said.

25 I'm not going to take this hearsay or

1
2 what you believe somebody said.

3 MR. SASSOWER: What do you want me to get,
4 Edmunds to write a letter to you?

5 THE REFEREE: I don't want any letters.

6 MR. SASSOWER: What do you want?

7 THE REFEREE: I want you to go ahead with
8 your case.

9 MR. SASSOWER: I want the subpoenas signed,
10 your Honor.

11 I want to show that it was not frivolous.

12 THE REFEREE: I'm not going to permit you
13 to subpoena people to go through all of the
14 litigation --

15 MR. SASSOWER: Who wants to go through all the
16 litigation?

17 By the way, your Honor, you want to know the
18 bottom line?

19 The bottom line is that Puccini was dissolved
20 six years ago, according to statute --

21 THE REFEREE: And they are all milking it
22 dry. I can appreciate your position.

23 MR. SASSOWER: You interrupt me and go to
24 the wrong place.

25 Listen --

1
2 THE REFEREE: Mr. Sassower, I can appreciate
3 your position.

4 I may have undoubtedly been in the same po-
5 sition you were at the beginning when I thought there
6 was some hanky-panky going on.

7 MR. SASSOWER: Would your Honor listen?
8 The fact is that Puccini was dissolved almost six
9 years ago and although there's supposed to be an
10 accounting and distribution within one year, they
11 haven't been able to make an accounting once.

12 You can't have an accounting of Puccini be-
13 cause --

14 THE REFEREE: What's the difference to you?
15 You're no longer involved.

16 MR. SASSOWER: Who says I'm not involved?

17 THE REFEREE: You are still involved in
18 Puccini dissolution?

19 MR. SASSOWER: Of course I am. I have a judg-
20 ment. I'm a creditor, personally, I'm a judgment-
21 creditor, besides everything else.

22 THE REFEREE: Not besides everything else.

23 MR. SASSOWER: Besides everything else I'm a
24 judgment-creditor; of course I'm involved.

25 I'll tell you one thing further, when I'm on

1
2 the case and it's in court, before I am dis-
3 charged, I go to court and I say, "Judge, I
4 have been substituted."

5 THE REFEREE: I know, but that posi on that
6 you made clear, and we've already ferreted out
7 testimony that the first discharge notice was oral-
8 ly and you say you didn't get it.

9 MR. SASSOWER: You mean in January?

10 THE REFEREE: Yes, and, in July, a letter
11 which you say you didn't get, and that, apparently,
12 nobody went to court to get a court order discon-
13 tinuing your services.

14 MR. SASSOWER: I have much better than that.

15 I have much more than that.

16 THE REFEREE: That's your position up to this
17 point.

18 I don't know what you have better than that.

19 MR. SASSOWER: Judge, I'm saying this, if your
20 Honor would allow me to get the records --

21 THE REFEREE: For what purpose?

22 MR. SASSOWER: To show that I wasn't discharg-
23 ed in January, that I wasn't discharged in July.

24 THE REFEREE: There are no records to that.
25 You heard Mr. Raffe testified to that. That he

1
2 discharged you orally in January, in writing in
3 July.

4 MR. SASSOWER: Do you know how I can disprove
5 it?

6 If you get me Mr. Postel's four boxes, I can
7 show you by Mr. Postel's four boxes of papers.

8 THE REFEREE: You know there is something in
9 there?

10 MR. SASSOWER: Of course I know.

11 MR. STRAUS: What do you say is in there?

12 THE REFEREE: A specific date and a specific
13 document. I'll let you have that document.

14 MR. SASSOWER: In Mr. Postel's --

15 THE REFEREE: Specifically.

16 MR. SASSOWER: I'll tell you what it is.

17 THE REFEREE: We're not going to go on a fishing
18 expedition.

19 MR. SASSOWER: Mr. Postel has in his possess-
20 ion the papers and documents, which I sent out after
21 January of 1986, because Mr. Raffe used to get
22 copies of everything.

23 THE REFEREE: You are being charged with it.

24 MR. SASSOWER: Wait a second. The law is
25 clear that where a client knows that an attorney

1
2 is doing something and says nothing, then he rati-
3 fies it, or, he's estopped. That, you find --

4 THE REFEREE: I know, but, sir, he --

5 MR. STRAUS: These charges were served in
6 November of '85.

7 THE REFEREE: The Petitioner is bound by
8 the testimony given by its witnesses; namely,
9 number 1, Mr. Raffe; and, number 2, by the --

10 MR. SASSOWER: I'm telling your Honor --

11 MR. STRAUS: Your Honor, this is a filibus-
12 ter.

13 Mr. Sassower has no intention of going forward.

14 MR. SASSOWER: Mr. Postel has the papers that
15 Mr. Raffe has, which will show that if I was dis-
16 charged in January, what was I doing all this work
17 until July?

18 THE REFEREE: Sir, if Mr. Postel has the papers,
19 then you have the papers.

20 MR. SASSOWER: No, no, no.

21 THE REFEREE: You are the one that made out
22 the papers.

23 You are the one who filed the motions.

24 MR. SASSOWER: But that doesn't show that Mr.
25 Raffe had the copies. Mr. Postel's papers show that.

1
2 THE REFEREE: So you had Mr. Raffee on
3 the witness stand, and you cross-examined. Did
4 you cross-examine him with reference to any one
5 of the documents that you are alluding to?

6 MR. SASSOWER: I did not cross-examine Mr.
7 Raffee as to anything which was confidential.

8 If he made a statement to Referee Diamond
9 that "I discharged Mr. Sassower while he was in
10 jail by a telephone call," as he said it --

11 THE REFEREE: As who said it?

12 MR. SASSOWER: As Diamond said.

13 THE REFEREE: Mr. Raffee, you don't have
14 anything as far as Mr. Raffee saying it.

15 MR. SASSOWER: Yes, Diamond.

16 THE REFEREE: Then why didn't you cross-
17 examine Mr. Raffee?

18 MR. SASSOWER: I didn't know about it until
19 Friday. He was on the stand Thursday. On Friday
20 night I got the statement, the day after. That's
21 what my letter says. It was the day after that I
22 found out. I got that paper. That undated order,
23 and it said Raffee said --

24 THE REFEREE: What do you mean?

25 MR. SASSOWER: It's an undated order.

1
2 That's how he does things.

3 THE REFEREE: There is no such thing as an
4 undated order.

5 MR. SASSOWER: Is it an undated order?

6 MR. STRAUS: What is it, other than the fact
7 that it's a decision by Referee Diamond which, I
8 assume goes to a court for execution.

9 THE REFEREE: For confirmation.

10 MR. SASSOWER: He doesn't confirm things.

11 MR. STRAUS: Judge, I don't know what we're
12 doing here at this point.

13 I understood that today Mr. Sassower was
14 going to go forward with his case.

15 THE REFEREE: Mr. Sassower?

16 MR. SASSOWER: I want Bergson. Raffe testified
17 that since January, Howard Bergson was handling
18 and, I'm not being exact, Howard Bergson was hand-
19 ling his matters for him.

20 Okay. That was his testimony.

21 THE REFEREE: Who do you want? Who is "He,"
22 and for what purpose?

23 MR. SASSOWER: Raffe testified that Howard
24 Bergson was handling his matter since January.

25 THE REFEREE: He's an attorney. He's an attorney.

1
2 MR. SASSOWER: Yes.

3 THE REFEREE: What do you wish from him?
4 What testimony are you seeking from him?

5 MR. SASSOWER: That he wasn't handling the
6 matters since January.

7 THE REFEREE: What's the difference whether
8 he was or not?

9 That's not before me.

10 MR. SASSOWER: Of course it is.

11 THE REFEREE: The question is, whether you
12 were handling his matters contrary to his orders.

13 MR. STRAUS: If your Honor please, also,
14 Mr. Sassower makes up a list of witnesses --
15 your Honor, has Mr. Sassower spoken to any of these
16 witnesses?

17 Let him make the representation on the record
18 that he's spoken to these witnesses.

19 He knows what their testimony will be with
20 respect to that.

21 If he represents that Mr. Bergson is going to
22 come in here and said he never did anything for Hy-
23 man Raffe, I want Mr. Sassower to say it on the
24 record.

25 He has made representations as to what these

witnesses will testify to without any basis.

He says various witnesses will come and confess perjury, and confess grand larceny and they are going to contradict the testimony of their clients, they are going to say that order that convicted him, they didn't intend and when they affirmed his convictions, they really didn't mean it. They are going to say when they sentenced him to jail, that wasn't really that they meant to do.

This is ludicrous. These things exist only in his mind.

THE REFEREE: Let's see if we can narrow this down.

MR. SASSOWER: Charles Sangarra.

THE REFEREE: You want to subpoena Judge Klein and Judge Saxe for what purpose?

Specifically for what purpose?

MR. SASSOWER: One fact, that they knew at the time that they entered the order that they had no jurisdiction.

THE REFEREE: All right. Your subpoena is denied as to those two.

Next. The five members of the Appellate Division.

1
2 MR. SASSOWER: Same thing.

3 THE REFEREE: Denied.

4 MR. SASSOWER: You understand --

5 THE REFEREE: Wait a minute, sir. There's
6 another subpoena for Justices Alvin Klein,
7 Martin Evans and David Saxe; for what purpose?

8 MR. SASSOWER: Same thing.

9 THE REFEREE: Denied.

10 Justice Riccobono, Gammerman, Referee Diamond.

11 MR. SASSOWER: Only for administrative work.

12 THE REFEREE: Denied.

13 MR. SASSOWER: Referee Diamond, you deny also.

14 THE REFEREE: Yes.

15 MR. SASSOWER: I want to get papers from him.

16 THE REFEREE: Riccobono and Diamond; there
17 are two proposed subpoenas, both denied.

18 Timothy Butler, what do you want from him?

19 MR. SASSOWER: Timothy Butler -

20 THE REFEREE: And what do you want from him?

21 MR. SASSOWER: -- he's with Damato and Lynch.
22 He'll testify that he asserted to Judge Conner
23 the Gammerman order and Judge Conner held it was not
24 effective.

25 THE REFEREE: Denied.

We've been through Relkin and Sangarra.
Robert Mille.

MR. SASSOWER: He'll testify that he submitted perjurious affidavits.

THE REFEREE: With reference to what?

MR. SASSOWER: To the motion made for summary judgment by Kreindler and Relkin.

THE REFEREE: Denied as to Miller.

MR. SASSOWER: Why?

THE REFEREE: Jerome Barr.

MR. SASSOWER: That he confessed to -- that the affidavits of him and Citbank were perjurious.

THE REFEREE: Denied. Charles Sangarra, denied.

MR. SASSOWER: How is the litigation vexatious?

THE REFEREE: Lee Feltman.

MR. SASSOWER: That he went into an arrangement with Relkin to conceal the massive larceny of Puccini's trust assets.

MR. STRAUS: You say he'll testify to that?

MR. SASSOWER: Why don't you see?

MR. STRAUS: Are you making the representation?

MR. SASSOWER: Why don't you see?

1
2 MR. STRAUS: You say you want a witness in.
3 Are you making a representation that that witness
4 will take the stand and confess a massive larceny?

5 I don't want to wait and see. I want to know
6 why you're doing it to these people, just as you
7 have done it for six years. You have brought them
8 in and put them on the stand.

9 THE REFEREE: Denied. Martin Nachamie.

10 MR. SASSOWER: That he entered into this
11 arrangement with Relkin, took money from Puccini,
12 after June 4, 1980, and indeed, it was his
13 associate -- I forgot his name -- who confessed
14 to it in January of 1984, in writing.

15 By the way, Barr confessed to it also in
16 April.

17 THE REFEREE: Denied. Arthur Goldstein.

18 MR. SASSOWER: That was the one who he gave
19 the affidavit in January of '84 that they did take
20 money and --

21 THE REFEREE: You have an affidavit?

22 MR. SASSOWER: Sure.

23 THE REFEREE: Of Arthur Goldstein that they
24 stole money?

25 MR. SASSOWER: Sure.

1
2 THE REFEREE: What did you do with it?

3 MR. SASSOWER: I've got them here.

4 THE REFEREE: Go over to the District Attorney's
5 Office.

6 MR. SASSOWER: Judge, you said you have nothing
7 to do with the District Attorney's Office.

8 THE REFEREE: Right.

9 MR. SASSOWER: Oh, we'll leave the District
10 Attorney's Office alone for a moment.

11 THE REFEREE: But I have something to do
12 with you and what you are attempting to do at this
13 hearing.

14 MR. SASSOWER: I'm not attempting to do any-
15 thing. I'm trying to show there was not frivolous
16 litigation.

17 Would your Honor like to see the check?
18 Ten thousand dollars was taken out of Puccini's
19 trust funds.

20 THE REFEREE: Denied. All of the subpoenas
21 based on the statements made by you as to why you
22 wish those people subpoenaed are denied.

23 MR. SASSOWER: To show that it was not vexatious
24 litigation.

25 THE REFEREE: Next, sir?

1
2 MR. SASSOWER: I'd like to subpoena Attorney-
3 General David S. Cook.

4 He promised to send me an affidavit which he
5 filed in the County Clerk's Office.

6 I saw it in the County Clerk's Office at one
7 time.

8 I looked and it's not there anymore.

9 I saw him last Thursday and I haven't receiv-
10 ed it yet.

11 THE REFEREE: Mr. Blaustein, do you want to
12 mark these QQQ?

13 (So marked)

14 THE REFEREE: These are the proposed subpoenas.

15 MR. SASSOWER: What about David Cook, your
16 Honor?

17 THE REFEREE: What about him? You said you
18 already spoke to him?

19 MR. SASSOWER: I didn't get the papers I
20 needed.

21 THE REFEREE: Call him up.

22 MR. SASSOWER: I called him up Firday.

23 THE REFEREE: What papers do you want from
24 him?

25 Mr. Cook is the Deputy Attorney-General of the

State of New York.

MR. SASSOWER: I called him up.

THE REFEREE: When did you speak to him?

MR. SASSOWER: I spoke to him -- let me just think for a moment -- Tuesday.

THE REFEREE: Today is Tuesday. You spoke to him last Tuesday.

MR. SASSOWER: One week ago.

THE REFEREE: What papers did he assure you he would send?

MR. SASSOWER: I asked him for one particular affidavit.

THE REFEREE: What?

MR. SASSOWER: A certain affidavit that I needed.

THE REFEREE: Call him up. Go to the phone and call him up.

MR. SASSOWER: You leave a message for him. That's the best you can do.

THE REFEREE: You tell me and now you want me to subpoena him to get that document, is that correct?

Tell me what the document is, purports to be and what is its relevancy to this proceeding.

1
2 MR. SASSOWER: It's a document which says,
3 in sum and substance -- by the way, I never got
4 a copy of it -- it was filed in the County
5 clerk's Office, and in sum and substance, it says
6 that the Gammerman order has no legal effect upon
7 him, his office or his clients.

8 THE REFEREE: I don't know what that means.

9 MR. SASSOWER: The Gammerman order does not
10 affect the Attorney-General, so the Attorney-General
11 is not barred.

12 THE REFEREE: How does that help you?

13 MR. SASSOWER: It helps me in that a summons
14 against Judge Riccobono is not violative of
15 the Gammerman order because it doesn't effect his
16 clients, and he, thereafter, filed it after the
17 conviction; he filed it in court.

18 THE REFEREE: To make a long story short,
19 I'll sign a subpoena duces tecum, just for that
20 one document, period, nothing else. Draw it up.

21 MR. SASSOWER: He said -- how about Howard
22 Bergson, your Honor?

23 THE REFEREE: No. We have gone all through
24 those. Now stop it, Mr. Sassower. You made
25 reference to a certain document.

1
2 MR. SASSOWER: Right.

3 THE REFEREE: Draw up your subpoena duces
4 tecum for that specific document, and I'll sign
5 it also.

6 MR. SASSOWER: I also -- I'll do that.

7 THE REFEREE: Let's do that and get it on our
8 way so we don't keep coming back to that.

9 MR. SASSOWER: I'm going to draw it up,
10 your Honor.

11 THE REFEREE: In the meantime, are you ready
12 to proceed?

13 MR. SASSOWER: No, your Honor, I'm going to
14 federal court after I find out what happened at the
15 Appellate Division and find out whether or not I'm
16 entitled to subpoenas.

17 THE REFEREE: All right, in the meantime,
18 are you ready to proceed?

19 MR. SASSOWER: No, I'm going to ask for an
20 adjournment.

21 MR. STRAUS: This proceeding is not under a
22 stay.

23 If Mr. Sassower doesn't want to proceed, that's
24 his option.

25 At that point, we can close the hearing, if

that's his choice.

MR. SASSOWER: I'll decide what I want to do.

THE REFEREE: I may have to decide it.

MR. SASSOWER: Okay. In the meantime, you told me I should give you these.

THE REFEREE: Mr. Sassower, stop it.

MR. SASSOWER: You --

THE REFEREE: One document.

MR. SASSOWER: You told me about the others.

THE REFEREE: That's it. Nothing else.

MR. SASSOWER: On the Nachamie firm. You told me to write it out.

THE REFEREE: Sir, one thing at a time. I told you about the Attorney-General. You told me about a document he promised to send it to you. I'll sign a subpoena for that one document.

MR. SASSOWER: I'll write it out.

In the meantime --

THE REFEREE: Not in the meantime, we're not going to have any "meantime."

MR. SASSOWER: You mean only what people will give me voluntarily, that's the only evidence that I can bring?

THE REFEREE: Sir, you heard what I said.

MR. SASSOWER: May I, for the record, your Honor --

THE REFEREE: Everything is on the record.

MR. SASSOWER: May I say it again, your Honor, who your Honor spoke to ex-parte with respect to this matter?

THE REFEREE: Any more questions, sir?

MR. SASSOWER: I'd like it answered, your Honor.

THE REFEREE: Sir --

MR. SASSOWER: I'd like it answered.

THE REFEREE: I'm not answerable to you except on matters that are relevant in this hearing.

If you're implying that I spoke to any of the judges in New York County, I just don't happen to know any one of them.

MR. SASSOWER: I didn't say New York County.

THE REFEREE: Or in Kings County, as far as I know, no judge I spoke to or will speak to.

MR. SASSOWER: That's not the question, your Honor.

THE REFEREE: Well, all right, I want the subpoena for Mr. Cook, the subpoena duces tecum for one document.

1
2 MR. SASSOWER: You also asked me to --

3 THE REFEREE: We 'll do one thing at a
4 time with you.

5 You can't, apparently, absorb more than one
6 at a time.

7 This is what I suggested to you last week to
8 do, and to send it to me in the mail.

9 MR. SASSOWER: Judge, it's obvious I'm not
10 going to get any more or any subpoena duces tecum
11 for anything that's vital to the case. I can't
12 even get a subpoena for witnesses, vital witnesses.

13 THE REFEREE: All right, then you will have
14 good grounds for appeal, sir.

15 MR. SASSOWER: Your Honor, I'll ask for an
16 adjournment of this matter until --

17 THE REFEREE: Do one thing at a time, Mr.
18 Sassower.

19 MR. SASSOWER: He informed me that he will
20 not be in after today until next week, so, when
21 shall I make it returnable?

22 THE REFEREE: We'll be here next week.

23 MR. STRAUS: That's correct.

24 MR. SASSOWER: Make it returnable Tuesday.

25 MR. STRAUS: If it's for a document, I don't

1
2 think that it requires Mr. Cook. I'm sure
3 they'll produce it.

4 THE REFEREE: Have somebody from your of-
5 fice bring it here.

6 You said there was one document and you used
7 plural.

8 MR. SASSOWER: I saw one; there may be more.
9 This is as --

10 MR. STRAUS: I know your Honor is inclined
11 to grant the subpoena, but, again, I don't know
12 how another person's opinion as to whether or not
13 the order was valid could possibly be of importance
14 in this case, but if you are inclined to sign it,
15 I have no objection to it.

16 THE REFEREE: Well, you are asking they be
17 here to testify.

18 MR. SASSOWER: Judge --

19 MR. STRAUS: Supposedly he wanted a document

20 MR. SASSOWER: Judge, he made the statement,
21 and I saw a document to that effect; that's what
22 I'm saying, your Honor.

23 MR. STRAUS: Judge Potoker said he would sign
24 a subpoena for the document.

25 Now you want to bring the witness in to testify

1
2 to something which would be irrelevant anyhow.

3 MR. SASSOWER: It would be irrelevant?

4 MR. STRAUS: Yes, it would be irrelevant,
5 whatever his opinion is, of the order.

6 MR. SASSOWER: I couldn't knowingly violate
7 an order --

8 THE REFEREE: Sir, I don't want to take a
9 man away from his job, if the document itself will
10 suffice, so make it up in a form where only the
11 document --

12 MR. SASSOWER: I'd like him here also.

13 THE REFEREE: For what purpose? That's not
14 what you asked earlier.

15 MR. SASSOWER: Because I relied upon his
16 statements, I relied upon his statements with res-
17 spect to the seven motions I made.

18 I consulted him. He was the attorney for
19 Referee Diamond.

20 After I consulted with him as to what the
21 procedure was, I did what I did do.

22 If you consult with Referee Diamond's at-
23 torney who drew up the order and you follow his
24 instructions, I don't understand how it could
25 be wrong.

Eighty-eight percent of what I did, I followed his instructions during a particular time frame of course.

THE REFEREE: You made it out for 10:30.

MR. SASSOWER: What ever time your Honor wants.

May I see the transcript of --

THE REFEREE: Here's your subpoena. I signed it.

MR. SASSOWER: Thank you. I modieified and I really cut it down to the bone.

On the Nachamie firm, I want any and all papers received from Ira Postel, Esquire, re: the Nassau County case. That's all.

Mr. Postel testified that he sent a notice of cross-motion to me, to Nachamie and to the Court. I don't have it. I doubt if the Nachamie firm has it.

I don't want to impose upon the Court.

It's sub judice right now. I'll take a telephone call. If they get this subpoena and they say "We have no papers from Ira Postel on this."

THE REFEREE: Call them up.

1
2 MR. SASSOWER: I want it pursuant to a
3 subpoena.

4 THE REFEREE: First call them up. You are
5 asking for a subpoena, but if they can do it short of
6 a subpoena —

7 MR. STRAUS: If your Honor pleases, I would --

8 MR. SASSOWER: You can call them up.

9 MR. STRAUS: I don't think that the point
10 is worthy of suggestion, if, in fact, it were
11 true that Mr. Postel did not send the papers to
12 the firm, I don't know how it would, in any way,
13 effect the representation.

14 It's my understanding that they don't have
15 a copy of it. That's my understanding.

16 MR. SASSOWER: Oh.

17 MR. STRAUS: Oh.

18 MR. SASSOWER: Why? You produced false
19 testimony knowing it was false testimony.

20 MR. STRAUS: Mr. Sassower, that is misconduct,
21 per se.

22 MR. SASSOWER: It is? Charge me with it.

23 MR. STRAUS: When this proceeding is over,
24 you can be sure that if there is a need for it,
25 you will be charged.

1
2 MR. SASSOWER: When did you know that the
3 Nachamie firm --

4 THE REFEREE: Mr. Sassower, are you ready to
5 proceed?

6 MR. SASSOWER: Wait a second.

7 THE REFEREE: Don't tell me to wait a second.
8 I've been here now and it's now going on a quarter
9 to twelve.

10 We started at 10 o'clock. We have gone ab-
11 solutely nowhere.

12 Petitioner has rested.

13 Are you ready to proceed with your case?

14 MR. SASSOWER: You told me to modify the
15 subpoenas.

16 THE REFEREE: I know.

17 MR. SASSOWER: You told me to modify them.

18 THE REFEREE: We were all through this.

19 MR. SASSOWER: No. You told me to modify
20 these subpoenas.

21 THE REFEREE: Sir, I've already gone through
22 each and every name.

23 MR. SASSOWER: No. Feltman, Karesh, Major,
24 and Farbman, original time and work records.

25 THE REFEREE: Denied.

MR. SASSOWER: Will you mark it, please?

THE REFEREE: Mark it RRR.

(So marked)

MR. SASSOWER: Now, I'm going to ask for any inconsistent and exculpatory information from any witnesses that testified, that Mr. Straus has in his possession, including that transcript that I'd like to see, of Hyman Raffe's testimony. I'd like to see it.

THE REFEREE: You don't have it?

MR. SASSOWER: No, Q and A. Two months later, I found out what happens. He doesn't file anything.

THE REFEREE: You waltzed in here with about three or four trunk loads full of papers.

MR. SASSOWER: I don't have it. I never had it.

I found out through the grapevine what goes on there.

These are secret sessions.

MR. STRAUS: The point is, your Honor, if Mr. Sassower --

MR. SASSOWER: I want to see the transcript.

MR. STRAUS: Just a minute, sir. With respect

1
2 to the other witnesses, Mr. Sassower asked for and
3 was given copies of any correspondence or communi-
4 cations that we had with the witnesses.

5 He also made his request for any evidence
6 that he might regard as exculpatory.

7 With respect to Mr. Raffe, he made no such
8 requests.

9 Therefore, nothing was given to him.
10 If he had asked for prior statements by Mr.
11 Raffe, they would have been provided to him.

12 In fact, I had specifically instructed Mr. Rafa-
13 nelli to bring them for that purpose.

14 In view of his previous statements and prev-
15 ious conduct towards the other witnesses, we left
16 it up to Mr. Sassower, particularly in view of his
17 statements that he wasn't going to cross-examine
18 because confidentiality prohibited him from doing
19 so.

20 The Referee's report is here. The previous --
21 the transcript is here.

22 The problem is if Mr. Sassower had exercised
23 his right at that time, he could have used it if
24 he had chosen to cross-examine.

25 I, certainly, do not think that by withholding

1
2 the request, he should be entitled to recall Mr.
3 Raffe, which is apparently the nature of the letter
4 that he sent, dated March 22nd, and that is my
5 only reason for objecting to it, because there is
6 no point to it at this point, Mr. Raffe having been
7 fully exhausted as a witness.

8 MR. SASSOWER: I don't want to call Mr. Raffe.
9 He was supposed to call Referee Diamond.

10 MR. STRAUS: You heard a month ago that I
11 wasn't calling him.

12 MR. SASSOWER: Two sessions out in the hall-
13 way, you told me.

14 MR. STRAUS: It's obvious that we don't need
15 his testimony.

16 MR. SASSOWER: Referee Diamond was supposed
17 to be here all the time, two sessions or three
18 sessions ago, I found out by happenstance.

19 In fact, it was my impression that your Honor
20 signed the subpoena for Mr. Straus.

21 Now, it seems to me Mr. Straus gets subpoenas
22 signed, whoever he wants, just like this.

23 MR. STRAUS: Because the witness' testimony
24 is relevant to the charges.

25 If you had to bring a witness who was relevant,

you might get a subpoena signed.

MR. SASSOWER: I see. You determine what's relevant.

MR. STRAUS: No, I tried to read the charges and have the subpoenas drafted accordingly.

MR. SASSOWER: Your Honor, you wanted motions made, and you asked for them in writing, but unfortunately --

THE REFEREE: I never asked you for motions and I never asked you to put them in writing.

MR. SASSOWER: Then I misunderstood you. When you were over there, I asked you if you wanted them in writing.

THE REFEREE: All I suggested to you, is to put in writing the specific information you wish to ascertain from witnesses who you wish to have subpoenaed.

MR. SASSOWER: Then I misunderstood you.

MR. STRAUS: May the record indicate that at this time, I'm delivering to Mr. Sassower, a copy of Referee Diamond's report, index number --

MR. SASSOWER: I got the report.

MR. STRAUS: You want a copy of what is

designated a hearing and report of the Referee under Docket M1875?

MR. SASSOWER: No.

THE REFEREE: A moment ago, you said you wanted that.

MR. SASSOWER: I thought it was something else.

MR. STRAUS: Do you want it?

MR. SASSOWER: I want the document where Raffie told him if it was in writing --

THE REFEREE: Raffie told whom?

MR. STRAUS: Diamond.

MR. SASSOWER: Diamond.

MR. STRAUS: Obviously, Referee Diamond got it wrong in his report because it specifically says in the document, that I have, and I read it into the record, that he terminated your legal services in the summer of '85, and he didn't, by letter, which is precisely what he testified to here.

If you want this, you can have it.

That's precisely what he said.

MR. SASSOWER: I'll bring it back to you Thursday.

MR. STRAUS: May the record indicate that I have delivered to Mr. Sassower --

THE REFEREE: That's Exhibit TTT for identification.

(So marked)

THE REFEREE: That's the transcript of Referee Diamond.

MR. SASSOWER: Could you also, Mr. Straus, find out when this took place?

MR. STRAUS: I don't intend to find out. It's a document which came into my possession, which I was prepared to give you, if you asked for it.

You asked for it after the witness is gone.

MR. SASSOWER: December 9.

MR. STRAUS: Would you allow the Reporter to mark it, please?

THE REFEREE: Of 1985.

MR. SASSOWER: I understand there were some other statements made by Mr. Raffo to Referee Diamond, that he discharged me by making a telephone call.

THE REFEREE: Look at it.

MR. SASSOWER: That's not the right transcript, I don't think.

1
2 THE REFEREE: Go ahead, Mr. Sassower.

3 MR. SASSOWER: Your Honor, take a copy of
4 the petition so that I can make my motions and
5 your Honor can follow me.

6 THE REFEREE: Go ahead. Give a copy to Mr.
7 Straus too.

8 MR. SASSOWER: This is the petition.

9 THE REFEREE: You said you put your motions
10 in writing.

11 MR. SASSOWER: No, I didn't do them in
12 writing. I had problems with my word processor.

13 THE REFEREE: This, of course, should have
14 taken place at 10 o'clock this morning.

15 Go ahead.

16 MR. SASSOWER: Paragraph Third, there is
17 no evidence shown by the Petitioner that I was
18 convicted of any serious crime.

19 In fact, when I made that statement on
20 January 30, 1986, Mr. Straus said how ridiculous,
21 how silly, et cetera.

22 I draw your Honor's attention to the latest
23 case on the subject, which is the State against
24 O'Brien, 704 Pacific 2nd, 883.

25 I mean, that's the latest case in Shepherds.

1
2 MR. STRAUS: What was that?

3 MR. SASSOWER: It's 704, Pacific 2nd, 883,
4 which follows the Ninth Circuit case of United
5 States against "Craner" (phonetic) 652F2nd 23,
6 in saying or indicating -- no, no -- saying --
7 I'm sorry -- saying that where the crime is serious,
8 whether it's state or federal, trial by jury --

9 What are you laughing at?

10 Do you want to disagree with Craner?

11 MR. STRAUS: I'm not laughing, Mr. Sassower.
12 I'm smiling at myself, at the fact that it's
13 precisely the same point.

14 You don't seem to be able to comprehend
15 the point that's involved.

16 You could have raised these issues on appeal,
17 and, if they were set aside, then Referee Potoker
18 would not be in a position to even sustain the
19 charges, nor would we have been in a position to
20 bring them.

21 MR. SASSOWER: No, because when I was up
22 on appeal, this is precisely what the Appellate
23 Division, First Department, did in another case.

24 When I was on appeal, it wasn't a serious crime.
25 It was made a serious crime afterward. In fact,

1
2 your Honor, right now is pending in court pro-
3 ceedings to set the convictions aside just for
4 that reason. They have not been decided yet. It
5 was only --

6 THE REFEREE: Mr. Sassower, let's go down
7 charge by charge and make your point.

8 MR. SASSOWER: As a matter of law, it could
9 not be considered serious.

10 In fact, Mr. Straus says that the question
11 as to whether these crimes were serious or not are
12 for your Honor to decide.

13 THE REFEREE: Let's go to the charges. This
14 is just an allegation.

15 The charge, start with Charge 1.

16 MR. SASSOWER: With respect to Charge 1,
17 in view of your Honor's ruling which I'll not argue,
18 or repeat the arguments now, it says it's a serious
19 crime.

20 No place in the order or any other place, does
21 it call it serious, and Mr. Straus has failed to
22 prove they were serious.

23 Again, to repeat, at the time these charges
24 were lodged against me, which was in November,
25 November 12, 1982, the appeal had gone and passed.

1
2 If these charges were lodged at me before
3 the appeal, or before the convictions, I would
4 have demanded my trial by jury.

5 The same argument goes for Charge 2. No
6 evidence to show it's serious.

7 Are we considering Judge Evan's charge,
8 Charge 2 or what?

9 How are we calling that?

10 MR. STRAUS: That was a criminal contempt
11 conviction which was added during the course of
12 this proceeding, at the request of Mr. Sassower,
13 a conviction by Judge Evans, I believe.

14 We might, since we didn't redraft the
15 petition, you might indicate it as Charge 8.

16 MR. SASSOWER: Let's call it Charge 2A.

17 MR. STRAUS: We have seven charges.

18 THE REFEREE: All right, 2A.

19 MR. SASSOWER: May I request, your Honor,
20 as Charge 2B, that Mr. Straus include a charge
21 against me, that I've been convicted, apparently,
22 by Judge Gammernan? I haven't got a copy of
23 the entered order, but I'll try to have it by
24 Thursday.

25 MR. STRAUS: I think four is enough, four

1 contempt convictions is sufficient for our purposes.
2 I don't know that it makes any sense for us to add
3 another charge since I've never seen the conviction
4 and I'm quite content with the petition as it
5 stands.
6

7 Should there be any need for it, we could
8 always charge Mr. Sassower with an additional
9 criminal contempt conviction in the future, if
10 that was required, but why don't we await the outcome
11 of this proceeding first?

12 MR. SASSOWER: I don't think it's fair that
13 I should finish this proceeding and then, all of
14 a sudden, I get another one, when it's in existence
15 right now.

16 I have a copy of the order, but it hasn't been
17 entered yet.

18 THE REFEREE: I don't have any exhibits.

19 MR. SASSOWER: I'll bring it to you.

20 MR. STRAUS: I don't intend to reopen the
21 case.

22 MR. SASSOWER: You must submit it.

23 MR. STRAUS: I don't intend to offer any
24 additional evidence.

25 THE REFEREE: Go ahead, sir.

1
2 MR. SASSOWER: Charge 3 is absolutely ludicrous
3 and for reasons which I will show as part of my
4 examination.

5 MR. STRAUS: Examination of whom?

6 MR. SASSOWER: My examination.

7 MR. STRAUS: You mean your testimony?

8 MR. SASSOWER: Yes, with respect to all these
9 charges, your Honor.

10 THE REFEREE: With respect to what charge?

11 MR. SASSOWER: All the --

12 THE REFEREE: One, two and three?

13 MR. SASSOWER: One, two and three. There is a
14 distinction, and a difference between criminal
15 contempt and obstruction of justice, and I don't
16 know if it's the leading case on the subject --
17 I always thought it was -- ex-parte Hudgins --
18 H-U-D-G-I-N-S.

19 MR. STRAUS: What obstruction of justice
20 are you talking about?

21 MR. SASSOWER: Hudgins.

22 MR. STRAUS: Which charge are you talking
23 about?

24 Are you talking about Charge 4? You're not
25 charged anywhere with having been convicted of

1
2 of the crime of obstruction of justice, which is
3 in fact, a term which is present in most penal
4 laws.

5 You are not charged with having been convicted
6 of obstruction of justice, so, I don't know what it
7 is you are referring to.

8 MR. SASSOWER: You call it prejudicial.

9 THE REFEREE: That's Charge 4.

10 MR. SASSOWER: Look at Charge 1, your Honor.

11 MR. STRAUS: Charge 1 charges you with
12 violating the Appellate Division rules as to a
13 serious crime, and various disciplinary rules.

14 MR. SASSOWER: Prejudicial to the administrat-
15 ion of justice. Those are the words, whether you
16 call that that, or obstruction of justice.

17 MR. STRAUS: It makes a big difference.

18 THE REFEREE: Where do you see it in
19 Charge 1?

20 MR. STRAUS: I think he's now referring to
21 prejudicial to the administration of justice.

22 I think he's correlating prejudicial to
23 obstruction for the purpose of showing that the
24 two are not the same.

25 MR. SASSOWER: The subpoenas would show that

1
2 it's not prejudicial to the administration --

3 MR. STRAUS: The convictions --

4 MR. SASSOWER: All these charges start off
5 with -- by the way, the convictions are for
6 criminal contempt.

7 Criminal contempt does not mean that it's
8 prejudicial to the administration of justice, so
9 that either that portion should be stricken by Mr.
10 Straus or stricken by the Court.

11 I was convicted of the crime set forth in
12 the order.

13 There is nothing in the order that says,
14 or orders that say it was misconduct prejudicial
15 to the administration of justice.

16 This is something Mr. Straus dreamt up.

17 MR. STRAUS: I didn't dream it up. I charged
18 you with it in the petition.

19 I actually put it down there with the type-
20 writer and it's part of the charges and the Referee
21 will make a determination, and after that, the
22 Appellate Division will determine whether by en-
23 gaging in conduct which resulted in your conviction,
24 you also were guilty of professional misconduct,
25 prejudicial to the administration of justice, which
adversely reflected upon your fitness to practice

1
2 law, which is precisely what the Code of
3 Professional Responsibility speaks of.

4 MR. SASSOWER: I'm saying there is no evi-
5 dence of -- there is no evidence presented by
6 Mr. Straus that these criminal contempt proceed-
7 ings involved conduct prejudicial to the adminis-
8 tration of justice, no evidence of it.

9 If he wants to open up the case and put that
10 evidence in, fine. There is no such evidence.

11 Would you agree with me on that minor point?

12 THE REFEREE: Not right now. I'll take it
13 as an entire package, not in singling out a word
14 here or there.

15 MR. SASSOWER: How am I going to be advised
16 as to how to proceed?

17 THE REFEREE: Denied.

18 MR. SASSOWER: Isn't it your practice, your
19 Honor, to strike out individual paragraphs as
20 there is no proof as to the point, or do you want
21 the whole charge as a whole and not individual
22 paragraphs?

23 There are paragraphs here which are very,
24 very prejudicial. No evidence to support them,
25 and I think I'm entitled to know just so I know how

1
2 to proceed?

3 THE REFEREE: I'll take the charge itself
4 with subdivisions, if I'm able to break them up
5 into divisions that will stand by itself, I'll
6 do so. If I can't, I'll consider the charge in
7 its entirety.

8 MR. SASSOWER: You have hyperbole here.

9 THE REFEREE: Take Charge 2. Let's take that
10 as an example.

11 MR. SASSOWER: That's foreclosed. The order
12 is foreclosed.

13 THE REFEREE: I'm taking that as a sample.

14 MR. SASSOWER: Number 1, in that charge --

15 THE REFEREE: That could be decided on its
16 own, otherwise, I'll say, "Sustained" or not.

17 On Number 2, that will be sustained on its
18 own or denied, or dismissed.

19 MR. SASSOWER: Let me follow you, because
20 maybe I have a misunderstanding.

21 THE REFEREE: You want to know, if you can,
22 at this juncture, have certain portions of a
23 charge dismissed so that you won't have the burden
24 of meeting them in the Respondent's case, so, I'm
25 telling you to go down and make your motions and

1
2 and I'll decide it, at the end of the Petitioner's
3 case.

4 MR. SASSOWER: We've finished the Petitioner's
5 case.

6 THE REFEREE: This is the juncture you'll go
7 down the list.

8 MR. SASSOWER: Paragraph 1.

9 THE REFEREE: Of charge what?

10 MR. SASSOWER: Of Charge 1.

11 THE REFEREE: Yes.

12 MR. SASSOWER: I say, your Honor, forget about
13 Mr. Straus' wording; the order speaks for itself.

14 THE REFEREE: All right.

15 MR. SASSOWER: The order speaks for itself.

16 As far as 2 is concerned, the order speaks
17 for itself.

18 THE REFEREE: As to what? Charge 2?

19 MR. SASSOWER: Charge 1.

20 THE REFEREE: I'm denying your motion to
21 dismiss at this time.

22 MR. SASSOWER: I want to know from your
23 Honor, if your Honor will allow me to show that
24 I did not wilfully and deliberately violate the
25 order.

1
2 THE REFEREE: Sure.

3 MR. SASSOWER: That's terrific, your Honor.

4 THE REFEREE: I don't know about terrific.

5 MR. STRAUS: If your Honor pleases, I don't
6 believe Mr. Sassower is permitted -- before you
7 make a ruling -- may I be heard?

8 I don't think Mr. Sassower is now permitted
9 to contest the rulings of the conviction. In
10 fact, I think the rules make it very clear that
11 he cannot contest the essential elements of the
12 crime.

13 In this case, the essential elements of the
14 crime are that he wilfully and deliberately
15 violated the order.

16 That is why he was held in contempt of court.

17 In view of that fact, he cannot contest
18 whether or not he did violate the order.

19 This allegation rests entirely on the con-
20 viction and the entire charge rests itself solely
21 on the conviction, which he's not in a position to
22 contest.

23 THE REFEREE: Mr. Straus is correct. I've ruled
24 that you cannot go behind the individual orders.

25 The order will speak for itself, and whatever

1
2 action was taken pursuant thereto and the criminal
3 conempt will speak for itself.

4 MR. SASSOWER: Except for one thing, which
5 is rather important.

6 The order makes certain factual recitations.

7 THE REFEREE: I know, but willful and deliber-
8 ately violated the order, that was taken up in a
9 court of law, and Judge Klein already decided that
10 issue.

11 MR. SASSOWER: Without a trial.

12 THE REFEREE: Sir, that's not my problem.
13 You went to the Appellate Division, First Depart-
14 ment and they upheld your criminal contempt convict-
15 ion, so, as far as that's concerned, I'm foreclosed
16 from going into it.

17 MR. SASSOWER: This is the problem, and let
18 me take a moment.

19 MR. STRAUS: If your Honor pleases, if he is
20 going to pursue the same argument that he made
21 at least eight or ten times, I would ask that he
22 be foreclosed.

23 I think it's likely that you will say the
24 same --

25 THE REFEREE: That goes for Charges 2 and 3.

1
2 MR. SASSOWER: Let me say this, you made
3 this decision originally before you even heard
4 me.

5 This was Mr. Straus' argument to the Appellate
6 Division, and said, "Boom, he should be disbarred
7 because it's" --

8 MR. STRAUS: I have never asked that anyone
9 be disbarred pertaining to this case.

10 You show me something in which I've asked
11 that you be disbarred, or punished.

12 MR. SASSOWER: Or punished.

13 MR. STRAUS: That's a little bit different.

14 MR. SASSOWER: Punished. Okay.

15 Mr. Straus argued to the Appellate Division -- now
16 hear me --

17 THE REFEREE: Mr. Sassower, We're going to --

18 MR. SASSOWER: You're overruling the
19 Appellate Division.

20 THE REFEREE: I'm not, as I told you on
21 January 30, going behind the orders of the judges
22 or justices who have already ruled on the matter.

23 MR. SASSOWER: Let me say this, this is Mr.
24 Straus' contention to the Appellate Division. It
25 was rejected by the Appellate Division, Second

Department.

MR. STRAUS: This is the same argument that he's made eight or ten times. I think you're filibustering.

THE REFEREE: The Appellate Division said they'd be sending it to a Special Referee.

MR. STRAUS: They specifically said include the serious crimes charged.

MR. SASSOWER: Let's get the facts straight.

THE REFEREE: Mr. Sassower, it's already ten after twelve.

MR. SASSOWER: Could I make a record?

THE REFEREE: You've been making a record since the first day we met.

MR. SASSOWER: Let me finish these motions and I'll --

THE REFEREE: Mr. Sassower, your motion to dismiss any of these charges, at the end of the Petitioner's case, is denied.

MR. SASSOWER: How about the specific paragraphs?

THE REFEREE: Denied in its entirety.

MR. SASSOWER: May I go through specific paragraphs?

1
2 THE REFEREE: I'm denying it in its entirety.
3 Now you know how to meet the issue on the Respon-
4 dent's case, which is what you were concerned with.
5 There's no need to go through it specifically.
6 I'm denying it in its entirety.

7 MR. SASSOWER: Before your Honor makes
8 a further decision, let me explain to your Honor
9 what my intentions are.

10 I'll probably be in federal court tomorrow
11 or Thursday and there is a matter being filed.

12 THE REFEREE: First get a decision from the
13 Appellate Division as to whether or not I'll
14 continue this hearing or not.

15 MR. SASSOWER: Okay.

16 MR. STRAUS: Mr. Sassower is going to be in
17 federal court tomorrow.

18 It should be noted that you cancelled our
19 session this week because he was going to be ill
20 thisweek, so he'll use that time to go straight --

21 MR. SASSOWER: Who said that I'm going to go?
22 I'm sending --

23 MR. STRAUS: You said that "I'm going to be
24 in federal court tomorrow." That's what you said.
25 I probably relied on what you said.

1
2 MR. SASSOWER: When I say, "I," I don't mean
3 "I," personally.

4 Very frankly, I'm supposed to go to the hospi-
5 tal for a couple of days but in any event, I'll
6 make a decision tonight after consulting somebody
7 and ask for federal intervention based on Middlesex,
8 or the qualification, Middlesex, because I think the
9 production of the powers to subpoena is absolute-
10 ly essential to me in this case, and I'm being
11 denied that, and also thereby --

12 THE REFEREE: Mr. Sassower, you will be pre-
13 pared to go -- are you prepared to go ahead with
14 your case?

15 MR. SASSOWER: No, I'm not.

16 THE REFEREE: Mr. Sassower, last week we
17 discussed the schedule and we agreed on days.

18 You needed four days, okay. If you wanted
19 time to recuperate in between, I gave you time
20 off to recuperate.

21 Now you are going to run back to the Appellate
22 Division, over to the federal court and now you
23 are talking about new witnesses and everything
24 else.

25 MR. SASSOWER: In my remotest -- when we

1
2 met on January 30, I never knew that they
3 were going to start trying to grab my word pro-
4 cessor. In my remotest contemplation, I never
5 heard, thought, that any judge even in Small Claims
6 Court would deny you the right, which is constitut-
7 ionally protected. What is the Sixth Amendment?
8 The right to subpoena.

9 THE REFEREE: You will take names out of a
10 telephone book and issue subpoenas?

11 MR. SASSOWER: I'm not taking names out of a
12 telephone book.

13 THE REFEREE: I've ruled. Let's not waste
14 any more time.

15 MR. SASSOWER: So I want to go to federal
16 court.

17 MR. STRAUS: This proceeding is not stayed.
18 He pursues his frivolous litigation
19 on his own time.

20 May we go ahead with this proceeding, if your
21 Honor pleases?

22 He knew that we were proceeding today.

23 He was very well prepared or said he was
24 on January 30.

25 MR. SASSOWER: I came ready with subpoenas

1
2 on January 30. You told me to take them over
3 to the Appellate Division.

4 THE REFEREE: What happened?

5 MR. SASSOWER: The Appellate Division -- the
6 Appellate Division told me --

7 THE REFEREE: I know what they told you.

8 MR. SASSOWER: And, I served four or five
9 subpoenas which did not have to be so ordered.

10 Mr. Straus not only had his witness come
11 here nude, but he quashed the subpoena.

12 THE REFEREE: Mr. Sassower, I don't know what
13 you got. You're sawing your own ego.

14 MR. SASSOWER: I think it's an outrage.

15 THE REFEREE: You have made that statement to
16 other courts. Everything is an outrage.

17 MR. SASSOWER: Who says?

18 THE REFEREE: Any time a ruling is against
19 you.

20 MR. SASSOWER: Where did you hear that from?

21 THE REFEREE: From you.

22 MR. SASSOWER: You never heard that from me.

23 THE REFEREE: Yes, I've heard you use the
24 words, worse than that.

25 MR. SASSOWER: There are certain judges who

1
2 are absolute thieves. There's no question about
3 it, but I have the best relationship with most of
4 them. Out and out thieves. And I've named them
5 and I have the evidence. That's why --

6 Did you ever hear in your life-time anybody
7 should be convicted of a crime without a trial?
8 Never. The only way you can be convicted of a crime
9 without a trial is to plead guilty.

10 MR. STRAUS: Would you direct Mr. Sassower
11 to end this filibuster?

12 THE REFEREE: If you want a course in criminal
13 law, you know the law on criminal contempt, they
14 can hold you in criminal contempt right then and
15 there.

16 MR. SASSOWER: Summary, not non-summary.
17 This is non-summary.

18 THE REFEREE: And you went before another
19 judge --

20 MR. SASSOWER: No.

21 THE REFEREE: You went before --

22 MR. SASSOWER: No, there was no judge.

23 THE REFEREE: You went before Judge Klein.

24 MR. SASSOWER: I never saw Judge Klein. I
25 saw him afterward.

1
2 THE REFEREE: When are we continuing this case?
3 When?

4 MR. STRAUS: May we go right now, your Honor?

5 MR. SASSOWER: I'll tell you what I'll do.

6 THE REFEREE: Do you want to take the stand
7 at 2 o'clock and --

8 MR. SASSOWER: I'd like to adjourn it until
9 Thursday or next Tuesday.

10 MR. STRAUS: I would object to any further ad-
11 journment.

12 Mr. Sassower should be prepared to go forward.
13 He's had ample opportunity.

14 THE REFEREE: Sir, you deny that I told you
15 to send it to me during the last week as to what
16 subpoenas you want, and the specific information
17 you wished to get, and you never did.

18 Then you come in here --

19 MR. SASSOWER: I was ready with them the first
20 day.

21 I got this thing on Friday and I came back
22 Friday. I got this thing from Judge Diamond, and
23 I started reading it over and I spent Saturday
24 trying to confirm part of the stuff here, and --

25 THE REFEREE: Mr. Sassower, let me do the

1
2 talking. I'm going to adjourn it until Thursday,
3 the 27th, and if you are not prepared to go ahead
4 at that time, the Court will consider the case clos-
5 ed.

6 MR. SASSOWER: Would you make it 11 o'clock,
7 your Honor?

8 MR. STRAUS: If your Honor pleases, he's asked
9 for the whole week off.

10 THE REFEREE: You want to go to the federal
11 court in a different jurisdiction?

12 MR. SASSOWER: Tomorrow, papers, I'll try to
13 file in Albany.

14 THE REFEREE: Eleven o'clock Thursday, and
15 if you fail to go ahead, the Court will entertain
16 a motion to close the hearing.

17 That's it.

18 oOo
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

1407A

RESPONDENT

OOO id	1316
PPP id.	1338:1342
QQQ id.	1368
RRR id.	1380
TTT id.	1386