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SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

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In the Matter of GEORGE SASSOWER, :

an attorney and counselor-at-law :

GRIEVANCE COMMITTEE FOR THE SECOND :

AND ELEVENTH JUDICIAL DISTRICTS, :

Petitioner, :

GEORGE SASSOWER, :

Respondent. :

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Brooklyn, New York

April 10, 1986

B e f o r e:

HON. M. MICHAEL POTOKER,
Referee

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

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

ARTHUR BLAUSTEIN
Certified Shorthand Reporter.

1980.

THE REFEREE: Are you ready, sir?

MR. SASSOWER: Yes, your Honor.

(Mr. Sassower resumes the stand)

THE REFEREE: When we left, we left off yesterday with the Article 78 Proceeding, Number Four.

THE WITNESS: Can I see Number Five?

This application --

MR. STRAUS: Judge, you referred to Number Four and Mr. Sassower asked for the document pertaining to Number Five, so, we maybe at cross-purposes.

MR. SASSOWER: I thought you said, "Five."

THE REFEREE: Four.

MR. SASSOWER: Give me Four, then.
Four, I testified on.

I said you have to be diseased to think that this violated any order.

Nobody ever contended it.

THE REFEREE: The Grievance Committee contends it.

MR. SASSOWER: the Grievance Committee never looked at it.

The Grievance Committee took what Schneider

gave them with all the mistakes, and all the errors, and put his back on it.

He didn't spend five minutes on this thing.

MR. STRAUS: Your Honor, may we have the witness testify to things that are within his knowledge?

MR. SASSOWER: That's my answer.

THE REFEREE: Number Five.

MR. SASSOWER: I'd like Mr. Straus to --

THE REFEREE: What was the purpose of the action against the Attorney-General in behalf of Puccini Clothes?

MR. SASSOWER: May I have it back again? Your Honor asked a very good question. Thank you, your Honor.

The action against the Attorney-General of the State of New York, A, the Business Corporation Law 1214 states that, and I am paraphrasing, okay, that when the Attorney-General deems it to be in the interest of the stockholders, creditors or other interested parties, it shall intervene on behalf of them. Okay?

Now, we felt Karesh and Mahor went looking for attorney's fees from Puccini; Mr. Raffie and I

said we would oppose it.

THE REFEREE: We?

MR. SASSOWER: This is '84. I have to give you background.

We said we'd like to oppose it.

So, Judge Saxe ruled that, no, Feltman will oppose it.

So, I went to the Attorney-General and I said this is absolute nonsense.

MR. STRAUS: If your Honor pleases, I move to strike as non-responsive.

You asked what the purpose of the application was.

THE REFEREE: Go ahead.

MR. SASSOWER: I said that this is nonsense, Feltman, Karesh and Major looking for fees from Puccini and it's going to be defended by Feltman.

So, I wrote a letter to the Attorney-General. Didn't know anybody in the Attorney-General's Office who would handle this matter, and, David Cook responded, and I found out that he was a one-man unit in the Attorney-General's Office who takes care of this.

I then, after a lot of conversation with

1
2 Dave Cook, went to the Appellate Division, in
3 a proceeding against the justices of the Supreme
4 Court, compelling that the justices of the Supreme
5 Court comply with 22 NYCRR 660.24, which says,
6 in effect, if you haven't been appointed pursuant
7 to this particular provision -- it's a mandatory
8 thing -- then you do not get any fees or disburse-
9 ments. Absolutely mandatory. No question about
10 it.

11 When I went to the Appellate Division,
12 Dave Cook, after receiving authorization from
13 the Office of Court Administration, and whoever
14 else he needed authorization from, put in a
15 statement that the justices of the Supreme Court
16 will comply or it is presumed they will comply with
17 the mandatory rules of the Appellate Division.

18 Within --

19 I'll just answer your Honor's question.

20 When they did not -- two were not complying,
21 Saxe and Diamond -- no question about that.

22 So, we brought another proceeding.

23 Now, there's two sections. There's 1214,
24 which gives the Attorney-General discretion
25 to intervene, and there's 1216.

1
2 And, 1216 says that a receiver -- if a
3 receiver does not file within eighteen months,
4 the Attorney-General must go in and demand an
5 accounting. He has no discretion.

6 THE REFEREE: You brought this Article 78
7 proceeding in behalf of Hyman Raffe, and in
8 behalf of Puccini Clothes.

9 You were already barred by order of the
10 Supreme Court from representing Puccini Clothes.

11 MR. SASSOWER: No, no.

12 THE REFEREE: Why not?

13 MR. SASSOWER: Because your Honor has to look
14 at the entire thing, and I'll tell your Honor
15 this, that the record on appeal is this -- about
16 700 pages.

17 I don't think you will find -- and, I'm
18 speaking from memory -- I don't think you will
19 find one place in any brief where anybody contend-
20 ed that I was barred from bringing this proceed-
21 ing.

22 I'll bring the briefs in next time we come.

23 Let me mark it down.

24 I don't recall once anybody ever mentioning
25 it.

Now, if you knew all the facts in this case, then you would know that contention is absurd.

In any event, the Appellate Division never, never said that I was barred from it. Okay?

Never said I was barred from it.

THE REFEREE: You were held in contempt several times because you acted on behalf of Puccini.

MR.SASSOWER: Never, never, never. I want to straighten you out.

THE REFEREE: Your answer is you were never barred. All right.

Number Five.

MR. SASSOWER: I was held twice, once by Judge Gammerman and once by Judge Klein, and once by Judge Saxe for purportedly violating Judge Gammerman's order. Okay?

You have the confirmation by Judge Evans which is -- presently, they are appealing, and I'm cross-appealing, and you have the civil contempt which, Judge, was not even opposed. That civil contempt was not even opposed.

The Feltman firm -- which is on appeal also

now, because I was not going to appeal a \$250 fine, where papers are two feet thick, but, when they appealed, I cross-appealed.

THE REFEREE: Number Five, the Article 78 proceeding in behalf of Raffo and Puccini against the justices of the Supreme Court of New York County.

MR. SASSOWER: Right.
Here again, Number Five, when I went into the Appellate Division, I had a lot of information on mainly one judge, possibly a second judge, and it was a question as to whether to rock the boat.

In any event, there were a number of discussions between Dave Cook and myself, and I finally decided that I would not rock the boat, or sink the boat, that I could serve the same purpose by getting an order of the Appellate Division compelling compliance with the mandatory, non-discretionary provisions of 660.24.

So, I brought this proceeding. Dave Cook came to court on it, and we had a conference with Sommers, S-O-M-M-E-R-S, who is the chief clerk there.

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2 I told him, and my papers so indicate,
3 I'll take the minimum amount of relief that will
4 obtain compliance, and I asked for what I thought
5 was the minimum amount of relief.

6 All the relief I asked for was an order
7 issued by the Appellate Division saying that the
8 judges should comply with the rule of the Appell-
9 ate Division.

10 And, 660.24 arose out of the judicial
11 lynching that took place a few years before that,
12 where there was cross-appointments by various
13 judges in the First Department, and the First
14 Department passed 660.24.

15 Feltman, Karesh and Major were never appointed
16 according to 660.24.

17 According to subdivision (f), and it is
18 clear --

19 THE REFEREE: What did you want from the
20 justices of the Supreme Court of New York
21 County?

22 MR. SASSOWER: All I wanted was an order
23 from the Appellate Division directing the
24 justices --

25 THE REFEREE: This is an action against the

justices of the Supreme Court.

MR. SASSOWER: It's a proceeding, your Honor.

THE REFEREE: It's against the associate justices of the Appellate Division.

MR. SASSOWER: No, this is the relief I asked for, mandating that the Respondents and every member thereof, including those acting with such authority, be directed to obey the mandate of 22 660.24, and those rules and regulations that may be imposed by the Presiding Justice of the Appellate Division and the Administrator of the Supreme Court of the County of New York to insure compliance therewith.

So, I only wanted compliance with the law, and this is the one where Dave Cook came back after receiving approval from the --

THE REFEREE: You brought an action against justices of the Supreme Court, telling them that they must comply with the law.

What law?

MR. SASSOWER: A mandatory law.

THE REFEREE: What law did this violate?

MR. SASSOWER: 660.24.

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2 THE REFEREE: As far as the appointment
3 of the receiver --

4 MR. SASSOWER: Could we get a copy of the
5 CPLR?

6 It's marked for identification.

7 The problem arose with Diamond. Diamond
8 refused to obey it.

9 I would go to Cook, who was Diamond's law-
10 yer, and say, "Dave, you're his lawyer, he doesn't
11 want to comply with it."

12 So, this was going back and forth and there
13 was --

14 THE REFEREE: You didn't have to go to the
15 Attorney-General's office, if you think a Referee
16 is doing wrong, you go to the Supreme Court.

17 MR. SASSOWER: Who says we weren't going to
18 the Supreme Court against Diamond?

19 THE REFEREE: You just said you went to Dave
20 Cook.

21 MR. SASSOWER: No, because we had a problem
22 with Judge Saxe also. This was not a matter of dis-
23 cretion.

24 THE REFEREE: All right, let's go to Number
25 Six.

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2 MR. SASSOWER: I want to see it, your Honor.
3 In any event, to come down to the bottom line,
4 if you will look at the entire file, look at any-
5 thing, nobody ever said on this motion that I vio-
6 lated any order of the court. Okay?

7 Now, if you want, I'd be happy to subpoena
8 all the Appellate Division's files on the matter
9 to show that nobody contended that I violated
10 anything.

11 To explain to you all the reasons why they came
12 to that conclusion, and I come to that conclusion,
13 would take me an hour to explain it, but again,
14 I'm going to say all you have to do is look at all
15 the papers.

16 Whenever anybody said that I violated any-
17 thing, I had an answer. Okay.

18 And, except -- withdrawn.

19 THE REFEREE: Number Six.

20 MR. SASSOWER: I want to finish that answer.
21 Whenever anybody said that I violated anything,
22 I had an answer, and in every case with every judge,
23 I won.

24 Let's take the exceptions. With Klein and
25 Saxe, my only answer was not guilty.

1
2 MR. STRAUS: If your Honor pleases, this
3 is not responsive to the question.

4 We are supposed to be going in an orderly
5 manner, and Mr. Sassower is jumping around and
6 repeating himself.

7 MR. SASSOWER: Nobody ever claimed that I
8 violated a court order.

9 MR. STRAUS: He said that at least five or
10 six times.

11 THE REFEREE: Number Six, against Justice
12 Ethel B. Danzig.

13 MR. SASSOWER: May I have the paper?

14 THE REFEREE: Again representing Mr. Raffe
15 and Puccini Clothes.

16 MR. SASSOWER: No, let's understand one
17 thing.

18 Again, if you want me to answer your question,
19 then I'll answer it.

20 Nobody ever contended that in an Article 78
21 Proceeding, I could not represent Mr. Raffe. Okay?

22 First of all, if you will look at the order of
23 Judge Sinclair, which I say is void all together,
24 if you will look at Judge Sinclair's order,
25 it crossed out any other proceeding, it crossed

it out. That's the first thing.

Now, as far as Hyman Raffé, on behalf of Puccini, Judge Schwartz, if you will look at Judge Schwartz' order, Judge Schwartz specifically provided that Hyman Raffé could intervene on behalf of Puccini.

That's Judge Schwartz' order, of the last page.

When you take all that, plus the fact that no judge ever said I violated it, that no adversary said I violated it, you know, to now say, three years later I violated it, is --

THE REFEREE: Judge Danzig --

MR. SASSOWER: I see it. And, I'm trying to find out what the -- those things are being given to me out of order -- as to what the context was -- Judge -- you see why I got mixed up?

It says "returnable the 3rd day of January, 1984." It should be 1985. Because the affidavit is dated -- the motion was made December 18, 1984. It was returnable the blank day of December, but, it was crossed out by the Court or by somebody, to be the 3rd day of January, '84, when it should be '85.

That's why I was confused. Okay.

To answer your Honor's question, did I answer it? Did I violate anything? No.

To be more specific, this motion, there were four motions, ending in Judge Danzig's part.

Diamond was telling Judge Danzig, "You cannot decide any motion until I give you permission."

And there is nothing in the Diamond order that said that.

"You can't decide until I say so."

THE REFEREE: You mean a Referee said that?

MR. SASSOWER: Yes.

THE REFEREE: In your presence?

MR. SASSOWER: In my presence? I would say, "Yes." I would say, "Yes."

THE REFEREE: All right.

MR. SASSOWER: What happened on this --

THE REFEREE: When?

MR. SASSOWER: On January 7.

THE REFEREE: That's when he said it?

MR. SASSOWER: No. He was saying it all along to all the judges.

THE REFEREE: You made a statement that he said it to Judge Danzig.

MR. SASSOWER: Indirectly. It's in writing.
Wait a second. It's in writing.

THE REFEREE: You just stated that you were
present when he made the statement.

Now you say it's in the record.

You say, "Indirectly."

MR. SASSOWER: Yes, and it's also in writing.
That he directed what Judge Danzig should do
and --

THE REFEREE: And she did it?

MR. SASSOWER: Yes.

THE REFEREE: That's why --

MR. SASSOWER: All right, now, what happened--
let me --

THE REFEREE: I don't want the whole story.

MR. SASSOWER: No. This gave rise to
the Judge Shorter order.

What happened was on January 7 in the
courtroom, the Kreindler, Gerstein and Schneider's
were saying, "You can't do anything else unless
Referee Diamond gives his permission," or, "You
obey his rules," and that's it.

THE REFEREE: Mr. Sassower, you claim it was
not violative of any court order. The Grievance

Committee is charging you with instituting proceedings in violation of a court order.

MR. SASSOWER: No.

MR. STRAUS: We're also alleging that the Article 78 proceedings are part of a pattern of frivolous and vexatious litigation as well.

MR. SASSOWER: No. So, Judge Danzig said, "I'm sovereign in this courtroom. Nobody tells me what to do."

They went ahead and got two orders to show cause returnable the 23rd of January, which was argued before judge Shorter, and Judge Shorter decided in Judge Danzig's favor, and in favor of every other judge, that Referee Diamond couldn't tell anybody else what to do, and I'll bring you in one order of Judge Danzig's, she even wrote, pursuant to the directions, quote, "Of Referee Diamond."

So that answers your Honor's question.

THE REFEREE: And then in Number Nine, you again moved against Judge Danzig.

MR. SASSOWER: Let me see it, Judge. You know -- no, no -- in Number Nine, you see, you have them out of date.

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2 THE REFEREE: I don't have anything out
3 of date.

4 MR. SASSOWER: It's not before Judge Danzig.
5 It's Judge Danzig and Judge Sinclair.

6 THE REFEREE: I didn't say before Judge
7 Danzig.

8 MR. SASSOWER: What happened here is Judge
9 Danzig said "Diamond said you should take it to
10 Judge Sinclair," and Judge Sinclair would say
11 that I should take it to Judge Danzig and sometimes
12 say I should bring it to Special One.

13 THE REFEREE: Sir, --

14 MR. SASSOWER: Wait.

15 THE REFEREE: No.

16 MR. SASSOWER: Did it violate anything? No.

17 THE REFEREE: It's not vexatious, repetitive?
18 Yes or no?

19 MR. SASSOWER: No.

20 THE REFEREE: Number Seven.

21 MR. SASSOWER: This is the one where
22 if you look at the papers, where the Assistant
23 Attorney-General Wagner went to the Appellate
24 Division, and said, "What do you want me to do?"
25 "This guy is crazy." He spoke to --

THE REFEREE: Who's crazy?

MR. SASSOWER: He called Dave Cook in and called -- this guy -- "This guy is not nuts, he's vicious."

THE REFEREE: Who?

MR. SASSOWER: Diamond. If you call Judge Danzig or Judge Sinclair or Judge Ascione or Judge Evans in or Judge Blinn in, or Judge Wright in, you will find out what's happening.

THE REFEREE: You're a name dropper. Any name that comes to your mind.

MR. SASSOWER: Judge, I'll bring you orders that will show that.

You want to bring Harvey Glazer in from Judge -- Judge Ascione's secretary?

You want to bring Judge Danzig in? I'm a name dropper?

I want to bring them in to tell you what the heck is going out. I'm a name dropper? I'm a subpoena dropper?

I want your Honor to hear from their own mouths.

THE REFEREE: Sir, please, Number Seven. Again, on behalf of Mr. Raffe and on behalf of

Puccini Clothes. This time, Donald Diamond and Justice Riccobono.

MR. SASSOWER: It violated nothing. Okay.

THE REFEREE: Why did you institute that proceeding?

MR. SASSOWER: That was instituted September 24.

By the way, with respect to the last one, right after I instituted that, Judge Sinclair went -- once he went to the hospital, Diamond said "You must go before Judge Sinclair" and Judge Sinclair was in the hospital and I went to Dave Cook, and Dave Cook, you know, really pulled his hair out, and said, "The man was in the hospital."

THE REFEREE: Number Eight.

MR. SASSOWER: He had tubes in him.

THE REFEREE: This is against --

MR. SASSOWER: This concerns Judge Kirschenbaum. What about Seven?

THE REFEREE: Seven you said was not violative of anything?

MR. SASSOWER: Let me tell you what he did.

THE REFEREE: Who?

MR. SASSOWER: Diamond did. It has nothing to do with what Raffe said.

My daughter came back from Israel for a summer visit.

I sent my daughter to court. So, I sent her up to Referee Diamond's place.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: I want to tell you what happened, why it's not frivolous, will you please? Because Raffe made a notation of it.

I sent my daughter up to Referee Diamond's courtroom. You can't go in. It's a private courtroom.

So, she called on the phone with the attendant there and asked her, you know, "Can I come in?" Something like that.

THE REFEREE: You were not there.

MR. SASSOWER: No, but there was correspondence after, which confirmed it.

So, he gets on the phone and he tells, and I'm going to show you the letter on it, and he tells my daughter that Mr. Raffe is morally bankrupt, that I'm morally bankrupt, that Lillian Silver, who is Mr. Raffe's secretary is a liar.

THE REFEREE: Let's go on.

MR. SASSOWER: There's correspondence to the Appellate Division.

THE REFEREE: What happened?

MR. SASSOWER: So, I said, for a judge or a referee out of court --

THE REFEREE: To so conduct himself?

MR. SASSOWER: -- to call my client a liar, how can he be a fact-finder?

THE REFEREE: What did you seek in this Article 78 proceeding against him and Mr. Justice Riccobono? Did you want him --

MR. SASSOWER: Out.

THE REFEREE: -- out? You wanted him out and you brought Judge Riccobono in because he was the Administrative Judge?

MR. SASSOWER: No.

The Appellate Division has no authority in an Article 78 proceeding over Referee Diamond.

THE REFEREE: He appointed him or assigned him to your case.

MR. SASSOWER: Right, ex-parte.

The Appellate Division has no 78 authority over a Referee, but they do have 78 authority over --

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THE REFEREE: You wanted him out.

MR. SASSOWER: Out. Judge, this would have been finished three years ago if it were not for him.

He gets payoffs right in the courtroom, right in front of my eyes.

Bring him here. Bring him here.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: It's in my papers in the Appellate Division, Judge.

Bring him here, bring him here. You don't have to listen to me.

I want to subpoena him.

THE REFEREE: I want you to go to the district attorney's office, based on what you said, that you saw payoffs.

You stated under oath you saw payoffs.

MR. SASSOWER: Yes.

THE REFEREE: You're obliged, as a member of the bar to --

MR. SASSOWER: Who says I haven't, your Honor. You know what they want? They don't -- they want the original papers so I go to Judge Riccobono --

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2 THE REFEREE: Let's go to Number Eight.

3 MR. SASSOWER: I have the papers here.

4 THE REFEREE: What did you want with Judge
5 Kirschenbaum?

6 MR. SASSOWER: We had brought a proceeding
7 against Riccobono to account -- we're now in the
8 fourth year of no accounting.

9 The law says they have to account at least
10 once a year, not only account once a year, but they
11 have to distribute once a year.

12 The Attorney-General must bring on a proceed-
13 ing after eighteen months.

14 We are now in the fifth year.

15 Diamond would not entertain any motion to
16 compel the receiver to account.

17 So, what we did do, and it was testified,
18 we demanded that Riccobono, Dontzin and Sinclair --

19 THE REFEREE: What did you want with Kirschen-
20 baum?

21 MR. SASSOWER: The motion went to Kirschen-
22 baum.

23 THE REFEREE: What did you want from Judge
24 Kirschenbaum?

25 MR. SASSOWER: A mandamus. He had the motion

for four months. After six days, you're allowed to go to the Appellate Division to mandamus a judge to come to a decision.

THE REFEREE: Did you go to the Appellate Division?

MR. SASSOWER: So, we went to the Appellate Division.

Then, Feltman goes to Judge Gammerman, gets this ex-parte, this phony -- what I call the sewer order, see, gets it signed.

Judge Gammerman now directs Judge Kirschenbaum to dismiss --

THE REFEREE: Mr. Sassower --

MR. SASSOWER: I'll give you the papers.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Judge --

THE REFEREE: -- Mr. Sassower, I'm going to declare a five minute recess.

I want you to clear your head and to think of what you have been saying in the last ten minutes.

MR. SASSOWER: Judge, I've said it.

THE REFEREE: There will be a five minute recess.

MR. SASSOWER: I'll say it again, and if you

want to bring the judges here, bring them here.

(Recess ensues)

THE REFEREE: We shall resume.

MR. SASSOWER: By the way, all these charges, most of them were all brought before Judge Lester Evans, your Honor.

THE REFEREE: Which charges?

MR. SASSOWER: All these charges.

THE REFEREE: You mean everything, everything was brought before --

MR. SASSOWER: Of course. If you'll look at 660.24, the only one that's violating anything is the Feltman firm, because they are not allowed to represent a receiver.

THE REFEREE: We're up to Number Nine.

MR. SASSOWER: They are violating it, not me.

THE REFEREE: On Proceeding Number Nine, it's an application of Hyman Raffe. When --

MR. SASSOWER: This is the same one as before.

THE REFEREE: Before it was Judge Kirschenbaum.

MR. SASSOWER: Before you had Danzig and Sinclair.

THE REFEREE: In September, '84.

MR. SASSOWER: This is August of '84.

1 THE REFEREE: August of '84.

2
3 And this time, it's proceeding against Judge
4 Danzig and Judge Sinclair.

5 MR. SASSOWER: Same thing.

6 THE REFEREE: That they listened to --

7 MR. SASSOWER: The same thing, with what
8 Diamond would say.

9 THE REFEREE: In that both these judges
10 said Diamond is running the show, not us?

11 MR. SASSOWER: Right. Of course, after that,
12 they started to rebel about it.

13 THE REFEREE: Sir, what did you want from
14 Danzig and Sinclair?

15 MR. SASSOWER: Let's read it.

16 THE REFEREE: No.

17 MR. SASSOWER: Mandating Honorable Ethel
18 B. Danzig to refer petitioner's new motion to
19 Honorable Judge Sinclair, enjoining any interfer-
20 ence with petitioner's constitutional right to
21 access to Honorable Thomas V. Sinclair, for relief.

22 This was all the same thing.

23 He was giving contrary instructions to
24 everybody. He was -- Dave Cook --

25 THE REFEREE: You keep mentioning Dave Cook.

MR. SASSOWER: He represented all of them.

THE REFEREE: Sir, you wanted a subpoena for Dave Cook. I gave it to you.

MR. SASSOWER: Just for one document.

THE REFEREE: What did you want from Judge Danzig?

Let's start with that in Proceeding Number Nine.

MR. SASSOWER: If I recall, Judge Danzig had been told -- this is what she told us in front of everybody -- Judge Danzig had told us --

THE REFEREE: What did you want from Judge Danzig?

MR. SASSOWER: To take the papers and give it to Judge Sinclair.

THE REFEREE: You were --

MR. SASSOWER: We gave it to Judge Danzig. Diamond directed -- this is all in writing -- directed Judge Danzig to deny the motion without prejudice, we should bring it to Judge Sinclair.

We brought it to Judge Sinclair. He told Judge Sinclair we should bring it to Judge Danzig.

We brought it to Judge Danzig. He told

1
2 Judge Danzig we should bring it to Special One.

3 So, we went to the Appellate Division. We went
4 to Dave Cook.

5 We said, "Look, this guy is driving me bats
6 and this is going on now for three or four months
7 and the judges were complaining and Judge Danzig
8 called down Dave Cook into chambers in front of
9 everybody, and Dave Cook said, "Look, he's not
10 my favorite client, I don't know what to do. He
11 doesn't obey instructions."

12 THE REFEREE: You are going on and on and on.

13 MR. SASSOWER: It was on for six months.
14 It didn't violate anything.

15 THE REFEREE: Number Ten. At this time,
16 representing Mr. Raffe against Mr. Saxe.

17 MR. SASSOWER: David Cook made a representat-
18 ion to the court -- to the Appellate Division --

19 THE REFEREE: Sir, you brought an Article
20 78 against Justice Saxe? Why? Period.

21 MR. SASSOWER: Judge Saxe was going to
22 violate and did violate not only 660.24, but
23 the representation of Dave Cook, on his behalf, to
24 the Appellate Division.

25 So, after Dave Cook submitted papers to the

1
2 Appellate Division, that there would be compliance
3 with 660.24, Judge Saxe, like Referee Diamond
4 said, "The heck with the rule, the heck with the
5 representation made on your behalf by Dave Cook,
6 we're going to violate it." Okay.

7 So, I went to the Appellate Division and I
8 said, "What the heck good is this rule that you
9 made such a big fuss about in the papers?"

10 THE REFEREE: Sir, you brought an Article 78
11 against Justice Saxe.

12 MR. SASSOWER: To prohibit him from doing
13 it.

14 It violated absolutely nothing. Okay.
15 Now, I'll tell you -- all right --

16 THE REFEREE: Number Eleven.

17 MR. SASSOWER: Violated nothing. Nobody
18 ever contended it violated nothing.

19 THE REFEREE: This time you brought
20 Puccini Clothes in.

21 MR. SASSOWER: Right.

22 THE REFEREE: Against Martin Reddinger
23 (Phonetic) an acting justice of the Supreme Court.

24 MR. SASSOWER: Okay. And Riccibono. Okay.
25 Rashba and Pokart, were also appointed in violation

of 660.24. It will take me a minute and a half to tell you who Judge Reddinger is.

We were yelling that there was larceny.

THE REFEREE: Who is "We?"

MR. SASSOWER: Me and Raffe, mainly me. Okay? When I say, "Yelling," I mean, putting it in papers, that there was larceny.

Feltman went ahead and got an order from Judge Reddinger to appoint Rashba and Pokart as the investigatory accountants.

THE REFEREE: What did you --

MR. SASSOWER: Without revealing --

THE REFEREE: What did you want from Judge Reddinger?

MR. SASSOWER: Give me one minute.

Judge Reddinger appointed Rashba and Pokart.

Nobody revealed to him that they were the attorneys for Kreindler and Relkin, and/or their clients in this case, and that the Arutt firm had taken illegally \$10,000 from Puccini's trust fund, trust assets, laundered \$6200, gave it to Rashba and Pokart in payment of an invoice to Kreindler and Relkin and kept for itself \$3800 as a laundering fee. Okay?

1
2 I got the check.

3 THE REFEREE: What did you want from Justice
4 Reddinger?

5 MR. SASSOWER: So, again with Dave Cook, this
6 was an out and out fraud -- Dave Cook and I
7 agreed that we would not rock the boat too much,
8 all we would say --

9 THE REFEREE: Mr. Sassower, did Mr. Cook
10 become a member of your law firm?

11 MR. SASSOWER: No, Judge, we talked every
12 day.

13 All we wanted is that Judge Reddinger should
14 nullify the appointment of Rashba and Pokart,
15 because it was not in compliance with 660.24.

16 THE REFEREE: Did he make the appointment?

17 MR. SASSOWER: He made the appointment. Okay?
18 So when Schneider says he heard vaguely about it,
19 baloney, it's all in his time sheets, about 660.24.

20 THE REFEREE: Number Twelve.

21 MR. SASSOWER: Violative of anything?
22 Absolutely nothing.

23 THE REFEREE: Number Twelve. When --

24 MR. SASSOWER: February 22nd, 1985 it was
25 made, the day before Judge Gammernan signed the

orders, and the same day that I wrote a letter to Mr. Straus.

Mr. Straus, would you produce that letter, please, for a moment, the letter of February 22nd?

MR. STRAUS: Is it an exhibit in evidence?

MR. SASSOWER: I don't think it is. I mailed it to you.

MR. STRAUS: Then you have a copy. What's the relevance of a letter of a letter to me?

I would request that Mr. Sassower make an offer of proof as to the relevance of this letter.

Just because it happened at the same time, doesn't make it relevant to this charge.

MR. SASSOWER: Judge Gammerman -- it's inexact, but it's exact enough, for this proceeding.

Judge Gammerman was telling Judge Shorter what to do.

We went to the Appellate Division, besides writing a letter to Mr. Straus, and said, "Look, Judge Gammerman can't tell Judge Shorter what to do, and Diamond is telling Judge Danzig what to do, and Sinclair what to do," and this was the proceeding that led to that order of March 21st,

1
2 where he says, "Look, these guys can't make rules
3 for coordinate judges."

4 THE REFEREE: This was February what?

5 MR. SASSOWER: The 22nd.

6 THE REFEREE: Mr. Raffe testified that in
7 January of 1985, he told you to cease and desist.

8 MR. SASSOWER: That's absolutely untrue. Okay?
9 Not only is it untrue, I have his testimony
10 taken in Diamond's courtroom where I wasn't even
11 there. I didn't know about it.

12 Mr. Straus gave me the transcript, where
13 Raffe is testifying and he was signing papers, and
14 he knew everything that was going on. That's non-
15 sense. That was made up.

16 THE REFEREE: He made it up?

17 MR. SASSOWER: He didn't make it up.

18 THE REFEREE: He testified here.

19 MR. SASSOWER: Judge, you want me to tell you
20 why he made it up?

21 I'll show you the agreement of November 4;
22 if he doesn't say these things, he goes to jail.

23 Diamond -- Diamond made it up about the
24 substitution of attorneys. He makes up all this
25 stuff.

THE REFEREE: You mean Diamond told Raffe he better testify this way, or he goes to jail?

MR. SASSOWER: Yes. You want to see it in a document?

You want to see it?

Bring Diamond down here and I'll show you.
Bring Judge Kassal down here.

THE REFEREE: Let's go on.

MR. SASSOWER: It violates nothing.

THE REFEREE: Number Thirteen. Number Fourteen.

MR. SASSOWER: Okay.

First of all, this violates --

THE REFEREE: Who's Ruth Sassower?

MR. SASSOWER: My daughter.

THE REFEREE: You brought it against all the justices of the Supreme Court, Robert Abram, and your friend, Dave Cook.

MR. SASSOWER: Why Dave Cook?
There are twelve causes of action here.

Dave Cook is representing divers interests.
Dave Cook represented --

THE REFEREE: Sir --

MR. SASSOWER: You asked me a question.

THE REFEREE: What was the basis of this Article 78?

MR. SASSOWER: There are twelve causes of action.

THE REFEREE: All geared to what?

MR. SASSOWER: To throw Diamond out.

THE REFEREE: That's all I wanted to know. Number Fourteen.

MR. SASSOWER: I'd like you to read this petition.

THE REFEREE: Fourteen.

MR. SASSOWER: Matter of application of Raffe against the justices of the Supreme Court, New York County for a writ of prohibition.

He's making up the dates. Look at the relief.

THE REFEREE: I'm not making up any dates.

MR. STRAUS: Do you, or Mr. Sassower, have the exhibit pertaining to Number Twelve?

THE REFEREE: I don't have any exhibit.

MR. STRAUS: It's an Article 78 proceeding against Judges Gammerman and Shorter.

THE REFEREE: I don't have those exhibits.

MR. STRAUS: I know that Mr. Sassower was reading from it. I have it.

It's out of order.

MR. SASSOWER: There is something else that I must say with regard to this.

THE REFEREE: With regard to Fourteen?

MR. SASSOWER: Yes.

THE REFEREE: All right.

MR. SASSOWER: Not Fourteen, all of them. This was -- this was the advice I got from the Grievance Committee in the Ninth Judicial Department, and even if I didn't get the advice, I would have done it anyway, because I had a prior experience.

I was also very interested personally, because I had a lot of information which was coming from a lot of employees, including judges of the Appellate Division, and judges of the Supreme Court, and secretaries and court attendants.

I was very much concerned, very much concerned in putting everything down on paper, what I saw, what I knew, that I was covering myself.

So, what I did, in addition to the appellate division, doing these proceedings in the Appellate Division, I was very clear and very exact as to what was happening, how it was happening, with all the

1
2 dirt that I knew --

3 THE REFEREE: Mr. Sassower --

4 MR. SASSOWER: Wait, Judge, it's all in
5 there.

6 THE REFEREE: It's all in where?

7 MR. SASSOWER: In my papers.

8 THE REFEREE: Your papers?

9 MR. SASSOWER: Yes. Ask Dave Cook. He'll
10 tell you it's true.

11 He represented everybody.

12 What am I going to tell you? This was the
13 problem.

14 One of the problems we had --

15 THE REFEREE: Mr. Sassower --

16 MR. SASSOWER: One of the problems --

17 THE REFEREE: Wait. Article 78 proceedings
18 total --

19 MR. STRAUS: Seventeen, your Honor.

20 THE REFEREE: -- seventeen. Let's conclude
21 them.

22 MR. SASSOWER: They violated nothing.

23 THE REFEREE: Fifteen and Sixteen violated
24 nothing.

25 MR. SASSOWER: Right, right.

THE REFEREE: And, again, Fifteen.

MR. SASSOWER: You're going backwards.

This is the problem, Judge.

He's going backwards.

THE REFEREE: Who?

MR. SASSOWER: The way he has them listed, he's going backwards, so, it's pretty hard.

THE REFEREE: This time you had Justice Grossman.

What did you want from him?

MR. SASSOWER: This was a motion made on November 25, '83.

This was the -- the matter was in Judge Grossman's part.

THE REFEREE: What happened?

MR. SASSOWER: And, in Judge Dontzin's part.

THE REFEREE: What happened?

MR. SASSOWER: On November 7, I got the first hard evidence of the larceny, hard evidence.

THE REFEREE: What has that got to do with Justice Grossman?

You're not pointing a finger at him?

MR. SASSOWER: At that time, no.

THE REFEREE: At that time, no?

This time, yes?

MR. SASSOWER: The Appellate Division refers to what he did. Okay?

He changed records.

THE REFEREE: He changed records?

MR. SASSOWER: Yes, but, that's not the point of this proceeding.

THE REFEREE: Pardon?

MR. SASSOWER: He was reversed.

THE REFEREE: As a result of your Article 78 proceeding?

MR. SASSOWER: As a result of my appeal, yes. Do you want to know what he did?

The case was on for a jury case.

The Kreindler firm wanted him ex-parte and he struck the jury, and the jury notice, the jury notation; didn't even know about it. Made a motion to restore it to the jury calendar. He denied it. Took an appeal. The Appellate Division reversed.

It's all in the Appellate Division record, what he did, how he did it.

This was something different.

He was sitting on motions then, and he

1
2 was disobeying an order of the Appellate Division,
3 which is 96 Appellate Division 2nd 800, a manda-
4 tory direction by the Appellate Division; so, he
5 was not obeying it, and after this he got out of
6 it, and it went to Diamond, and Diamond said, in
7 sum and substance --

8 THE REFEREE: Forget Diamond.

9 The only one you have here is Judge Grossman for a
10 writ of prohibition.

11 MR. SASSOWER: Right.

12 THE REFEREE: What was the reason for that?

13 MR. SASSOWER: Your Honor, do you want to
14 read it for the record?

15 Here it is, Judge.

16 THE REFEREE: No, you tell me.

17 You instituted an Article 78 proceeding.

18 MR. SASSOWER: Declaring Respondent's --
19 that's Judge Grossman -- informal, non-appealable,
20 not judicially recorded direction which modified
21 an order of this court. That's the Appellate
22 Division, on August 18, 1983, made in the robing
23 room of trial term Part 17, on November 14, 1983.

24 In other words, the Appellate Division
25 made a mandatory direction on August 18, 1983,

1
2 to the Supreme Court, Judge Grossman, back in
3 the robing room, or really, not on the record,
4 decided it was not to be followed, so, all I
5 asked for is that the order of the Appellate
6 Division be obeyed.

7 Isn't that what I am being charged with?

8 THE REFEREE: Number Sixteen.

9 MR.SASSOWER: Did it violate anything?
10 Absolutely not.

11 THE REFEREE: That goes as to all seventeen
12 of them.

13 MR. SASSOWER: Nobody ever found that it
14 violated anything.

15 Do you want to know something?

16 Nobody ever found that I violated anything.

17 THE REFEREE: Number Sixteen. This time,
18 you are for Hyman Raffe against Riccobono,
19 Diamond and Lane.

20 MR. SASSOWER: Terrific. Give me a minute
21 and a half, a minute and a half.

22 MR. STRAUS: Is this to be a minute and a half
23 of silence?

24 MR. SASSOWER: There was a motion that was
25 to go to Lane.

1 All of a sudden, Diamond says, "No, don't
2 make your motions returnable in Special One. Make
3 them returnable before me."

4 THE REFEREE: Told it to you?

5 MR. SASSOWER: He put it in the record.

6 THE REFEREE: He told it to you?

7 MR. SASSOWER: Yes. I'm the attorney of re-
8 cord on this.

9 He says -- he says, "Make it returnable
10 before him."

11 He gave the Kreindler firm three extensions
12 of time.

13 Finally, I said "No more nonsense."

14 They couldn't get this kind of nonsense in
15 Special One.

16 I want their responsive papers. Their papers
17 came in, and they confessed --

18 What are you laughing about?

19 Do you want to see it?

20 They confessed that their prior papers
21 were perjurious, they had taken money. Okay?

22 I wanted two days to reply to it.

23 I replied in two days.

24 I sent it express mail with a receipt.
25

1
2 Summer came and we didn't get a decision
3 on it.

4 Lane was on vacation.

5 So, after he came back from vacation, in
6 the summertime, I wrote a letter to Judge Lane
7 and I said, "Can we please have a decision on
8 this motion?"

9 I got a call from Judge Lane's secretary.

10 She says, "What motion?" She says, "We
11 never got it."

12 I start making calls. Back again to Dave
13 Cook.

14 Nobody -- now Diamond disappeared -- nobody
15 could find Diamond.

16 He says, "Call up Judge Riccobono's law
17 secretary."

18 Phone calls went back and forth for about
19 two weeks.

20 They could not find Donald Diamond with
21 the papers.

22 I started screaming that this guy -- first
23 of all -- by this time I knew that papers were
24 disappearing.

25 I want to find Diamond and I want to find

1
2 the papers. "McGrail" (phonetic) couldn't find
3 them. He was down on the fifth floor. They didn't
4 know where he was, Cook also, the same thing.

5 And I said, "The heck with it." And I went
6 to the Appellate Division and I said, "Here are
7 papers on a motion that were submitted in April."

8 THE REFEREE: This is on an action against --
9 this is not an action against the Appellate Division.
10 It's against Diamond, Riccobono and Lane.

11 MR. SASSOWER: This is August 24, that was
12 dated; four months later --

13 THE REFEREE: You wanted a decision from
14 Judge Lane, is that right?

15 MR. SASSOWER: Right. Wait a second.
16 Or a direction to Judge Lane that he should decide
17 the motion on duplicate papers.

18 Finally, finally, there was a direction to
19 Judge Lane that he should -- they can't find
20 Diamond and when they found Diamond, he didn't
21 know where the papers were so, they directed
22 Jude Lane to decide the motion on duplicate
23 papers.

24 You ask Dave Cook about this, the different
25 stories that came out from Diamond.

You don't have enough fingers on your hands to count the stories.

THE REFEREE: Number Seventeen.

MR. SASSOWER: Was it violative of anything, Judge?

I'll consent to disbarment if that violated anything.

Is that a good offer?

And yet, Mr. Straus throws this to me.

I'll consent to disbarment if it violated anything.

That's sheer nonsense.

THE REFEREE: As a result of your Article 78 proceeding, Mr. Justice Lane was directed to handle the motion.

MR. SASSOWER: Yes.

THE REFEREE: Number Seventeen.

MR. SASSOWER: This is a motion, 1013. It requests -- it's to nullify the informal action of Honorable Lewis Grossman in striking this matter from the jury calendar and restraining the justices of the Supreme Court from trying this action non-jury without a formal order of the court.

What Judge Grossman had done was, where it

1
2 says, "J," he put an "NJ." He just put it in on
3 the card.

4 THE REFEREE: Meaning what?

5 MR. SASSOWER: He --

6 THE REFEREE: Non-jury?

7 MR. SASSOWER: Non-jury.

8 So, when this motion was denied, we had to go
9 through the appeal process, because, as your
10 Honor probably knows, that mandamus is not as
11 a matter of right, it's discretionary.

12 So, when the Appellate Division denied this,
13 we had to take an appeal.

14 We took an appeal and got it granted on
15 the appeal, and that's --

16 I'll give you the citation next time.

17 THE REFEREE: Then you went back and filed
18 the Article 78 proceeding.

19 MR. SASSOWER: The Article 78 was first.
20 When the Article 78 was not granted, we had to
21 go through the appeal process, which is, of
22 course, an expensive and time consuming thing, but,
23 it was granted.

24 THE REFEREE: All right. That disposes of --

25 MR. SASSOWER: Is it violative of anything?

Absolutely not.

THE REFEREE: Now, we get to C. Motions made in violation of court order, and there are fifteen in total.

MR. SASSOWER: We'll go through every one of them, every one of them.

THE REFEREE: We don't have to go through each one.

MR. STRAUS: If your Honor pleases, may I -- may I just indicate one thing to you, if I may?

Mr. Gerstein was the only testimony with respect to the motions other than the testimony that these were, in fact, an accurate list of motions that were brought, and Mr. Gerstein's testimony was with respect to six types of particular violations of the disciplinary rules, six types of conduct which constitutes frivolous, vexatious litigation, and those six exhibits are in fact here, and they comprise, for example, eighteen motions made seeking one type of relief, six months made or one motion made in six courts on the same day, and so forth and other than that, and the testimony that the lists were accurate.

There was no other evidence, so, perhaps,

Mr. Sassower would restrict himself to those six areas, and that may be a convenient way to handle it.

MR. SASSOWER: Any way you want.

MR. STRAUS: I'm only making the suggestion. It's your testimony.

I don't want to foreclose you in any way.

MR. SASSOWER: I'll be very happy to go through every one of them, but I'll take your offer first, because I think it will save a lot of time.

Could you give me the last three or four Article 78 Proceedings there?

Let me try to make it fast.

Insofar as motions made in violation of court order, every judge has rejected that contention with the exception of -- by the way --

May I just interject for a moment?

Your Honor, going back to prior testimony --

THE REFEREE: If it's not in evidence, I don't want to see it.

MR. SASSOWER: It's in evidence.

This is Sixteen on the list.

I just happened to notice it.

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It's June 20.

THE REFEREE: Yes.

MR. SASSOWER: To Diamond.

MR. STRAUS: Is this an exhibit in evidence?

MR. SASSOWER: Yes.

THE REFEREE: Where is it in evidence?

MR. SASSOWER: I'm talking to you about the
papers that were lost.

This is part of Eighteen.

MR. STRAUS: I thought we concluded the
Article 78.

MR. SASSOWER: I wanted to show his Honor.
Here's letters to Diamond by express mail.

Here's the receipt where they couldn't find the
motion papers, but this was not on one occasion.

This was all the time.

Papers were disappearing. They keep no records
up there.

Here's all the correspondence of Judge Lane
to Judge Riccobono.

Papers disappear.

How this is violative of anything -- first of
all --

MR. STRAUS: You want to go back through

the Article 78 proceedings again?

MR. SASSOWER: I want to refer to certain cases.

MR. STRAUS: I'll object unless -- what is the offer?

I thought he testified. Now, we're going back?

MR. SASSOWER: No. Your list that you -- give me the list on 21208.

MR. STRAUS: This is part of Exhibit 61. These are motions pertaining to Barr v. Raffe, 21208 of '79.

MR. SASSOWER: Okay.

MR. STRAUS: May the record reflect that that's being handed to Mr. Sassower?

MR. SASSOWER: Mr. Gerstein lies, but, that's nothing unusual with him, but here it's an intentional lie.

THE REFEREE: This part of an exhibit?

MR. SASSOWER: Yes.

MR. STRAUS: That's part of 61, your Honor. Your Honor, just for this purpose, since you have that, perhaps it might be advisable to give you the whole exhibit, so that it stays together.

That's a copy of part of the exhibit.

THE REFEREE: Let me see it. Let me have the entire exhibit.

MR. SASSOWER: All right. I can explain to you here, this is one of the intentional lies that he consistently puts in his papers, consistently.

There are basically three types of motions. One is reargument on grounds that you say the judge misapprehended or overlooked some facts, or a determinative decision of the court. That's reargument.

On the other end of the scale is what we call true renewal.

True renewal is when new facts come out, or -- that were not in existence at the time, or, when you thereafter, not out of negligence or anything else, discover fraud, perjury, et cetera, et cetera, et cetera. That is a matter of right. There are cases cited there.

In fact, Judge Gammerman was reversed on one of them, not long ago.

What happened between 1979 and 1983, a period of four years, was a proliferation --

the courts were inundated with these lies,
perjury, deception, right down the line.

I'll give it to you all.

In November of 1983, when we got the hard
evidence of perjury and we moved to vacate, that's
an original motion made as a matter of right.
You can do it under 5015 of the CPLR or you
can start an independent action.

Once we found -- by the way, however the
judge rules, you have an appeal as a matter of
right as distinguished from reargument, which if
reargument is denied, it's non-appealable.

Mr. Gerstein and I just give you this as an
example, because it's a short one -- Judge Lane
came down with a decision, and although you say
we lost, we didn't really lose.

He gave them seventy-five percent of what
they were suing a year later.

We made a motion for reargument because the
judge had made certain mistakes. Reargument was
granted, I think, I'm almost sure it was granted,
and the judge corrected the few mistakes that we
pointed out to him.

So that nobody can say that reargument was

frivolous.

When we come down to 4-11-84, which is the third item, 4-11-84 was when we -- I'm sorry -- I'm sorry -- 12-15-83.

On 12-15-83, when we got three checks which were issued from the trust assets of Puccini to Citibank, we moved to vacate on the grounds that there was an erosion of the assets. That's not reargument. That's true renewal.

We could either do it as renewal, under 5015, we can vacate or start a plenary action.

Anybody who calls that reargument is lying, and Mr. Gerstein lies through his teeth on that one.

When Judge Lane said, "Well," -- and he took this out of -- where he got it from, I don't know -- he says "They took those three checks, they took it in their individual capacity and not in their representative capacity." That's what came out in March. In April -- In March, also, within a couple of days, one way or the other, after getting the decision, we now found seventeen checks, and, we now had the evidence that it was not just a nickel and dime larceny.

1
2 It was really running into huge monies.
3 Checks. Cash. Inventory. All over the place.

4 So, we now went back and said to Judge
5 Lane, "Where you got this stuff that they took
6 it out of in their individual capacity rather
7 than in a representative capacity, we don't know."
8 They never contended it, but now we got seventeen
9 checks clearly showing that it's in a representa-
10 tive capacity, and the larceny was really all over
11 the place.

12 This was the motion that, when Diamond
13 gave him three extensions, and they finally put
14 in the affidavit saying, and the affidavit
15 really killed them. I won't go into it.
16 The affidavit confessed to that, and, much, much,
17 much more.

18 It was that motion which disappeared, which
19 led to two 78 proceedings. That is not reargument.
20 That's -- that's mostly renewal with small pieces
21 of reargument, but throughout these lists where
22 you find reargument, reargument sixteen times,
23 reargument seventeen times reargument twenty
24 times, baloney.

25 I do not reargue motions. Never did.

1
2 If I see that's a really bad mistake, or
3 it's going up on appeal, I'll reargue to set the
4 record straight. Otherwise, I don't reargue.

5 The last two. I'm the attorney of record.
6 This is 21208. this is 21208, and I pick this
7 because I was never disqualified from it. Still
8 the attorney of record, from the first day until
9 now, I'm the attorney of record. This was not
10 vacated.

11 He went ahead, the Kreindler firm, in
12 Diamond's courtroom, and they made up this baloney
13 story about them asking me for stipulations of
14 substitutions of attorneys, which your Honor
15 heard from everybody here, from Postel, and Raffe.

16 Nobody ever asked me for it.

17 All their motions for substitutions have
18 been denied, but, although I am the attorney of
19 record here, in Diamond's courtroom, Raffe was
20 told, and, I've got it documented, that as long
21 as he listened to what -- and does what they tell
22 him, he'll not go to jail. Okay.

23 So these vacated -- Raffe signed the stipu-
24 lation without me, which is null and void, so he
25 doesn't have to go to jail, that's all, period.

But, it's null and void. Legally, it's still pending.

In fact, one motion to vacate one of these stipulations signed without me in another case, they don't oppose vacating the stipulation. It's a nullity.

So what you have here on this list is one motion for reargument which the judge corrected. It was reargued and renewal -- I don't know which party corrected it.

He gave a one whole typewritten page, pretty long, one motion. Okay?

You want to give me the next list? There are not five motions made. It's absolutey false.

MR. STRAUS: Can we have that one back?

THE REFEREE: All right.

MR. STRAUS: If your Honor will look at the paper, I think we started with 56, so if that's agreeable, Mr. Sassower, 56 was Barr v Raffe and it is designated "Attempts to reargue summary judgment," and there are eighteen such motions listed.

MR. SASSOWER: Correct. Very good.

MR. STRAUS: May the record indicate that

1
2 we are handing Mr. Sassower that exhibit at
3 this point?

4 MR. SASSOWER: Sure. This is the shortest
5 one.

6 If you'll look at the papers there, you will
7 see no reargument, no reargument.

8 THE REFEREE: Where?

9 MR. SASSOWER: In that last exhibit. There
10 is no reargument.

11 They put down "Reargument," and there is no
12 reargument.

13 THE REFEREE: You put down reargument in your
14 moving papers.

15 MR. SASSOWER: Show me. I'm not talking about
16 the first one.

17 THE REFEREE: You're not talking about the
18 first one.

19 MR. SASSOWER: The first one was a reargument
20 and renewal.

21 We took it up on appeal and there were a
22 few errors there.

23 Renewal is a matter of right.

24 THE REFEREE: "Leave to reargue" are your
25 words.

1
2 MR. SASSOWER: Over here it was reargument
3 only to the extent that the judge said it was taken
4 in their individual capacity, not representative
5 capacity.

6 This time I had sixteen checks.

7 No questions --

8 MR. STRAUS: Judge, this is repetitive.
9 There was a simple question

10 We repeat that the documents speak for them-
11 selves.

12 Mr. Sassower prepared them.

13 He designated them as motions to reargue.

14 MR. SASSOWER: No, I did not.

15 MR. STRAUS: Then someone acting on your
16 behalf typed it for you.

17 MR. SASSOWER: I always say "renewal"
18 as a matter of right.

19 THE REFEREE: This is an order for leave
20 to reargue the motion resulting in the order
21 dated March 12, '84.

22 MR. SASSOWER: And renewal. There was one.
23 Insofar as there is a mistake in there, I put in
24 there is a mistake, but the thrust, the argument
25 is re -- it's renewal as a matter of right.

Of course, if I find a certain amount -- if I find some errors in there, I'll ask for a reargument as part of the same thing, but what I am looking for is renewal, your Honor.

THE REFEREE: Next.

MR. SASSOWER: It's a quarter to one. It will take me about a half hour to go through all these motions.

You -- do you want me to do it now or after lunch?

MR. STRAUS: Your Honor, I'd like to continue at this point.

We started rather late this morning.

Could we possibly conclude this one section?

MR. SASSOWER: We're going to interrupt this.

MR. STRAUS: Why do we?

MR. SASSOWER: Because I couldn't finish it in fifteen minutes.

MR. STRAUS: I don't think we have to leave at one o'clock, your Honor.

We could leave at one-fifteen for lunch. That's my application, your Honor.

I'd like to finish this.

MR. SASSOWER: Two minute background.

Kreindler and Relkin made a motion against Raffe for summary judgment.

We said --

THE REFEREE: When?

MR. SASSOWER: In 1983.

We said there was unlawful dissipation of Puccini's assets, and we said that if motion for summary judgment is granted in favor of Kreindler and Relkin, then we're entitled to judgment over for the full amount against Puccini, and, we're also entitled to judgment over against Dann and Sorrentino for two-thirds the amount.

Kreindler and Relkin -- Kreindler and Relkin, in response to our assertions that there was an unlawful dissipation of Puccini's assets, came back with the Barr affidavit, which vehemently denied it in no uncertain terms, came back with the Citibank affidavit, which denied it in no uncertain terms.

MR. STRAUS: If your Honor pleases, may I, at this point, I object.

I don't have any objection to necessary background, but, at the moment, he's dealing with Exhibit 56, which contains eighteen motions

with dates.

The document is headed "Raffe's attempts to reargue summary judgment."

I would ask, your Honor, that you direct Mr. Sassower to testify with respect to that part of the allegation.

MR. SASSOWER: I will.

MR. STRAUS: The question is when you will, Mr. Sassower.

MR. SASSOWER: Now, within fifteen seconds --

MR. STRAUS: This is the document taped to the outside of it, and that lists eighteen motions with their dates and dispositions.

Judge, you are looking through your notes.

THE REFEREE: No, through the list of exhibits.

MR. STRAUS: This would be 56.

THE REFEREE: Barr against Raffe, list of motion papers.

Judge Sinclair's summary judgment, and Respondent's attempts to reargue.

MR. SASSOWER: That's the point that I'm trying to explain.

None of this was reargument. I'll show it to you. Feltman knew it was a lie.

MR. STRAUS: Judge, I object to that.

MR. SASSOWER: Wait a second.

MR. STRAUS: Object to Mr. Sassower
testifying as to what is in someone else's mind.

The documents are in the folder --

MR. SASSOWER: Okay.

MR. STRAUS: -- and they speak for themselves
as to what they were.

THE REFEREE: Are they included in the
Grievance Committee's petition?

MR. STRAUS: All of these motions were includ-
ed within the schedule.

However, we restricted the proof to Mr.
Gerstein's testimony, and to the exhibits that he
provided.

The only testimony was to the effect that
the schedules under the motions were, in fact,
accurate schedules, although not complete schedules.

Both Mr. Schneider -- Mr. Gerstein and Mr.
Postel testified to that effect.

Mr. Gerstein testified with respect to the
six different areas which we maintain constituted
frivolous and vexatious litigation as alleged in
the charge.

What Mr. Sassower has before him now is the folder with each of the documents.

The documents, we maintain, speak for themselves, just as they did with respect to the last one.

If Mr. Sassower designated something in his papers, that's the designation that was accepted in drawing up the lists.

MR. SASSOWER: You didn't draw up the list. You didn't look at the papers. Okay?

MR. STRAUS: May we have Mr. Sassower testify with respect to the charges?

MR. SASSOWER: I will. Okay?

Do you want, that you drew up this schedule according to the papers in there?

MR. STRAUS: Will you testify, sir and restrict yourself to testimony?

MR. SASSOWER: Have you got the schedule in front of you, your Honor?

THE REFEREE: Go ahead.

MR. SASSOWER: Starting -- starting from six to eighteen.

MR. STRAUS: May the record show that I am handing Judge Potoker a photocopy of that list?

MR. SASSOWER: Starting from six to eighteen now.

Six was a motion made about a week after the document came down reveleaing about four million dollars worth of disbursements from the checking account of Puccini after June 4, 1980.

It came down that about twelve employees after June 4, 1980, were employed by Puccini.

They sold off the inventory, and, in seven months for all the inventory, somebody is supposed to believe that all they got was \$512 gross, not net, gross.

Everything, everything, all assets, all assets were just raped and ravaged.

There wasn't one category of assets that was left untouched.

That report was dated March 5, 1984. Came into my possession about March 15.

On March 26, a motion was made returnable in Trial Term, Part 11, which was the part that the action was pending, and, according to one Appellate Division case in the First Department, and one in the Second Department, according to the rules in Trial Term, Part 11, according to the

1
2 rules of the Supreme Court of New York County,
3 that motion had to be made in Trial Term 11.
4 That motion was made returnable in Trial Term 11,
5 and it was not reargument, but renewal as a matter
6 of right, based upon 5015 CPLR, subdivision A,3,
7 which allows a party to vacate a judgment of order
8 based upon fraud, misrepresentation or misconduct.

9 MR. STRAUS: If your Honor pleases, I would
10 ask that you direct Mr. Sassower to testify with
11 respect to the charge and to the exhibit.

12 So far --

13 MR. SASSOWER: That's not reargument.

14 THE REFEREE: He said as far as he's concern-
15 ed, these were not attempts to reargue.

16 MR. SASSOWER: That's a pure renewal motion
17 made as a matter of right.

18 THE REFEREE: Continue. That's with respect
19 to all of these?

20 MR. SASSOWER: Going from six on --

21 THE REFEREE: Starting with November 30, '82,
22 through March 25, 1985, is that right?

23 MR. STRAUS: Actually the last one is
24 February 5, 1986.

25 MR. SASSOWER: I'm going from Number Six.

I'm taking from sixt to eighteen in one swoop.

From 3-26-84 right down to the end.

THE REFEREE: Starting with Danzig?

MR. SASSOWER: Right.

THE REFEREE: All renewal.

MR. SASSOWER: All renewal.

Referee Diamond told Judge Danzig in writing -- it's in writing, Judge, to dismiss it without prejudice.

At that time, to Sinclair, we took it to Sinclair. That's the second one.

He told Sinclair "Do it someplace else."

Now, from six, to eighteen is all renewals. Not one case, not one case was there a determination on the merits.

Secondly, seven of the motions which Mr. Gerstein testified, was the result of -- and the papers indicate -- if I would make a motion returnable before Juage Sinclair, it would say "Pursuant to so and so," but he made seven motions.

In the papers, it said, "Pursuant to conversation with David S. Cook, senior attorney,

1
2 Attorney-General's office, the attorney for
3 Sinclair, for Ricconbono, for Danzig, Diamond,
4 and everybody else, this is what I am doing,
5 so that in almost every case, it was preceded by
6 a discussion, and, in practically every case,
7 that it said, you know, what the discussion was,
8 and what the instructions were.

9 Because, it was Attorney-General Cook who drew
10 up the Diamond affidavit that he submitted to
11 Supreme Court, regarding his rules.

12 Since I would not speak to Referee Diamond
13 on the subject, because he had an attorney, I would
14 discuss it with Dave Cook.

15 Diamond -- at least at one or two points
16 said, "I don't care what my attorney says. I'm
17 going to do what I want to do."

18 So, just before I went to Israel that summer,
19 I spoke to Dave Cook and Dave Cook says, "You
20 have" -- and, it's in my papers -- there is no
21 question about it -- he had the cases -- I gave
22 him the cases from the Appellate Division, First
23 and Second Department, and I have a right to make
24 the motion.

25 He can't get a straight answer from Diamond

1
2 as to where I make the motion. We had gone to
3 Danzig and Sinclair and we had gone to Special 1.
4 We had gone to the Appellate Division, so, I took
5 the same set of papers with seven different
6 notices of motion and I made them returnable --
7 exactly the same and they all said why, and I made
8 them returnable, one to Special 1, one to Judge
9 Sinclair, one to Judge Danzig, one before Diamond,
10 one someplace else, all possibilities and I said
11 in sum and substance, all you knock your heads
12 together and I'm paraphrasing, I don't know where
13 to make it returnable. Cook doesn't know where to
14 make it returnable. Diamond keeps changing his
15 rules all the time. So, I'm making it returnable
16 at all possible seven places and you determine who
17 should decide the motion. Period.

18 That's what I did. Seven motions.

19 THE REFEREE: But the Appellate Division, on
20 October 4, 1983, affirmed Justice Sinclair's
21 order granting summary judgment, is that right?

22 MR. SASSOWER: Right, but this was based on
23 the fraud.

24 THE REFEREE: Then what did you do, went back
25

1
2 to the Supreme Court, even though the Appellate
3 Division had decided it?

4 MR. SASSOWER: No, when -- no -- that's
5 completely different.

6 By the way, nobody ever claimed that this
7 was -- in October of 1983, when the Appellate
8 Division affirmed Judge Sinclair's order, it was
9 all based upon the denials by the Kreindler
10 and Relkin firm, and their clients, with the
11 cooperation of the third-party defendants, that
12 no money or assets had been taken from Puccini.
13 That was affirmed.

14 But, in November and April of the next year,
15 when we found that all this had been perjurious,
16 larcenous, no question about it -- in fact, --

17 THE REFEREE: You say, "no question about it."
18 You're saying it.

19 MR. SASSOWER: I'll give you the confessions,
20 Judge. Don't worry. I'm not going to disappoint
21 you.

22 THE REFEREE: I'm not going to be disappointed
23 one way or the other. I have nothing to do with
24 it.

25 But, you make statements, and --

MR. SASSOWER: Judge, if I make a misstatement,
just --

This is Respondent's LLL for identification.
Here are all debits from the accounting of Pucci-
ni.

MR. STRAUS: If your Honor pleases, Mr.
Sassower, let me speak --

Sir, you have certainly had ample opportunity
to speak.

MR. SASSOWER: Judge asked me a question.

MR. STRAUS: Will you, please?
Judge Potoker, there was a decision rendered by
Judge Sinclair.

The charge is that Mr. Sassower made
repetitive, frivolous and vexatious attempts
to set aside that decision.

Whatever was in his mind is irrelevant.

The question is these motions.
What was in his mind, as to whether or not there
was a theft, larceny, conspiracy, whether all
the judges were involved, whoever else he thinks
was involved, the question is what he did with
respect to the summary judgment, and it is alleged
that he brought eighteen frivolous, vexatious --

MR. SASSOWER: Rearguments.

MR. STRAUS: -- motions pertaining to that judgment.

And, he's yet to deal with that.

MR. SASSOWER: Fine.

The first one is renewal as a matter of right. Okay?

The second one, right down to Number Eighteen, is renewal, as a matter of right.

I'll go to the folder and show you that all these motions were made, not to reargue, Mr. Straus, because you never looked at the facts in the papers.

MR. STRAUS: Will you direct Mr. Sassower to lower his voice?

THE REFEREE: I'm the one suffering. I'm sitting right next to him.

MR. SASSOWER: These were not rearguments. This is renewal as a matter of right.

THE REFEREE: Mr. Sassower, are we all through with these eighteen cases?

MR. SASSOWER: I gave you twelve just now. If you want me to go down the last five, I can, because the other five were before the discovery of the larceny. Are they in order?

MR. STRAUS: They once were.

MR. SASSOWER: The first one, your Honor --

THE REFEREE: Yes.

MR. SASSOWER: -- Number -- 11-30, right?

THE REFEREE: It's 11-30-82.

MR. STRAUS: That's the date.

THE REFEREE: Denied by Mr. Justice Sinclair.

MR. SASSOWER: No, it's wrong.

THE REFEREE: On January 10, 1983 --

MR. SASSOWER: No, no. Okay.

Here's the decision.

I'll show you why it's false.

THE REFEREE: You testified --

MR. SASSOWER: Says, "Motion for leave to
reargue is granted."

Do you know whose motion this was? This is
not my motion.

This is the Feltman's motion.

I didn't make a motion to reargue.

So, this is Feltman's motion. When Feltman --
here are the motion papers, Judge.

It's my cross-motion.

When Feltman made a motion, I made a cross-
motion.

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2

THE REFEREE: To what effect?

3

4

MR. SASSOWER: I'll look at it and I'll see, but the cross-motion wasn't even reached.

5

6

7

THE REFEREE: It was your cross-motion to reargue the summary judgment decided by Judge Sinclair on October 28, 1982.

8

9

MR. SASSOWER: No, it was not.

10

He made a motion --

11

THE REFEREE: What was it, sir?

12

MR. SASSOWER: I don't have it here. He made a motion to reargue, Feltman did.

13

14

MR. STRAUS: I don't have it before me. You may very well be looking at the original motion. I don't know.

15

16

MR. SASSOWER: I have here mine as a cross-motion.

17

18

When he made a motion to reargue -- I made a motion to reargue also.

19

20

His motion was decided. My motion wasn't even decided.

21

22

But, I didn't make the motion.

23

24

THE REFEREE: You said you joined in on the motion.

25

MR. SASSOWER: For a different reason.

1
2 THE REFEREE: But, you joined in
3 on the motion?

4 MR. SASSOWER: Okay. He made the motion.

5 THE REFEREE: And you joined.

6 MR. SASSOWER: I didn't join.

7 THE REFEREE: You just said --

8 MR. SASSOWER: He made a motion to reargue.

9 THE REFEREE: And you said that then you
10 joined.

11 MR. SASSOWER: No, I didn't join.

12 THE REFEREE: You had nothing to do with
13 it?

14 MR. SASSOWER: He made a motion to reargue
15 saying the court made a mistake by giving
16 judgment over.

17 I moved to reargue only because I perceived
18 there was going to be an appeal which there was,
19 and I wanted -- it was not even a reargue, okay,
20 I'll tell you why.

21 THE REFEREE: Next.

22 MR. SASSOWER: I wanted to draw the court's
23 attention that after the submission of the motion,
24 Mr. Justice Stecher -- after the submission of the
25 motion, Mr. Justice Stecher came down with an

1
2 opinion --

3 THE REFEREE: Let's forget Justice Stecher.
4 The Feltman law firm made a motion to reargue.

5 MR. SASSOWER: I did not.

6 THE REFEREE: You did not.

7 MR. SASSOWER: No.

8 THE REFEREE: But, then you joined but not
9 to reargue.

10 What did you join for?

11 MR. SASSOWER: To bring to the attention
12 on the record of Judge Stecher which had already
13 been incorporated in part in Judge Sinclair's
14 opinion of October 28, so, what I wanted to do
15 was to incorporate in the record on appeal, because
16 I knew they would take an appeal, I wanted to
17 incorporate the whole Judge Stecher decision of
18 October 9.

19 This was October 28. Because I wanted the
20 Appellate Division to see everything that was
21 before Judge Stecher.

22 So, to the extent that it was reargue, but it
23 was not reargue.

24 THE REFEREE: And 2883. You made a motion
25 on 2883.

It was denied by Judge Sinclair on April 11.

MR. SASSOWER: This may have been done by Harry Katz. I don't know.

THE REFEREE: Who's Harry Katz?

MR. SASSOWER: Harry Katz was somebody who worked for Hy Raffe, insde.

THE REFEREE: A lawyer?

MR. SASSOWER: Yes. He was a lawyer. He died.

THE REFEREE: You said, you said you don't think you had anything to do with it.

MR. SASSOWER: I didn't say I didn't have anything to do with it.

I knew what was going on, but --

MR. STRAUS: If your Honor please, I believe Mr. Raffe testified that certain things were submitted which Mr. Sassower actually drafted in the names or by or under the guise of other attorneys, such as Mr. Katz, Mr. Polur.

That was Raffe's testimony and this is headed "Raffe's attempts to reargue summary judgment.

MR. SASSOWER: There is no doubt that Mr. Polur or Mr. Katz or Mr. Raffe or anybody else who was aligned with Raffe would talk to me, discuss

things with me. Whether I had the final say,
I can't say yes or no.

Let me just see what this is.

First of all, oh -- no -- this is renewal.
This is absolutely renewal.

Let's look at the paragraph. This is not
larceny.

By the way, you know, things started popping
up in '83.

THE REFEREE: Renewal, not reargument.

MR. SASSOWER: Let me read the paragraph.
"Never disclosed by either plaintiffs or the
attorneys for the third-party defendants was
the fact that there was in existence plaintiff's
filed claim against Puccini Clothes, Limited for
one hundred percent of such sums allegedly paid,
and also for the same amount."

THE REFEREE: Let me see the document.

MR. SASSOWER: Here, Judge. What happened
is they filed a 1207 statement. The receiver
filed a 1207 statement which showed that Kreindler
and Relkin were not only making claims against
Raffe but had made the exact claims against Puccini.

This only showed up in what we call a 1207

statement by the receiver, which he has to file with the Attorney-General's office.

It could be --

THE REFEREE: Sir, Hyman Raffé, pro se, for an order renewing those motions which led to the order dated --

MR. SASSOWER: That's not reargue.

THE REFEREE: You don't want to call it reargue.

You chose to call it renewal.

MR. SASSOWER: If it's new facts that arise, what is it?

Renewing motions. Renewing. That's not reargue.

We're not saying, Judge, you made a mistake."

We're saying, "Judge, new facts have arisen in 1983 which were concealed in 1982, and, therefore, we ask for renewal."

That I can do by action.

MR. STRAUS: If your Honor pleases, it has been our position all along --

MR. SASSOWER: Come on --

MR. STRAUS: -- whatever Mr. Sassower distinctly attempts to draw between renewal, reargue

1
2 or anything else, the point is he brought eighteen
3 motions seeking the same objective, and we have
4 alleged that that constitutes a pattern of
5 frivolous and vexatious litigation.

6 In Mr. Sassower's mind, he may believe that
7 because he calls something renewal rather than re-
8 argue, it didn't have the same impact on the
9 people that had to respond to it.

10 MR. SASSOWER: One leads to appealable
11 order and the other does not.

12 One is a matter of right by constitutional
13 interpretation, and one is a matter of discretion.
14 Okay?

15 Lawyers that really aren't lawyers don't know
16 the difference. That's it.

17 THE REFEREE: Are we all through with this?

18 MR. STRAUS: Which class are you in, Mr.
19 Sassower?

20 MR. SASSOWER: Don't worry about it.
21 The next one --

22 MR. STRAUS: Would you put that back on
23 top of the other one, Mr. Sassower, so we can
24 keep it in order?

25 The other one is on the table in front of

you, just keep that face down.

THE REFEREE: Number Three, you made a motion before Judge Grossman, on June 2, 1983.

MR. SASSOWER: It's not my motion.

THE REFEREE: Whose motion is it?

MR. SASSOWER: Kreindler and Relkin.

THE REFEREE: And how did you get involved?

MR. SASSOWER: I don't know.

THE REFEREE: Did you join?

MR. SASSOWER: No, it has nothing to do with this.

THE REFEREE: How did you get involved?

MR. SASSOWER: Look at what the motion is for.

THE REFEREE: You are not involved here?

MR. SASSOWER: It's to quash subpoenas. What does that have to do with reargue?

Look at the order, Judge -- then go to the cross-motion.

THE REFEREE: Affidavit of Hyman Raffe. So, it was a motion by Mr. Raffe.

MR. SASSOWER: A cross-motion, but look at what the motion is for, Judge.

Look at the motion here. Then you can

1
2 understand the cross-motion.

3 THE REFEREE: Why don't you read the last
4 sentence, the last sentence of Judge Grossman's
5 decision.

6 "However, should defendant make any more
7 frivolous discovery demands and motions, sanctions
8 shall be imposed against him."

9 MR. SASSOWER: All right. Judge Grossman
10 was --

11 MR. STRAUS: Judge Grossman was what?
12 You --

13 THE REFEREE: He was about to say something
14 but he caught himself.

15 MR. SASSOWER: Do you see what it says here?
16 They didn't comply with the order of the Appellate
17 Division dated August 18. Okay.

18 THE REFEREE: That's what Judge Grossman said.
19 You said nobody thought of it except Mr. Straus.

20 MR. SASSOWER: Judge, this has nothing to do
21 with this.

22 We made a cross-motion to dismiss on the
23 grounds that they did not comply with the order
24 of the Appellate Division of August 18. Okay?

25 Judge Grossman went into the backroom and

changed everything.

We took an Article 78 proceeding.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Judge, I know Judge Sassower --
I know Judge Grossman --

THE REFEREE: Were you there when he went
into the back room?

MR. SASSOWER: You want me to tell you some-
thing? Yes.

THE REFEREE: You saw him switch papers?

MR. SASSOWER: Let's not get into it.

MR. STRAUS: You mean he did it in your
presence?

MR. SASSOWER: Don't ask me these questions.
Do you want to see the documents?

Do you want to see the documents?

THE REFEREE: Mr. Sassower, wait a minute,
Mr. Sassower.

MR. SASSOWER: Don't ask me anything. Don't
tell me -- I didn't want to say it.

THE REFEREE: This is a public hearing.
You have made many, many statements here.

MR. SASSOWER: Yes. Do you want to see any
of it? I'll give it to you. Tell me what you

1
2 want to see and I'll give it to you.

3 THE REFEREE: I don't want to see anything,
4 sir.

5 I want you to respond.

6 MR. SASSOWER: Fine, but you asked me the
7 question.

8 THE REFEREE: I want you to respond to the
9 Grievance Committee's complaint.

10 MR. SASSOWER: Fine, I will.

11 THE REFEREE: Judge Grossman was involved
12 in three, four and five and --

13 MR. SASSOWER: Look at this motion, your
14 Honor.

15 THE REFEREE: Did you make the motions before
16 Judge Grossman?

17 MR. SASSOWER: I don't remember if I did or
18 not.

19 THE REFEREE: You have the exhibits in front
20 of you.

21 MR. SASSOWER: Judge, whatever it is --

22 THE REFEREE: Not whatever it is.

23 MR. SASSOWER: -- this is a new motion.

24 THE REFEREE: Here it is. It's an affidavit
25 of Hyman Raffee and you drew these affidavits,

isn't that right?

MR. SASSOWER: Just look at --

THE REFEREE: Did you draw the affidavit for him?

MR. SASSOWER: I was -- I was not disqualified from that.

THE REFEREE: Did you draw the affidavit for him?

MR. SASSOWER: I would say yes, for the moment, to save a dispute.

Look at what the relief is.

Read the affidavit, Judge.

Read the affidavit.

The Appellate Division came down with an order on October 18, and then refused to comply with it.

It had nothing to do with anything else. You refused to comply, you move to dismiss, period. That's what I would do. That's what your Honor would do. That's what any competent lawyer would do.

THE REFEREE: And the motion was dismissed, right, by Mr. Justice Grossman, denied?

MR. SASSOWER: Right, but, is that reargue?

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2 You know that's not reargue. No grounds and no
3 basis. This guy doesn't know what he's talking
4 about.

5 THE REFEREE: Which guy?

6 MR. SASSOWER: Mr. Straus.

7 THE REFEREE: Mr. Straus is counsel --

8 MR. SASSOWER: He has mis-crossed signs on
9 affidavits. He has the Respondent to see that the
10 allegations are correct.

11 If he wants to turn his office into a private
12 law firm then he has no right to sit in public
13 office.

14 THE REFEREE: Next.

15 MR. SASSOWER: What's the next one, sir?

16 THE REFEREE: Number Four, 9-22-83.

17 MR. SASSOWER: It's not here. Maybe that
18 was it. The last one was that --

19 THE REFEREE: Did you skip Three?

20 MR. SASSOWER: Would your Honor write down
21 on your Honor's notes in case I forget to bring
22 you the decision, 96 A.D. 2nd 800.

23 THE REFEREE: You gave me that citation.

24 MR. SASSOWER: When they fail to comply, with
25 the order of the Appellate Division, what do you

do? You move to dismiss. That's it. That's not reargument.

The order of 12-18-83 -- the reason --

THE REFEREE: Where do you see 12-18-83?

MR. SASSOWER: I have it on this paper.

THE REFEREE: The motion is 10-13-83.

MR. SASSOWER: Right.

THE REFEREE: Denied December 28, '83.

MR. SASSOWER: This was the result of the mandamus proceeding, if I recall correctly, yes, I'm pretty sure.

THE REFEREE: It's not a motion to reargue?

MR. SASSOWER: No, Judge, absolutely not.

THE REFEREE: All right.

MR. SASSOWER: Judge, look at it.

MR. STRAUS: If your Honor pleases, the exhibit is, the caption is "Raffe's attempts to reargue summary judgment." That's what it says.

It doesn't say "motions to reargue." It says, "Attempts to reargue."

MR. SASSOWER: What's underlined?

THE REFEREE: Sir, you chose to call it renewal rather than reargue.

MR. SASSOWER: All right, fine, you're one

one hundred percent right.

Now read the motion, and, tell me if it's reargue or renewal? Okay?

I called it renewal. I underlined renewal and, if you read the motion, it's renewal as a matter of right.

THE REFEREE: All right. That concludes --

MR. SASSOWER: One thing more, Judge, one thing more.

One or two of these opinions were appealed. Now, if it was reargue, could I appeal it, your Honor? No. Am I right?

If it was denied and it was reargued, I couldn't appeal it.

If it's renewal, I could appeal it.

I appealed it, and I won, so, you can't call it reargue, because reargue you can't appeal.

MR. STRAUS: You won? There was an Appellate Division decision on which you were successful? Sure. On 9 A.D.600. You can't call it reargue when the Appellate Division even --

MR. SASSOWER: Whether you won or lost, doesn't matter. When the Appellate Division entertains it, it has to be reargument, because it has to be

renewal, I'm sorry, because if it wasn't renewal, they'd dismiss it on the grounds that it was not appealable.

This is the last thing. Here's Number Six. Read the decision of Judge Danzig, your Honor.

THE REFEREE: Judge Danzig's decision will speak for itself.

MR. SASSOWER: What does it say there?

MR. STRAUS: Judge, I'll object.

Mr. Sassower --

I'll object to Mr. Sassower putting questions to you.

MR. SASSOWER: I'll read it.

THE REFEREE: The motion is denied with leave to renew by order to show cause which must be presented to Judge Sinclair pursuant to the direction of Referee Diamond.

MR. SASSOWER: Let's go one step further, Judge.

Here is attached to the -- attached to it is the report of all the assets, all the assets that were taken out of Puccini after June 4, 1980, including seventeen checks going to --

THE REFEREE: What's the --

MR. SASSOWER: This is renewal. Now, after --

THE REFEREE: Did you know about that at the time the summary judgment --

MR. SASSOWER: Absolutely not. We tried to get the books and couldn't.

Judge Sinclair's decision says there is no evidence of any money being taken over.

Right in front of Kreindler and Relkin, right down the line, Judge Sinclair would say, "George, do you really believe that Citbank would submit a perjurious affidavit?" and I would say, "Judge, I'm not saying anything, except I'd like to see the books."

And, Judge Sinclair would say, "Citbank wouldn't submit a perjurious affidavit."

Here it is. That's how honest they are.

THE REFEREE: Every decision was against you.

MR. SASSOWER: No, not one, not one.

THE REFEREE: Okay.

MR. SASSOWER: I'll go through every one. Where did this come from?

THE REFEREE: We'll recess until 2:20.

MR. SASSOWER: Not one decision, Judge. I'll show it to you. I'm not lying to you. I'm telling

you the truth.

(Recess ensues)

(Afternoon session)

MR. SASSOWER: Could I have that last motion, please, before Judge Danzig?

MR. STRAUS: Which one do you want, Mr. Sassower?

MR. SASSOWER: The one before Judge Danzig.

MR. STRAUS: There were two before Judge Danzig.

MR. SASSOWER: March 26.

MR. STRAUS: There isn't any March 26.

MR. SASSOWER: Yes, there is.

MR. STRAUS: September 24, 1984, and there's December 21st, 1984.

MR. SASSOWER: March 26.

MR. STRAUS: I'm sorry, I'm looking at Fifty-seven.

You want Fifty-six.

MR. SASSOWER: Judge, this motion will explain a good portion of what was testified already.

This motion was made on March 26.

1 THE REFEREE: Is that part of an exhibit?

2 MR. STRAUS: It's part of Fifty-six, your
3 Honor.
4

5 MR. SASSOWER: Part of Fifty-six. This
6 motion was made on March 26, before the Diamond
7 thing was published; it was returnable in April,
8 April -- what date was that, your Honor?

9 Whatever day in April it was returnable --
10 it would be on the second page.

11 THE REFEREE: April 11.

12 MR. SASSOWER: April 11. Kreindler and Relkin
13 were in default. They were in default in May also.

14 It should have been granted by default.

15 You will find nothing in any paper which
16 states that Diamond has any jurisdiction in
17 Trial Term 11.

18 I know the Riccobono administrative order
19 does not give Diamond any jurisdiction in Trial
20 Term 11.

21 Now, while they were in default, Diamond went
22 into Trial Term 11 and directed -- now -- after he
23 directed that the motion to be brought on before
24 Judge Sinclair -- a motion by order to show cause --
25 whether they are right or wrong, you do it the easy

1
2 way, you bring on an order to show cause and bring
3 it to Special Term, Part 2. Special Term Part 2
4 refused to give it -- so, Judge Sinclair -- because
5 Special Term Part 2 in New York County, which is
6 a pretty good Special Term, Part 2 -- seeks renewal,
7 it is signed by the judge sitting in Special 2.
8 It's made returnable wherever they want to, and if
9 that judge wants to refer it to Judge Sinclair,
10 it's referred to Judge Sinclair.

11 So we went to Special 2. They refused to have
12 it signed by Judge Sinclair, but by the judge
13 sitting in Special Term Part 2.

14 Therefore, what would happen, we would have
15 to go to the Appellate Division with an Article 78
16 proceeding, because there was complete confusion.

17 THE REFEREE: Where is the confusion? It
18 says you must go before a judge who is assigned
19 to Special Term Part 2.

20 MR. SASSOWER: I'll show you what happened.
21 Where's the confusion?

22 Then Diamond says it's no good because it wasn't
23 signed by Sinclair, and I'll show you where it
24 happened.

25 We went to Special Term, Part 2. We asked that

it go to Judge Sinclair. They refused.

They said it has to be signed by the judge in Special Term Part 2.

Judge Palmer signed it.

Now, the interesting part about all these motions which were all renewal, we did not ask only for the cancellation of the judgment in favor of Kreindler and Reklkin against Raffé, but we also asked that the judgment over by Raffé against the Feltman firm and Dann and Sorrentino also be cancelled. Okay?

They -- even though the only relief asked of their client was the cancellation of a judgment against their clients, they opposed it.

Now, the big happening happened on August 24, 1984, when an order to show cause was presented to Special 2.

THE REFEREE: By who?

MR. SASSOWER: By me. My daughter took it over. I came over afterwards, and we told them, and instructed them that everything -- "Please send it over to Judge Sinclair. This is what Diamond wants."

This was after months going back and forth.

1
2 Appellate Division. We asked them to send it
3 to Judge Sinclair.

4 I'm trying to think of the Chief Clerk.
5 Marty Strager was there. The Chief Clerk was there,
6 because I insisted with Marty Strager, "Let's
7 not have a fight, send it to Judge Sinclair.
8 "No, no, no."

9 Called over the Chief Clerk. Big conference.
10 No. It's assigned to Special Term Part 2.

11 Judge Parness signed it in Special Term
12 Part 2.

13 Feltman -- the only relief about Puccini on
14 that motion was to cancel a \$500,000 judgment
15 against Puccini.

16 Feltman came in, asked for a conference.

17 We got called in to Parness' chambers and
18 I mentioned this name because Judge Parness is
19 completely innocent here. He knew something about
20 what was going on here. He was just a Special Term
21 Part 2 judge signing orders.

22 Dave Cook was there.

23 Ava Marie Brenner was there for Feltman,
24 Karesh and Major and she was arguing vehemently
25 against that Judge Parness should cancel the

1
2 order to show cause because it did not comply
3 with the Diamond rules.

4 MR. STRAUS: If your Honor pleases, may I
5 interject at this point?

6 I don't see anything on this list pertain-
7 ing to any order of Judge Parness.

8 MR. SASSOWER: They omitted it. They must
9 have pruned this.

10 MR. STRAUS: There is not a mention and, if
11 we are going to proceed in an orderly manner, I
12 don't know what Mr. Sassower is talking about.

13 There are eighteen motions listed here,
14 and, none of them have Judge Parness' name on it.

15 So, where are we going?

16 MR. SASSOWER: I'm going to bring it in,
17 because they omitted it.

18 This comes after Judge Parness, because you
19 don't understand.

20 This is the one right after Parness.

21 THE REFEREE: Which is the one?

22 MR. SASSOWER: This one. They left off about
23 twenty sheets.

24 Look at that notice of motion. They left
25 off -- it's only a part of it. It's the same.

1
2 THE REFEREE: It's the same paper as annexed
3 to motion returnable in Special 1.

4 MR. SASSOWER: Right. They left if off.
5 They took this and they left if off.

6 Cook was there, who is the statutory guardian
7 under the Business Law, Article 12.

8 There's the Feltman firm arguing against a
9 motion --

10 MR. STRAUS: Judge, that's the third time
11 that Mr. Sassower said --

12 MR. SASSOWER: Wait --

13 MR. STRAUS: I object to him repeating
14 himself.

15 THE REFEREE: Is that one of the eighteen
16 cases?

17 MR. SASSOWER: Yes.

18 THE REFEREE: Which one?

19 MR. SASSOWER: It's Number Ten and Eleven.
20 It's the papers attached to Number Ten and Eleven.

21 THE REFEREE: The first one was decided by
22 Referee Diamond.

23 MR. SASSOWER: It wasn't before him.

24 THE REFEREE: How did he decide it?

25 MR. SASSOWER: If you'd bring Diamond here --

1
2 it wasn't before him. Here he says -- Diamond
3 says it should go to Sinclair.

4 So, it goes to Special Term, Part 2 and
5 Judge Parness modifies it.

6 THE REFEREE: In any event, what's the rele-
7 vance of your testimony?

8 MR. SASSOWER: I'm saying here, your Honor,
9 that none of these motions were decided on their
10 merits. They were all renewal motions. Okay?
11 All renewal motions, and all renewal --

12 THE REFEREE: You said that, you said renewal
13 only, no motions to reargue.

14 MR. SASSOWER: Right.

15 THE REFEREE: All the eighteen cases here?

16 MR. SASSOWER: Right.

17 THE REFEREE: All right. Let's go on from
18 there.

19 MR. SASSOWER: Now, will you take this? When
20 you take Judge Danzig's decision of May, where
21 Referee Diamond directed her to do a certain thing,
22 you will find nothing where Referee Diamond had
23 authority to go into Judge Danzig's part of Judge
24 Sinclair's part or Judge Parness' part or anything
25 else, even under that order.

1
2 THE REFEREE: That's why you made amotion
3 of renewal, is that right?

4 MR. SASSOWER: No. The renewal was originally
5 made before Judge Danzig which was the right part.
6 He said, "No, go to Sinclair." Special 2 said,
7 "No."

8 We, at that time, then we took it to Sinclair.
9 He said, "No, take it to Danzig."

10 MR. STRAUS: This is the fifth time we've
11 heard this.

12 MR. SASSOWER: From, six to eighteen are all
13 the same motions.

14 THE REFEREE: And, they pushed you around from
15 pillar to post.

16 MR. SASSOWER: Yes, and if you heard
17 Dave Cook, Dave Cook would tell you what happened.

18 THE REFEREE: Here we go with Cook again.

19 MR. SASSOWER: You want to hear it from
20 somebody else?

21 THE REFEREE: I don't want to hear it.
22 I just have decisions of Supreme Court justices.

23 MR. SASSOWER: That's a fraudulent list.
24 Okay?

25 Don't tell me about reargument. Cross-out.

1
2 Reargue. Because, it's all fraudulent.

3 THE REFEREE: What portion of it is?

4 MR. SASSOWER: It's all fraudulent. I showed
5 you the motions.

6 THE REFEREE: Everything is fraudulent.

7 MR. SASSOWER: It's all renewal. It's of
8 right. Where they put in a claim --

9 THE REFEREE: You said this was all fraudulent.

10 MR. SASSOWER: This word "renewal."

11 THE REFEREE: You mean instead of reargue,
12 it's --

13 MR. SASSOWER: It's of right.

14 THE REFEREE: That's wrong?

15 MR. SASSOWER: Absolutely.

16 THE REFEREE: It should be, "Renews."

17 MR. SASSOWER: Not even, sometimes renew.

18 THE REFEREE: A motion to renew?

19 MR. SASSOWER: No.

20 For example, if they don't comply with the order
21 of the Appellate Division to move to strike, that's
22 a new motion.

23 MR. STRAUS: If your Honor please, it says
24 "Attempts to reargue."

25 It does not say, "Motions to reargue." It

It says, "Attempts," for the reason that it is alleged.

MR. SASSOWER: Never reargue.

MR. STRAUS: Mr. Sassower --

MR. SASSOWER: You don't know anything about law then, Mr. Straus. I'm sorry, your Honor.

Don't tell me reargue. Okay?

THE REFEREE: You have already said there was no reargue.

You never moved to reargue even though some of the show cause orders use the word "reargue."

What you always intended was renewal, is that right, sir?

MR. SASSOWER: They were all --

THE REFEREE: Renewal.

MR. SASSOWER: Some were renewal.

THE REFEREE: Somebody slipped in "Reargue."

MR. SASSOWER: Judge, will you listen?

Where there is a mistake in one or two minor errors, so, besides reargue, to correct the record as to one or two mistakes that may have been made, since it's going up on appeal, so you also put in reargue but it's all renewal or completely new.

For example --

1
2 MR. STRAUS: If your Honor pleases, this
3 is only repetitious.

4 It's the fourth or fifth time it's being re-
5 peated.

6 I think he made his point that he made mot-
7 ions to renew.

8 Can we go on to something else?

9 Repeating it, doesn't serve any right.

10 MR. SASSOWER: Of right.

11 MR. STRAUS: Again, you'rerepeating yourself.

12 THE REFEREE: Next. We're all through with
13 this list.

14 MR. SASSOWER: If you go backwards now --

15 THE REFEREE: I don't want to go backwards.
16 I want to go forwards.

17 MR. SASSOWER: This is the way it was present-
18 ed.

19 When we could not get relief, we'd go to
20 Article 78s and to appeals and thereafter, because
21 Diamond --

22 MR. STRAUS: Your Honor, can we deal with
23 this and not Article 78s?

24 MR. SASSOWER: When Diamond said "I have
25 jurisdiction on these existing cases" --

THE REFEREE: You have already --

MR. SASSOWER: Let me finish a sentence,
Judge.

THE REFEREE: You were compelled to move on
renewal.

MR. SASSOWER: Let me finish.

THE REFEREE: It's the same thing you have
said now for the last two hours.

MR. SASSOWER: No, it isn't.
When we couldn't get past Diamond and the Appellate
Division had no authority over Diamond, we had to go
against Sinclair, Danzig, Parness, everybody else,
because we couldn't -- because 78 Proceedings
against a Referee do not go to the Appellate
Division.

MR. STRAUS: Your Honor, now we're going
back to the Article 78s.

He testified about that and gave the same
testimony as to why he brought it.

I don't think repetition --

MR. SASSOWER: Let me finish the sentence
so you'll understand it in context.

THE REFEREE: Sir, I understand it.

MR. SASSOWER: I don't think you understand,

but let the record understand.

So, when we went with Article 78s, thereafter, to get out of the Diamond noose, the only way we could do it is to use the alternative, in 5515. You can do it by motion or by action, because, at common law, what you do, if there was a fraudulent judgment, you brought a bill in equity to set aside the judgment.

So, to get away from Diamond, we had to start a new action, which is like 643.

THE REFEREE: Let's go on from there.

MR. SASSOWER: What's the next list?

MR. STRAUS: Fifty-seven, Exhibit 57.

May we have this one back and in order?

THE REFEREE: These are motions to vacate disqualification of Sassower.

MR. SASSOWER: I'll not repeat what has already been said about switching of papers.

I'll not repeat what has been said about extrinsic fraud.

That was our position substantiated by law, and the cases that --

MR. STRAUS: Instead of Mr. Sassower testifying as to what he's not going to testify

1
2 to, we don't need a summary.

3 THE REFEREE: You have a list of cases in
4 front of you.

5 Did you make those motions to vacate your
6 disqualification?

7 MR. SASSOWER: Yes, and no.

8 THE REFEREE: I don't understand you. Do you
9 want to explain? You want to explain?

10 MR. SASSOWER: I'll explain the yes, and I'll
11 explain the "No."

12 THE REFEREE: I want you to answer the quest-
13 ion.

14 MR. SASSOWER: I'll say, "No, with an explanat-
15 ion."

16 THE REFEREE: All right. You're changing
17 your testimony from "yes and no" to "no."

18 MR. SASSOWER: I'd like to say "yes and "no."
19 This is the original order with notice of settlement.
20 The decision did not disqualify me.

21 THE REFEREE: Which decision are you looking
22 at?

23 MR. SASSOWER: It's 1816.

24 THE REFEREE: That's Judge Sinclair's order.

25 MR. SASSOWER: Right. It did not disqualify me.

1
2 THE REFEREE: Do you have Judge Sinclair's
3 order of --

4 MR. STRAUS: Judge, it's part of the exhibit.
5 It says, "Ordered that George Sassower or any
6 attorney" --

7 MR. SASSOWER: I said --

8 MR. STRAUS: Mr. Sassower, Judge Potoker asked
9 about the order, sir.

10 MR. SASSOWER: I'm starting from scratch.
11 I'm testifying.

12 Do you want to take the stand?

13 MR. STRAUS: Judge Potoker asked a question.

14 MR. SASSOWER: Do you want to take the stand?

15 THE REFEREE: Mr. Sassower, if you're going
16 to continue this way, I'll terminate this proceed-
17 ing.

18 MR. SASSOWER: Whatever you want to do.

19 THE REFEREE: You are going to behave yourself
20 otherwise this Proceeding will be terminated.

21 MR. SASSOWER: I'd appreciate if Mr.
22 Straus' testimony be from the stand.

23 THE REFEREE: I was addressing myself to Mr.
24 Straus, so you be quiet.

25 MR. STRAUS: In evidence is the order of

Judge Sinclair, and, on the last page of that order --

THE REFEREE: What exhibit?

MR. STRAUS: We actually have it in evidence as Two, and it's also included as part of Exhibit 57, and, on the last page, the next-to-the last paragraph --

THE REFEREE: "George Sassower or any attorney affiliated or in any way associated with him is disqualified from representing Hyman Raffe in this action and in all other actions or matters wherein George Sassower, Esquire represents an interest adverse to the Respondents Eugene Dann, Robert Sorrentino and Puccini Clothes, Limited."

MR. STRAUS: In addition, your Honor, there was another order with the same date.

MR. SASSOWER: Excuse me, does he want to testify?

THE REFEREE: Wait a minute.

MR. SASSOWER: Does he want to testify?

THE REFEREE: Go ahead, Mr. Straus.

MR. STRAUS: Again, directing your attention, there is in evidence another order of Judge Sinclair with the same date.

One refers to 16792 of '80 and the other refers to 1816 of 1980.

They are both in evidence, so it's not a question of my testifying to anything.

In response to your question, I'm only directing you to the exhibits.

THE REFEREE: What exhibits?

MR. STRAUS: Two and Three together. Judge Sinclair's orders.

There are two orders for the same day covering those two cases.

THE REFEREE: Three is an order of Judge Sinclair, the same date.

MR. SASSOWER: You're looking to find something that I did wrong?

Will you listen to my testimony?

THE REFEREE: You made a statement.

MR. SASSOWER: I said the decision did not disqualify me. . .

THE REFEREE: I want to look at the decision.

MR. SASSOWER: You haven't got it. You're not looking at it.

MR. STRAUS: He's saying the decision, not the order.

MR. SASSOWER: Right. I'm saying the decision did not disqualify me.

THE REFEREE: I'm looking at the order.

MR. SASSOWER: Who needs him to interrrupt me when I'm saying the decision did not disqualify me?

THE REFEREE: "Ordered that George Sassower or any attorney affiliated or in any way associated with him is disqualified from representing Hyman Raffe in this action."

The rest of it is crossed out.

MR. SASSOWER: You only read part of it.

THE REFEREE: The rest of it is crossed out.

MR. SASSOWER: May I start my testimony? It's my testimony.

Like I'm asking myself questions.

Question, "Did the decision in 1810" --

THE REFEREE: You said it did not disqualify you.

MR. SASSOWER: No.

THE REFEREE: So, I read that.

MR. SASSOWER: Question, "As a practicing lawyer of thirty-five years, when somebody submits

1
2 an order, settle order, must it embody what the
3 decision says"?

4 MR. STRAUS: Objection.

5 MR. SASSOWER: Answer, "Yes."

6 MR. STRAUS: Object to the testimony.
7 The order cannot be gone behind, which Mr.
8 Sassower is trying to do.

9 THE REFEREE: Mr. Sassower, if an oder does
10 not reflect what transpired in the courtroom, you
11 move, you make a motion.

12 MR. SASSOWER: Diamond prevented me, your
13 Honor.

14 THE REFEREE: No, no.

15 MR. SASSOWER: Diamond prevented me. This is
16 the second part of it.

17 MR. STRAUS: The order was also affirmed on
18 appeal.

19 MR. SASSOWER: Right. Now, wait a second.
20 It's the same thing, 16792. Once the evidence
21 was discovered -- don't forget -- we only get
22 the confession of Kreindler and Relkin in the
23 end of '84 on it.

24 We only got the evidence that the Arutt
25 firm had taken money and this is why they wanted

to disqualify me because I suspected larceny.

That only came at the end of '83 or actually in '84, when Diamond was appointed, so we had the same situation with Diamond on this as we had in 1 --

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Will you let me finish, your Honor?

I'm trying to cut it short. I'll go through one after the other and I'll go one step further.

The judges, each judge has found that I have not violated it.

Now, you want to go to Judge Lester Evans --

MR. STRAUS: Your Honor, again, would you please direct Mr. Sassower to give relevant, proper testimony.

MR. SASSOWER: I am.

MR. STRAUS: Whatever he took of other judges is irrelevant.

MR. SASSOWER: No, they're orders.

MR. STRAUS: There was an order entered.

MR. SASSOWER: Fine. All judges found that I didn't violate it.

THE REFEREE: Next.

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

THE REFEREE: One by one of what?

MR. SASSOWER: Of this list. I'll go through every item and show you that this is a phony title, it's a phony title, misleading.

THE REFEREE: You didn't make motions to vacate Judge Sinclair's disqualification?

MR. SASSOWER: Vacate?

THE REFEREE: Yes.

MR. SASSOWER: Yes and no. Okay. Let's put it -- let's put it this way.

I made motions to get back to Judge Sinclair and the motions to go back to Judge Sinclair followed pretty much the route of the motions to vacate the judgment.

Finally, on January 7, 1984, there was that motion pending in Judge Danzig's part, which, under the law, she could have either adjourned it to Judge Sinclair who was still in the hospital or decide it herself.

She said, in an opinion, out loud, after taking these Diamond --

Eberybody by this time knew what was going on.

Everybody knew about the larceny at this time, and Judge Danzig said -- this is 18 -- 16792 is '80 -- 1816 --

THE REFEREE: What did she say?

MR. SASSOWER: On 16792, she said there is no disqualification for two reasons.

One, Judge Stecher's order came afterward, which shows that Sassower could not take an adversary position.

Number Two, on 16792, it's obvious by reading the decision, that he was not disqualified on the third party.

THE REFEREE: How did she rule?

MR. SASSOWER: She --

THE REFEREE: She granted your motion to vacate.

MR. SASSOWER: Granted the motion.

THE REFEREE: That was reversed by the Appellate Division.

MR. SASSOWER: It wasn't really reversed by the Appellate Division.

THE REFEREE: It says "Order reversed by the Appellate Division."

MR. SASSOWER: Don't look at the list.

THE REFEREE: I'm questioning you.

MR. SASSOWER: Look at the decision.

THE REFEREE: I'm questioning you.

MR. SASSOWER: The decision of the Appellate Division where my brief was not accepted for a reason I'll go into later.

MR. STRAUS: Your Honor, I'll object again; this is repetitious.

As a matter of fact, last week --

MR. SASSOWER: You have never heard it before.

MR. STRAUS: Last week Mr. Sassower said you don't know how to read it.

He was instructing you in how to read the Appellate Division's decision.

MR. SASSOWER: Your Honor asked me a question.

MR. STRAUS: He said that you didn't know how to read it, and you'd have to read it in his way.

MR. SASSOWER: I did not say that. His Honor was reading just the order.

I'll go through every motion here.

Let's go through it so that the record is straight. Okay?

THE REFEREE: Out of all these motions,

they are all denied except for one --

MR. SASSOWER: Judge, who says --

THE REFEREE: I'm questioning you, sir.

MR. SASSOWER: The answer is, "No." This list is a fake too, Judge.

That's the Gerstein list, not looked at by Straus or, if looked at, it's a complete forgery.

Do you want to read the list?

I don't believe the list.

MR. STRAUS: The list is a forgery.

THE REFEREE: So that's your answer to all of them.

You need not go into it.

MR. SASSOWER: Stop it. You want to look at a list drawn up by them?

MR. STRAUS: It's in evidence.

MR. SASSOWER: I don't agree with it.

MR. STRAUS: You may not be aware of it, but the Judge is supposed to look at documents received in evidence.

MR. SASSOWER: It's a lie. It's misleading.

THE REFEREE: You said it's a forgery. Next.

MR. SASSOWER: It's a lie.

THE REFEREE: Okay. Next.

1
2 MR. SASSOWER: I'll go through -- I'll
3 go through every one and show you why.

4 THE REFEREE: You just said it's a lie, all
5 of them.

6 MR. SASSOWER: Can I go through it and show
7 why, or you don't want to hear it.

8 THE REFEREE: You just said it's a lie.

9 MR. SASSOWER: Can I be specific?

10 You didn't allow me to cross-examine on it,
11 at least let me give testimony on it.

12 You don't allow me to bring witnesses on it,
13 at least let me give testimony on it.

14 If you don't want to give me testimony, that's
15 your ruling. I'll abide by the ruling.

16 THE REFEREE: Sir, we tried to get you to give
17 testimony.

18 MR. SASSOWER: I'm giving testimony.

19 THE REFEREE: We can't keep up with you.

20 MR. SASSOWER: Fine. I started off and I
21 said 1816, the decision did not disqualify me.
22 Okay?

23 THE REFEREE: I read the decision.

24 MR. SASSOWER: You did not.

25 THE REFEREE: I read the order, sir.

That encompasses the decision.

I'm not going to argue points of law with you now.

I know what an order is.

I've signed thousands of orders.

MR. SASSOWER: I started off with the decision. Okay.

Secondly, on 1816, nobody can even dream up a reason as to why I should be disqualified there.

They can't even dream up a reason.

MR. STRAUS: Judge, may Mr. Sassower testify as to factual matters?

MR. SASSOWER: I am.

MR. STRAUS: Which are within his ability to testify as to --

THE REFEREE: As far as you're concerned, there is no decision as differentiated from an order that disqualified you as attorney.

MR. SASSOWER: Right. The third thing, a two year submission was made by the Feltman firm to Judge Martin Evans saying I was disqualified, in 1816.

This went from 1982 right down to January 4, 1984.

1
2 This was strictly a criminal contempt pro-
3 ceeding, and documents went in from the Feltman
4 firm --

5 MR. STRAUS: Objection. He's not testifying
6 with respect to the exhibits which he's supposed
7 to be testifying to.

8 MR. SASSOWER: I am.

9 MR. STRAUS: There is nothing on here about
10 a criminal contempt of Judge Evans.

11 The question is, what did he do with respect
12 to motions to vacate his disqualifications.

13 There are sixteen motions listed.

14 He's yet to hit them, and he keeps promising
15 he'll get to them.

16 MR. SASSOWER: You have the order. Let's go.
17 1816 first.

18 THE REFEREE: Number One, and Number Two.
19 Number two is 868.

20 Did you, before Mr. Justice Sinclair, move to
21 vacate his disqualification of you, yes or no?

22 MR. SASSOWER: When?

23 THE REFEREE: On February 11, 1982? Look at
24 the list.

25 MR. SASSOWER: Yes.

1
2 THE REFEREE: Did you, on March 29, 1982,
3 move again before Mr. Justice Sinclair?

4 MR. SASSOWER: Yes.

5 THE REFEREE: And September 22, '82?

6 MR. SASSOWER: Probably.

7 THE REFEREE: And September 22 again? That's
8 on --

9 MR. SASSOWER: I'll tell you what happened.
10 He said I'm confused.

11 THE REFEREE: And 588 '83?

12 MR. SASSOWER: No, it wasn't Sinclair.

13 THE REFEREE: He denied it on March 28, '83?

14 MR. SASSOWER: March 28?

15 THE REFEREE: Denied, March 28, '83.

16 MR. SASSOWER: Which Number is that?

17 THE REFEREE: That's Number Six.

18 MR. SASSOWER: That's 16792.

19 THE REFEREE: Yes.

20 MR. SASSOWER: You were talking about 1816.

21 THE REFEREE: No.

22 MR. SASSOWER: Let's talk about one at a time.

23 THE REFEREE: Wait. You said -- let's
24 take 16792 of '80, which you're yelling about.

25 MR. SASSOWER: We were talking about 1816.

1
2 There's no decision disqualifying me in
3 that.

4 THE REFEREE: When I cited 1816, you said,
5 "No."

6 MR. SASSOWER: No, the Reporter asked me
7 what number. I asked it.

8 THE REFEREE: Sir, I can't start over and
9 over again.

10 MR. SASSOWER: Tell me what you wanted.

11 THE REFEREE: You have already stated that
12 on all of these cases listed under 16792 of '80
13 that as far as you're concerned you were never
14 disqualified by any decision.

15 MR. SASSOWER: No.

16 THE REFEREE: Yet, you made a motion to vacate.

17 MR. SASSOWER: I said, "No, on 1816 I was
18 never disqualified by any decision." I got a
19 motion to disqualify me, and I answered.

20 THE REFEREE: How about under 16792?

21 MR. SASSOWER: I never got a motion on that.

22 THE REFEREE: So you were never disqualified
23 there, too?

24 MR. SASSOWER: I never got a motion. I never
25 got a motion.

1
2 THE REFEREE: You said it three times. That's
3 enough.

4 MR. SASSOWER: On 1816 I got a motion.
5 I responded to it and I was not disqualified.

6 Let's go through the papers and I'll show
7 you where not only was I confused, Judge Sinclair
8 was confused and the Clerk was confused.

9 Why? Because there was a switch in papers
10 that nobody knew about until thereafter.

11 THE REFEREE: A switch in papers?

12 MR. SASSOWER: Yes.

13 THE REFEREE: Who switched the papers this
14 time?

15 MR. SASSOWER: The Arutt firm and the Kreindler
16 firm together.

17 THE REFEREE: They walked into a court,
18 took files out of the --

19 MR. SASSOWER: No, now listen, okay?
20 They served me with papers.

21 I responded.

22 After I responded, they substituted -- you
23 don't hand in the original papers on cross-motions
24 until the return date of the argument.

25 In Kings County, you don't even submit the

1
2 motion papers until the return date of the argu-
3 ment.

4 In New York County, you don't submit cross-
5 motions or affidavits in opposition until the re-
6 turn date.

7 When they had my affidavit in opposition,
8 they took out the first page of the notice of mot-
9 ion, they took out the first page of the supporting
10 affidavit.

11 They changed the --

12 MR. STRAUS: If your Honor please, I object.
13 Again, it's the underlying conspiracy and fraud.

14 The issue is, did Mr. Sassower make all
15 these motions?

16 MR. SASSOWER: No.

17 MR. STRAUS: He didn't make the motions.
18 Then he didn't make the motions. I would say
19 that we can leave the area, defense having made
20 the motions.

21 MR. SASSOWER: You said all the motions.
22 Now, let's go on.

23 THE REFEREE: Sir --

24 MR. SASSOWER: Once it was submitted, it was
25 before it was submitted --

THE REFEREE: Mr. Sassower, there are sixteen motions.

MR. SASSOWER: I'll go through them one by one.

THE REFEREE: Which, which ones did you make?

MR. SASSOWER: I'd like to explain each motion.

THE REFEREE: Which ones did you make? It may turn out you didn't make any, so, why explain them?

MR. SASSOWER: Judge, let's not be facetious. Okay? February 11.

THE REFEREE: Two motions; which one did you make? Which one did you not make?

MR. SASSOWER: I'm going through one by one.

THE REFEREE: Which one did you make?

MR. SASSOWER: February 11.

THE REFEREE: There are two February 11s.

MR. SASSOWER: I'm going to it.

MR. STRAUS: Which February 11, Mr. Sassower?

MR. SASSOWER: There are two.

MR. STRAUS: That's why we're asking which one.

MR. SASSOWER: I'm going through one at a time.

MR. STRAUS: You don't identify it.

MR. STRAUS: The Judge asked you, and, you ignored him.

MR. SASSOWER: 16792 and 1 --

THE REFEREE: What about it? Did you file a motion, yes or no?

MR. SASSOWER: Yes.

THE REFEREE: So you made both motions, yes or no?

MR. SASSOWER: Yes.

THE REFEREE: One and two.

Number Three, did you make that motion?

MR. SASSOWER: Wait a second. You didn't read it, the decision.

THE REFEREE: I don't want the decision. I want to know if you made the motion?

MR. SASSOWER: I want an opportunity to testify on it.

THE REFEREE: Did you make the motion?

MR. SASSOWER: The next motion is March 29.

THE REFEREE: Did you make that motion?

MR. SASSOWER: Yes.

THE REFEREE: Number Four, and Five, September 22.

MR. SASSOWER: September 22.

THE REFEREE: Did you make those motions?

MR. SASSOWER: Yes. Two of them.

THE REFEREE: Number Six, January 5, '83,
did you make that motion?

MR. SASSOWER: Yes.

THE REFEREE: Number Seven.

MR. SASSOWER: That's not a motion to
vacate the disqualification.

THE REFEREE: What then is it?

MR. SASSOWER: It's a motion for intervention.

THE REFEREE: You made the motion.

MR. SASSOWER: Yes, but it's not a disqualifi-
cation.

It has nothing to do with disqualification.

THE REFEREE: It's a motion for intervention
rather than disqualification.

MR. SASSOWER: Right.

THE REFEREE: Number Eight, 10-13-83.

MR. SASSOWER: Okay. This was a motion, yes.
I made it.

This was a motion which was supposed to go to
Judge Grossman. It was stopped by Judge Grossman,
before it went to Judge Sinclair.

THE REFEREE: Did you make Motion Number Nine?

MR. SASSOWER: It was stopped.

THE REFEREE: Number Nine?

MR. SASSOWER: Yes. I made that motion.
It was supposed to go Judge Sinclair.

THE REFEREE: Number Ten.

MR. SASSOWER: It didn't go to Judge Sinclair.

THE REFEREE: Number Ten, did you make that
motion? 5-2-84?

MR. SASSOWER: Yes. It was supposed to go to
Judge Sinclair.

THE REFEREE: Number Eleven, did you make that
motion?

MR. SASSOWER: Maybe yes or no. I'll say, "yes."
Okay?

THE REFEREE: Number Twelve?

MR. SASSOWER: It was not, this was granted.

THE REFEREE: I know, but it was reversed by
the Appellate Division.

MR. SASSOWER: It was not reversed by the
Appellate Division.

The Appellate Division said that there is no
disqualification but the Appellate Division said --

THE REFEREE: Mr. Sassower --

MR. SASSOWER: -- they said there was no

disqualification.

THE REFEREE: The only question I asked you is whether you made the motion.

You were the one that offered decisional testimony that it was granted.

I didn't ask you whether it was granted.

MR. SASSOWER: Fine. As long as we understand that.

As long as we understand that your questions are loaded, okay.

THE REFEREE: Number Twelve?

MR. SASSOWER: Yes; this was granted.

THE REFEREE: Number Thirteen.

MR. SASSOWER: By the way, this was granted, because, Judge --

THE REFEREE: Not because. Just answer.

MR. SASSOWER: Yes.

THE REFEREE: Number Thirteen, 1-11-85.

MR. SASSOWER: Yes; it was granted. This was --

THE REFEREE: I didn't ask you whether it was granted or not.

I'm asking you whether or not you made the motion.

MR. STRAUS: Do you have the right one?

It says, "Motion denied."

"Attorney Sassower has been disqualified."

MR. SASSOWER: That's a different case.

MR. STRAUS: You are not referring to that?

MR. SASSOWER: No. This had -- this was really granted.

MR. STRAUS: It says, "Denied," but it was really granted?

MR. SASSOWER: This is Peccora.

MR. STRAUS: You are not listening to me. That's why I thought you might have gotten confused. Judge Shorter --

MR. SASSOWER: You want me to tell you something?

I never saw this before.

MR. STRAUS: It says "Attorney Sassower has been disqualified."

MR. SASSOWER: I never saw it before.

THE REFEREE: All right. So then, Number Fourteen, you didn't make any motion or know anything about it?

MR. SASSOWER: I know the motion. I never saw the order before.

THE REFEREE: Did you make the motion?

MR. SASSOWER: No.

THE REFEREE: You didn't make that motion?

MR. SASSOWER: It was not for the removal --

THE REFEREE: Did you make --

MR. SASSOWER: It wasn't to remove the
disqualification.

THE REFEREE: What was it for?

MR. SASSOWER: Look, see, it's not a motion
to vacate a disqualification.

THE REFEREE: Tell me --

MR. SASSOWER: Look at it, Judge. You don't
want to believe me? Look at it. You don't be-
lieve me? Look at it.

THE REFEREE: When I look at something, you
say, "What are you looking at?" "Don't look at
what they type up. Look at what it says."

Is it for disqualification? I want to know.

MR. STRAUS: You're talking about Judge
Shorter's order?

MR. SASSOWER: Yes.

MR. STRAUS: The application, the first
paragraph says "For an order vacating the
disqualification."

Number Two. "Vacating the disqualification."

That's on Page 2 of the application.

Are you looking at the same document?

MR. SASSOWER: I am.

MR. STRAUS: Dated January 11, '85.

"George Sassower, attorney for Hyman Raffe."

THE REFEREE: Did you -- just listen, Mr. Sassower --

MR. SASSOWER: I'd been vacated already.

THE REFEREE: On January 11, '85, did you make a motion, period, without characterizing it.

MR. SASSOWER: Yes.

THE REFEREE: Was that motion to vacate disqualification?

MR. SASSOWER: Really not, because it had been vacated already.

THE REFEREE: What was the nature of your motion on January 11, '85?

MR. SASSOWER: It was omnibus relief which included the fact -- it was a renewal of a motion that had been previously made to Judge Danzig, but which Diamond said should go to Sinclair and I'll not go through what happened in '84 between Sinclair, Danzig, Special 2 and a few other judges. Okay. So, what happened --

1
2 THE REFEREE: You said it wasn't a motion
3 to vacate.

4 MR. SASSOWER: It was a motion to renew,
5 where after all this thing it should go back to
6 Judge Danzig.

7 THE REFEREE: For what purpose?

8 MR. SASSOWER: Because, after all, these
9 other motions were gone through, and Judge Shorter
10 said he has no right to do this, we renewed the
11 whole motion, that's all.

12 THE REFEREE: Including --

13 MR. SASSOWER: Everything.

14 THE REFEREE: -- including to vacate.

15 MR. SASSOWER: Including to vacate.

16 THE REFEREE: The disqualification even though,
17 in your opinion, no judge or no court has ever
18 disqualified you, is that right?

19 MR. SASSOWER: Yes. I've always said
20 that.

21 THE REFEREE: All right.

22 MR. SASSOWER: That's extrinsic fraud.

23 THE REFEREE: Number Fourteen.

24 MR. SASSOWER: By the way, just two weeks before
25 we get the confession from Kreindler and Relkin --

1
2 THE REFEREE: Number Fourteen.

3 MR. SASSOWER: No.

4 THE REFEREE: Before Judge Peccora.

5 MR. SASSOWER: Could I answer it in five
6 words?

7 THE REFEREE: Go ahead.

8 MR. SASSOWER: The motion was made on
9 February 1st.

10 THE REFEREE: Yes?

11 MR. SASSOWER: I'm sorry.

12 MR. STRAUS: This is Judge Peccora.

13 MR. SASSOWER: Judge Peccora held --

14 THE REFEREE: Before we get to what he held,
15 did you move to vacate the disqualification, Mr.
16 Sassower?

17 MR. SASSOWER: Yes.

18 THE REFEREE: You want to tell me what he
19 held.

20 MR. SASSOWER: He said I had to get their
21 permission, the permission of Judge Gammerman.
22 Before that, I had to get permission of Judge
23 Sinclair. Now I had to get permission of Judge
24 Gammerman.

25 THE REFEREE: Number Fifteen.

MR. SASSOWER: Let me go one step further.
One moment.

Here are the two cases that I said before,
Corseil against Corseil, 80 App. Div 2nd 544,
439, supp 2nd 627, first Department, saying,
motions go to the trial part. "Blasie" (phonetic)
against Boucher, B-O-U-C-H-E-R, 30 A.D. 2nd,
674, 290 supp. 2nd 960, 2nd Department, says
motions is always made returnable in a trial term
part, and then farm it out to whoever they want
to or keep it for themselves.

Now, what's the next one?

THE REFEREE: Fifteen, June 8, 1985. That
was a motion before the Appellate division,
apparently.

MR. STRAUS: That's correct, your Honor.

MR. SASSOWER: Yes, that's all?

THE REFEREE: Yes.

MR. SASSOWER: Yes.

THE REFEREE: And that again was a motion to
vacate --

MR. SASSOWER: No.

THE REFEREE: -- your disqualification?

MR. SASSOWER: No.

THE REFEREE: What?

MR. STRAUS: This is to reargue the order.

Mr. Sassower, you may need some help.

It says to reargue the order of May 9, 1985.

MR. SASSOWER: You have to understand what happened here.

The record on appeal -- please don't look at that list, your Honor. That list is erroneous.

MR. STRAUS: It's in evidence.

MR. SASSOWER: I know it's in evidence.

THE REFEREE: Mr. Sassower, it can't be erroneous, because you just testified to each and every one of these cases that's on the list, so how can it be erroneous?

MR. SASSOWER: Misleading.

THE REFEREE: How can it be misleading?

MR. SASSOWER: How? Because the same motion had to be made, because we were denied access to Judge Sinclair.

THE REFEREE: That's your explanation but the list itself --

MR. SASSOWER: Let me tell you what happened.

THE REFEREE: Nothing is wrong with the list.

MR. SASSOWER: Let me tell you what happened

with the Appellate Division.

First of all, the decision said that there, apparently, is no disqualification. That's the first thing.

Second thing they said --

MR. STRAUS: Your Honor, what the decision says, it's in evidence.

I'm objecting to your testimony.

The document speaks for itself.

There is a decision of the court which is in evidence.

MR. SASSOWER: I want to tell you why there was no brief by us and why it happened.

THE REFEREE: Why what happened?

MR. SASSOWER: What happened at the Appellate Division.

THE REFEREE: Your motion was denied.

MR. SASSOWER: We had no papers at the Appellate Division.

THE REFEREE: So whatever the reason was, it was denied.

MR. SASSOWER: Let me have it on the record. Can you have it on the record?

THE REFEREE: Go ahead, sir.

1
2 MR. SASSOWER: The record on appeal should
3 have been thirty pages.

4 That was the whole record on appeal.

5 Kreindler and Relkin, submitted a record on
6 appeal of 190 pages.

7 They included 160 pages that were not part --

8 MR. STRAUS: I object. He cannot decide
9 in his mind on what basis the Appellate Division
10 reached its decision.

11 The decision speaks for itself.

12 He is now trying to explain to you what
13 reasons he believes the Appellate Division --

14 MR. SASSOWER: How do you know what I'm
15 trying to explain?

16 You don't know a God damn thing except --

17 MR. STRAUS: Stop shouting, Mr. Sassower.

18 MR. SASSOWER: Why doesn't he take the
19 stand?

20 THE REFEREE: Mr. Sassower --

21 MR. SASSOWER: You may not be interested.
22 Maybe the Appellate Division is.

23 THE REFEREE: Mr. Sassower, if I still sat
24 in the Supreme Court and I listened to the way you
25 are behaving, I would have remanded you for

1
2 observation.

3 MR. SASSOWER: Fine. As far as I'm concerned,
4 you're a defendant here.

5 THE REFEREE: I'm a defendant?

6 MR. SASSOWER: Yes, the way you've conducted
7 yourself with subpoenas, with ex-parte conver-
8 sations, and, every time I make a complaint to
9 the Appellate Division, there is always a remark
10 by you getting back at me.

11 I gave you --

12 I set it down at the Appellate Division the
13 way I saw it, and nobody, and nobody has disputed
14 it in the least bit.

15 I think what has gone on here between Mr.
16 Straus, his employee and your Honor, the witness,
17 is absolutely reprehensible.

18 I don't want to get into the subject.
19 This is not the forum.

20 You cannot be a judge and you cannot be a
21 defendant at the same time, but in thirty-five
22 years, I've been able to practice without ex-
23 parte conversations. Apparently, Mr. Straus
24 cannot.

25 THE REFEREE: Mr. Sassower, are you all

thorough testifying?

MR. SASSOWER: Pardon me?

THE REFEREE: Are you all through testifying?

MR. SASSOWER: No. I didn't even start yet.
I'm testifying the way you want.

THE REFEREE: Well, if you are going to
testify the way I want, then do it.

MR. SASSOWER: No, I'll give my testimony.
I don't want Mr. Straus' testimony.

Those are the motions I made.

Can I testify on direct?

THE REFEREE: Wait a minute.

MR. SASSOWER: This is not cross-examination.
I'm allowed to give direct.

All right, what's the question?

THE REFEREE: On February 6, '86, did you
make a motion to vacate the disqualification of
Sassower?

MR. SASSOWER: What date is that, sir?

THE REFEREE: February 6, 1986.

MR. SASSOWER: That's what I have here. All
right.

THE REFEREE: Did you make a motion?

MR. SASSOWER: To vacate, no. I said it's

1
2 null and void because of extrinsic fraud, to declare
3 it null and void.

4 THE REFEREE: To declare what null and void?

5 MR. SASSOWER: Here's the motion papers.

6 THE REFEREE: I'm asking you, sir.

7 MR. SASSOWER: No, I did not. I said to
8 declare it null and void.

9 THE REFEREE: To declare what null and void?

10 MR. SASSOWER: The disqualification null and
11 void.

12 It's a three-page affidavit.

13 I did not make a motion to vacate the dis-
14 qualification.

15 Null and void based upon extrinsic fraud.

16 THE REFEREE: So far as the sixteen motions
17 are concerned, on Exhibit 57, you made those
18 motions, without characterizing them?

19 MR. SASSOWER: Some of them. One I said
20 it wasn't even made.

21 THE REFEREE: One you said was a motion --

22 MR. SASSOWER: Whatever the record shows.
23 As far as I am concerned, in 1986 --

24 THE REFEREE: Let's go on.

25 MR. SASSOWER: Now I want to give testimony

on it.

THE REFEREE: On what?

MR.SASSOWER: On all these motions, why they were made and what happened to them, and why that list is misleading and erroneous.

May I give some direct testimony?

THE REFEREE: Go ahead.

MR. SASSOWER: Thank you.

MR. STRAUS: I don't know what other kind of testimony --

MR. SASSOWER: I'm answering your Honor's questions.

THE REFEREE: My questions?

MR. SASSOWER: They are loaded, but, okay. I answered them.

Now, we start from the beginning.

I was --

I'll go with 1816.

MR. STRAUS: Objection. Repetition is not going to get us anyplace.

This is the fourth time he's going to say, "I was not disqualified."

I would ask you now, direct him to give additional testimony, not repetitive testimony.

MR. SASSOWER: I am.

THE REFEREE: Go ahead.

MR. SASSOWER: I got this order with notice of settlement.

THE REFEREE: Which order?

MR. SASSOWER: Of 1816 and 16792. It was dated -- the covering letter was dated the day before it was to be presented for settlement.

I received it the day after it was noticed for settlement.

We went down to the Supreme Court, which was a little delay because I had a broken arm at that time. I was in the hospital.

The papers had already been sent up to Judge Sinclair.

I didn't know what the decision was.

All I had was the proposed order.

I did not find out the decision in 1816 or 16792 until after the order had been filed in the County Clerk's Office.

THE REFEREE: That's after February 1, 1982.

MR. SASSOWER: Right. When I saw the order and the decision from my papers alone, and -- I'm sorry -- when I saw the papers, 16792 --

MR. STRAUS: Objection. Testified at least eight or ten times.

MR. SASSOWER: You never heard this.

THE REFEREE: Overruled.

MR. STRAUS: He noticed that the papers had been switched.

MR. SASSOWER: I did not.

MR. STRAUS: They didn't match up.

THE REFEREE: Mr. Sassower, I've overruled the objection.

MR. SASSOWER: When I saw that I was disqualified in 16792, which was a motion made six months before, and I said, "How can they make a motion when they're in default?" They were in default.

I didn't know about switching papers at that point, so, I made a motion to vacate on the grounds that a person in default has no standing, because he only has standing to make a motion to vacate the default, and 1816 I completely did not understand.

Judge Sinclair agreed with me in his decision of April 26, 1982.

MR. STRAUS: If your Honor pleases, he's reading it. I have duplicates here so, if your

1
2 if your Honor wants, you can read along with him.

3 These are photocopies of the same exhibits.

4 MR. SASSOWER: At this point, your Honor,
5 because --

6 THE REFEREE: Where did he agree with you?

7 MR. SASSOWER: Wait a second. Okay?
8 I said in 16792, first of all, he says even
9 though the third-party defendants were technically in
10 default at the time of the decision, they were
11 not technically in default, they were in default.

12 The judge refused to open up their default
13 because they refused to put in an affidavit of
14 merit.

15 And, also, he said here, that there was no
16 evidence of any conflict, but the court perceived
17 a conflict.

18 Now, we --

19 MR. STRAUS: Object to what Mr. Sassower
20 testifying to what the court perceived.

21 MR. SASSOWER: By the time this decision
22 came down, some more evidence had come down,
23 which revealed really what happened about, or,
24 partially what happened about the switching of
25 papers. Okay?

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Now, so, after -- I'm sorry -- okay.
Now, you see on 1816, look at this decision.
That's --

MR. STRAUS: There's a copy there, your
Honor.

MR. SASSOWER: -- on this one, he says -- you
have to understand that I was confused also because
I didn't really realize about a switch at that
time with all its significance.

There is no doubt that there is some confus-
ion with regard to the index numbers.

THE REFEREE: Why don't you continue?
You see what he said?

MR. SASSOWER: Right.

THE REFEREE: Did you read what he said?

MR. SASSOWER: Right.
He made a--

THE REFEREE: Mr. Sassower claims that the
'inclusion of the disqualification -- pardon --
under index 1868 denies him due process since
he was unaware that a motion for disqualification
was made under this number.

MR. SASSOWER: I was aware --

THE REFEREE: Wait a minute. Not only do the

1
2 motion papers indicate otherwise, see cross-
3 motion dated 7-28-81, but Mr. Sassower submitted
4 several affirmations in response to the motions,
5 and participated fully in the decision making
6 process. A motion to resettle the order is denied
7 in all respects.

8 MR. SASSOWER: I said I received notice
9 here and he refuses to disqualify. This is all
10 wrong.

11 I received notice. He did not disqualify me
12 in his decision of 4-26-82, I don't know where his
13 Honor got the idea that I said I never received
14 the notice.

15 The one I did not receive notice under was
16 16792. 181, the other one I received notice and
17 there was no -- in 16792, I had no notice. There
18 was no notice. Okay.

19 So, what his Honor did here was reverse it.
20 Okay.

21 So, by this time, it was really screwed up,
22 basically, because of the switching of the papers.
23 Completely reversed, completely reversed.

24 If you look at the papers, you will see that I
25 said I got notice under 1816. I never complained

otherwise. I did not get any motion under 16792.

So, the judge just turned him around. Okay.

Now, in the meantime --

MR. STRAUS: Your Honor, do you want Mr. Sassower to stop testifying?

THE REFEREE: Go ahead, continue.

MR. SASSOWER: In the meantime, more and more evidence was surfacing.

I made another motion while these were pending, not because I wanted to make another motion, but Judge Sinclair, like most judges, I'll say like many judges, don't want a continual submission of papers.

MR. STRAUS: Objection.

MR. SASSOWER: That's his rules, okay, or his rules at the time.

So, what you have to do on new material, is make new motions.

So, while that motion was pending and new material was coming in, which we didn't know about when that motion was sub judice, we made another motion so he could decide it together, so that while, technically, it's a new motion, they are all decided together. All right?

(Recess ensues)

MR. SASSOWER: I want to make a thirty second statement.

MR. STRAUS: Your Honor, may we have Mr. Sassower resume his testimony?

MR. SASSOWER: I want to make a thirty second statement.

MR. STRAUS: He can make his statements when he's completed his testimony.

My objection is to your making any statements other than testimony.

THE REFEREE: Go ahead, make your statement.

MR. SASSOWER: It's quite apparent that Mr. Straus has had in his possession all this time document evidence of larceny, perjury, switching of papers.

Apparently, he's done nothing about it, but, goes through with microscopes because a person makes a motion, because other people have been guilty of gross misconduct. That's all.

THE REFEREE: Let's go on.

MR. SASSOWER: Judge Sinclair, you have to understand, when Judge Sinclair, besides getting the thing completely reversed, which can happen,

they said they were technically in default.

In the interim, all their motions to vacate the default, the third-party defendants, were denied, because they didn't want to put in a first party defense, which, of course, made it clear to me that they were part of the stealing of the money, although I had no evidence at the time, so that, sure, motions had to be made, but, it came for two reasons.

The evidence of what they were doing came to me piecemeal, and when I had evidence and I made a motion based upon that evidence, while the motion was pending or thereafter, I would get still more evidence and more evidence, so that there came a time starting with November 7, 1983, and 1984, when there was just an avalanche of evidence, documents. It's in evidence.

Then, there came the confessions that the Kreindler firm had actually done this or had participated in it, so that when you took everything together, it was one gigantic fraud, to cover up the perjury and the larceny which was beyond what I had --

MR. STRAUS: Objection. Repetitious.

THE REFEREE: Overruled.

MR. SASSOWER: Now, were you the -- the one thing that I want to say which will save a lot of ground, in no case did I make a motion based upon the same evidence.

It's not a matter of where a judge denies something and I make the motion again, as distinguished from what the Feltman and the Kreindler firm do, they make a motion to hold me in contempt.

When it's denied, they make the exact precise motion again.

In fact, they had seven motions pending at one time, to hold me in contempt, all based on the same evidence.

MR. STRAUS: Objection, your Honor. They are not on trial. Mr. Sassower is.

MR. SASSOWER: Why don't you report it to the proper authorities, Mr. Straus?

On March 29, 1982, I made a motion to vacate the disqualification, 16792.

By the way, there are no motions here, which I don't agree to, incorporated in --

THE REFEREE: Mr. Sassower, you took the position before me today, and then, that you were

never disqualified.

MR. SASSOWER: Right.

THE REFEREE: So, why do you make a motion to vacate a disqualification?

MR. SASSOWER: Because it didn't come to me. It's only when you get all the evidence that's really extrinsic fraud can you say it.

You can't say it right in the beginning.

When I first made the motion to vacate, the first motion, I didn't even know about really switching of papers.

I knew they were in default.

I didn't know what the hell was going on.

The judge didn't know what was going on.

You take this motion, I made a motion in 1982 to vacate a disqualification, March 19, 1982, based on 5015 83, fraud and misrepresentation.

The judge said I have failed to substantiate the fraud and misrepresentation.

Why?

Because they said there was no larceny, there was no corruption, there was no perjury. There was none of it.

This motion, had they been truthful, would

1
2 have been granted.

3 This motion, today, has to be granted as a
4 matter of law.

5 That's an extrinsic fraud. That's null and
6 void.

7 All the cases that I have read in New York
8 and Federal Court will all say that.

9 There is no one case since Throckmorton,
10 which is 98 U.S., not one, in the U.S. courts,
11 in the New York State courts.

12 I can't talk about other states, although
13 I have read quite a few of them.

14 There is not one that will not say it's not
15 void.

16 THE REFEREE: Mr. Sassower, you are going
17 over and over it again.

18 MR. SASSOWER: You want to know why I made
19 motions, because the information was coming in
20 slowly.

21 There's something else which must be told to
22 your Honor, which would explain the Appellate
23 Division decision.

24 In 1984, Raffo was not being harmed by the
25 disqualification order as far as Judge Danzig

is concerned.

MR. STRAUS: Objection.

THE REFEREE: You can testify.

MR. SASSOWER: Judge Danzig allowed me permission to go into the courtroom, to participate, everything.

Even Diamond allowed me to go in and take part of it. No question about it. In the open, everybody knew --

MR. STRAUS: Objection.

MR. SASSOWER: -- said so.

MR. STRAUS: Objection.

MR. SASSOWER: -- admitted it.

THE REFEREE: Don't say "everbody." Let's be specific, if you can.

MR. STRAUS: I'm objecting because he listed all of these "everybodys" on numerous occasions already.

It has nothing to do with this charge.

He's done this over and over again.

MR. SASSOWER: I'll tell you why.

THE REFEREE: In any event, this was coming to you piecemeal, so you had to keep making motions.

MR. SASSOWER: No. In the beginning, right, right.

THE REFEREE: You went all the way down to February 3rd, 1986.

MR. SASSOWER: In February 3rd, '86, I didn't make a motion to vacate the disqualification. I made a motion to say it's null and void, and it's just not worthy of recognition, and I cited Throckmorton.

THE REFEREE: That's six of one, half dozen of another.

MR. SASSOWER: It's a big difference, from a legal point of view.

It's not six of one, half dozen of another. No question about it.

In fact on a void order, you look at New York Jurisprudence, Corpus Juris Secendum, if it's a voir oder, there can't be contempt, on a void order.

On an order which you violate, which is subject to vacature, but is not a void order, you can be guilty of contempt.

THE REFEREE: Let's continue.

MR. SASSOWER: There is a difference.

1
2 THE REFEREE: I know what the difference
3 is, but it's six of one.

4 What you wanted, you wanted to have the
5 right to remain in the picture.

6 MR. SASSOWER: In 1986, already, we had
7 such an avalance of evidence of what happened
8 here, that it was completely void; no doubt about
9 it.

10 Right now, if your Honor would tell me --

11 THE REFEREE: Nobody has declared it void
12 except you, is that right, as of this moment?

13 As of this moment, nobody --

14 MR. SASSOWER: The decision never came down
15 on it, if I recall.

16 THE REFEREE: I'm talking about Judge
17 Sinclair's order is still in effect, right?

18 MR. SASSOWER: No, it's not in effect, no,
19 not if you read Throckmorton and Hopkin's
20 decision.

21 THE REFEREE: I'm reading Judge Sinclair's
22 order.

23 MR. SASSOWER: Judge Shapiro says --

24 MR. STRAUS: Your Honor, objection.

25 MR. SASSOWER: You want to argue one way, I'll

argue the other way. I read their decisions.
I say it's void. That's my position.

In fact, my position right now is from the
evidence now, it was void from the moment it was
signed.

THE REFEREE: You don't have -- you went in
saying you don't have to vacate it, because it's
void, all you'd have to read --

MR. SASSOWER: That's what I'm not saying.

THE REFEREE: That's what you are going to
say to the Appellate Division.

MR. SASSOWER: That motion has been decided
yet.

THE REFEREE: That decision is still pending,
is that right?

Is it or is it not?

MR. SASSOWER: I'll find out. Let me just
check it for a moment.

Let me refresh my recollection.

THE REFEREE: Well, 181680, date of motion,
2-3-86, is that decision still pending?

MR. SASSOWER: It's terrific that you asked me
that.

THE REFEREE: Is the decision still pending?

MR. SASSOWER: No. You have to hear something.

It answers your question.

THE REFEREE: Is the decision still pending?

MR. SASSOWER: The papers were hijacked.

THE REFEREE: Is the decision still pending?

MR. SASSOWER: They're hijacked.

THE REFEREE: You mean there's no motion before the Appellate Division?

MR. SASSOWER: This is not Appellate Division. This is Judge Stecher. It's hijacked.

You know what hijacked means? Do you know what hijacked means?

I'll show you something, because your Honor asked a question, and I'm really grateful.

I'm almost willing to forgive you for all your past sins for asking me that question.

I'll tell you something. I'm serious about it.

Listen, I made a motion --

MR. STRAUS: Your Honor, I object. The question is whether the motion is still pending.

MR. SASSOWER: It's hijacked. He steals the

papers.

THE REFEREE: Wait a minute. Who's the motion returnable before?

MR. SASSOWER: Judge --

THE REFEREE: Who heard the motion?

MR. SASSOWER: They didn't. The papers were stolen.

THE REFEREE: It was filed.

MR. SASSOWER: Right.

THE REFEREE: So no decision is pending?

MR. SASSOWER: Listen --

THE REFEREE: No decision is pending.

MR. SASSOWER: I didn't say that.

THE REFEREE: What then?

MR. SASSOWER: Let me tell you what happened. I'll give it to you in a minute and a half.

MR. STRAUS: I'll object.

THE REFEREE: Why do you always pick a minute and a half?

MR. SASSOWER: Because that's all it takes me if I'm not interrupted.

I'm answering your question.

Hijacked.

THE REFEREE: So that there is no -- nothing

before the court at this time.

MR. SASSOWER: No. I'm not saying that.

THE REFEREE: If the papers are hijacked, are they going to do it from the minutes? Have the minutes been forwarded to the Judge?

MR. SASSOWER: Could you listen for a minute and a half?

THE REFEREE: No, not if -- not if it's not relevant.

Go ahead.

MR. SASSOWER: A motion was made after the computer system came in.

THE REFEREE: Before whom?

MR. SASSOWER: The support motion unit. The first motion was made --

THE REFEREE: What was the nature of the motion?

MR. SASSOWER: The motion was to vacate Diamond's -- he took a motion that was before Judge "Shaneswit."

MR. STRAUS: Objection. Not responsive.

MR. SASSOWER: You asked me a question.

MR. STRAUS: About the nature of the motion, Mr. Sassower.

MR. SASSOWER: To vacate something that Diamond

1
2 did by taking papers from Judge "Shaneswit."
3 (phonetic)

4 THE REFEREE: It has nothing to do with the
5 disqualification.

6 MR. SASSOWER: No. The computer assigned
7 Judge Stecher in IAS 13.

8 THE REFEREE: Sir --

9 MR. SASSOWER: Wait, give me a minute and a
10 half, Judge, please.

11 THE REFEREE: I want to stop you for one se-
12 cond.

13 You testified earlier to Number 16 which
14 is 2-3-86, that, yes, you made the motion to
15 disqualifaction null and void.

16 MR. SASSOWER: Let me finish it.
17 We made a motion. It was assigned to Judge
18 Stecher.

19 There was a second motion pending in the
20 part which should have gone to Judge Stecher also.
21 That motion was to change the venue of the Puccini
22 litigation and also to compel an accounting.

23 That motion was physically, before it was
24 put on the computer, hijacked by Feltman and
25 Diamond and Diamond, instead of it going to

1
2 Judge Stecher, he hijacked it, said he was sitting
3 in Part 13 and issued an order to break into my
4 house and to seize my word processor. That, you
5 know about.

6 Once Judge Stecher was assigned by the comput-
7 er, all motions have to be made before Judge
8 Stecher.

9 This motion was made before Judge Stecher.
10 Disappeared. Four motions.

11 There is now a proceeding, Sassower against
12 Wachtler and Bellacosa.

13 THE REFEREE: To do what? To get your papers
14 back?

15 MR. SASSOWER: That's right.

16 THE REFEREE: So, as of this moment, there
17 is no decision pending because they don't have the
18 papers.

19 MR. SASSOWER: I'll go one step further.
20 You know, the order that Diamond issued to
21 seize my computer, that's not on the computer.
22 There is nothing on the computer. There are three
23 motions.

24 MR. STRAUS: Can we get back to the charges?

25 MR. SASSOWER: This motion, yes, it's there.

1
2 It's someplace. The motion is in court. Okay.
3 It's not on the computer. Where it is, I think
4 I know where it is.

5 THE REFEREE: There was a motion to declare
6 the disqualification null and void.

7 MR. SASSOWER: It's in court, I'm pretty sure.

8 THE REFEREE: Let's go on.

9 MR. SASSOWER: There is a motion returnable
10 Monday, this coming Monday, made a week and a half
11 ago, two weeks ago.

12 THE REFEREE: By whom?

13 MR. SASSOWER: By me.

14 THE REFEREE: On whose behalf?

15 MR. SASSOWER: My behalf.

16 THE REFEREE: You solely?

17 MR. SASSOWER: No.

18 THE REFEREE: Who, then?

19 MR. SASSOWER: I'll give you a copy of the
20 paper later on.

21 THE REFEREE: I don't want it. You are not
22 being charged with anything you did last Monday.

23 MR. SASSOWER: I set forth what's happening,
24 because the papers are being taken out of the
25 Clerk's office.

1
2 I have four motions already that I have
3 tracked, taken out physically from the Clerk's
4 office.

5 Judge Bellacosa knows about it. They all know
6 about it.

7 THE REFEREE: He doesn't sit there. He's the
8 Chief Administrator.

9 How does he know it?

10 MR. SASSOWER: Who do I go to? Physically
11 taken out.

12 There are two orders to seize my word process-
13 or. That's not in the system.

14 MR. STRAUS: Your Honor, at this point, could
15 you ask Mr. Sassower to return to the subject of
16 the charges?

17 MR. SASSOWER: The motion is pending.

18 THE REFEREE: Then we're all through with this
19 list.

20 Next.

21 MR. SASSOWER: Wait a second.

22 THE REFEREE: No more. We're all through with
23 this list.

24 MR. SASSOWER: So, it's pending.

25 THE REFEREE: The next list. It says --

do you have a copy of that in front of you?

MR. SASSOWER: Could I get a copy?

THE REFEREE: Do you have a copy?

MR. SASSOWER: Yes.

Could I have your assistant bring in the
Business Corporation Law, please?

MR. STRAUS: What?

MR. SASSOWER: Could I have a minute to get a
copy of the Business Corporation Law?

MR. STRAUS: You knew you were going to testi-
fy today.

MR. SASSOWER: I went four times.

MR. STRAUS: We don't have someone here at
your beck and call.

MR. SASSOWER: I want to take a look at
the library.

THE REFEREE: Did you make those motions?

MR. SASSOWER: I don't know.

THE REFEREE: Look at the list.

MR. SASSOWER: I don't know. I'll look at
the papers.

THE REFEREE: Look at your papers.

MR. SASSOWER: Wait a second, wait.

Let's understand one thing, your Honor,
before we even look at the list.

THE REFEREE: That's question Number 1.

MR. SASSOWER: This is direct first -- no --
direct first -- my direct.

Will we take my direct first? I'll take my --
unless you order me, I want my direct first.

THE REFEREE: I'm ordering you.

MR. SASSOWER: Did I make the motions?

THE REFEREE: Yes.

MR. SASSOWER: I don't know. I'll go through
one by one.

Do you want it the long way or the short way?

THE REFEREE: Look through them and when
you are ready, we'll continue.

MR. SASSOWER: The first one is wrong.
The first one, is wrong.

THE REFEREE: After you look through the
whole thing, then you can answer one by one.

MR. SASSOWER: I can't remember it in my
head.

THE REFEREE: Jot it down. You have a piece
of paper.

MR. SASSOWER: This is absolutely wrong. It's

all wrong.

THE REFEREE: Here, sir.

MR. SASSOWER: It's wrong.

THE REFEREE: I know, but wait until you look
at --

MR. SASSOWER: I can go one, two, three,
right down the line.

THE REFEREE: Go ahead.

MR. SASSOWER: Let me do it that way.

THE REFEREE: Do it your way, go ahead.

MR. SASSOWER: Three, four, eighty-one, no.

THE REFEREE: You didn't make the motion?
No? Okay.

MR. SASSOWER: There was no receiver there.

THE REFEREE: Sir --

MR. SASSOWER: There was no receiver. How
can you make a motion to remove a receiver?

THE REFEREE: You are charged with making
the motion. You didn't make it?

MR. SASSOWER: No.

THE REFEREE: On 70281.

MR. SASSOWER: There's no receiver.

THE REFEREE: Answer is, "No."

MR. SASSOWER: No, there's no receiver.

1
2 THE REFEREE: Now, 2-11-82. Was Mr. Feltman
3 appointed receiver 2-1-82? Right. So then,
4 we make up 2-11. At that time he had already
5 been appointed.

6 MR. SASSOWER: There is no motion to remove
7 the receiver.

8 THE REFEREE: No motion?

9 MR. SASSOWER: No.

10 THE REFEREE: Okay.

11 MR. SASSOWER: At least no one has been shown
12 to me and I can't perceive of a motion on 2-11.

13 MR. STRAUS: Motions are all in evidence.
14 If they're not there, we failed to establish it.

15 MR. SASSOWER: He was only in there ten
16 days. There was no motion to remove him. The
17 answer is, "No," your Honor.

18 He was only in there ten days.

19 THE REFEREE: Look at this, 3-4-81.

20 MR. SASSOWER: There was no receiver. There
21 was no receiver. How can you make a motion to
22 remove one when there is no receiver?

23 You really have to send me to an insane
24 asylum if I made a motion to remove a receiver
25 when there was no receiver.

MR. STRAUS: The caption is, "Raffe's motions to remove receiver and/or apoint himself receiver."

MR. SASSOWER: And/or doesn't mean anything. There was no receiver.

These bastards were stealing. Okay?

THE REFEREE: February 1, there was a receiver.

MR. SASSOWER: Yes.

THE REFEREE: February 11, did you make a motion?

MR. SASSOWER: No; couldn't be.

THE REFEREE: All right, the answer is, "No." Now, we come to April 5, '82.

MR. SASSOWER: No. Look at it.

THE REFEREE: You said, "No."

MR. SASSOWER: It's "and/or." I would say, no, but I want to qualify it.

THE REFEREE: Qualify it.

MR. SASSOWER: The notice of motion says "Permitting Hyman Raffe to commence an action against Lee Feltman and the purported attorneys, Feltman, Karesh and Major, and/or for the removal of Lee Feltman as the receiver in this matter."

Okay. Now, Judge, have you got a copy of

the papers?

THE REFEREE: Which one?

MR. SASSOWER: April.

THE REFEREE: April 5? Yes.

MR. SASSOWER: Look at the support affidavit.

THE REFEREE: Yes?

MR. SASSOWER: Page 2. Okay?

THE REFEREE: Yes. Page 1.

MR. SASSOWER: Page 1.

THE REFEREE: For the removal of receiver.

MR. SASSOWER: Let's go to Page 2 because it has two things in there that are significant.

Do you recall earlier, we spoke about the testimony concerning the order to show cause, where they didn't cross out the determination and there were two simultaneous motions made, one in the Appellate Division, and one in Supreme Court? And, neither one of them told what the other was doing?

Besides that, your Honor, I want to show your Honor -- please just look at this --

THE REFEREE: Go ahead. I have it.

MR. SASSOWER: On Monday, March 22, my attorney received a telephone call from the receiv-

er's legal associate.

I was living in White Plains at that time. Although, you say I was disqualified by March already --

MR. STRAUS: Are you reading now?

MR. SASSOWER: I'm saying, on March 22, '82, my attorney received a telephone call. I was acting as attorney here and nobody objected to my being the attorney here, in March, notwithstanding what the Sinclair order was, and, if you want me to go into why, on Tuesday, March 23, my attorney again -- for this reason -- I told you I was even served with the papers on behalf of Raffe, in White Plains. Raffe wasn't served. I was served, by the Feltman firm.

So, this is not what I am saying. I'm saying this is the Feltman firm doing it.

And, if you go to the Appellate Division papers, you will see the affidavits of service that they served on behalf of Raffe. Throughout '82 until around October, when I really smelled a rat, really, and I thought it was there, Raffe never was served with anything. I was served by the Feltman firm, even though the Sinclair order was there,

because, by that time already, you know, it was no good. That's not me saying it. That's the Feltman firm saying it.

They're serving me on behalf of Raffae.

If you read the papers here, your Honor, you will see how the Greenfield order was gotten, and, if you would ask me today, is the Greenfield order void or extrinsic fraud, I would say, "Absolutely."

MR. STRAUS: Objection.

MR. SASSOWER: That's my opinion.

MR. STRAUS: Objection.

MR. SASSOWER: Okay. Now, this is the great one.

The fourth one is what? Ascione. This is February 4, '83. Okay.

THE REFEREE: What happened February , '83? Did you make a motion, yes or no?

MR. SASSOWER: Yes and no. Let me explain it.

THE REFEREE: Go ahead.

MR. SASSOWER: The law says that a receiver has to file a 1207 statement February 1st of every year. This is not an accounting. This is

1 a 1207 statement. He didn't file a 1207 statement.

2 So, what do you do? You make a motion to
3 compel.

4 This is the Attorney-General's job, not my
5 job.

6 The Attorney-General is supposed to make this
7 motion.

8 We wanted a 1207 statement.

9 Why did we want a 1207 statement? Because
10 we wanted to know how much money Puccini had, how
11 much expenses they had.

12 So, a 1207 statement came in and, it was
13 thereafter, you know, now we know it was a fraudu-
14 lent one.

15 THE REFEREE: What was the nature of your
16 application?

17 MR. SASSOWER: To remove the receiver for
18 not filing a 1207 statement.

19 THE REFEREE: That's what I asked. All right.

20 MR. SASSOWER: For not filing a 1207 statement.
21 Why should we have to make that statement?

22 THE REFEREE: Mr. Sassower, I'm not saying
23 that you had no right to make these motions.

24 I want to know whether you made the motions,
25

then we'll go into the other factors.

MR. SASSOWER: Okay. That's why I hate to say yes and no, because certain things are implied in the question which I don't like.

Now --

THE REFEREE: And, 11-25.

MR. SASSOWER: We also said he has to file an accounting and the judge gave him until February 1st, 1984 to file an accounting.

Now, 12 -- 1216, of the Business Corporation Law, says that if a receiver -- 1208 says if a receiver should file and distribute within one year, 1216 says that if the receiver does not account within eighteen months, the Attorney-General must -- it's mandatory -- make the receiver account.

So, you could go two ways. You could make a motion to mandamus the Attorney-General to compel the receiver to account, which is the around about way, or, make the motion against the receiver, so we made a motion against the receiver for one, 1207 and one, for an accounting, and the judge gave him until February 1st, 1984.

THE REFEREE: What about 25-83?

MR. SASSOWER: November 25?

THE REFEREE: -- '83.

MR. SASSOWER: Terrific. It's got a lot of relief.

Look at the notice of motion, your Honor. It's the fat one. Okay?

THE REFEREE: This was Raffe appearing pro se, an order.

Was this Judge Gammernan?

MR. SASSOWER: No.

THE REFEREE: Who was the judge?

MR. SASSOWER: Seymour Schwartz.

THE REFEREE: It appears that this is the third attempt to remove the receiver.

It appears that this is the third attempt to remove the receiver.

The relief request in the last two proceedings were denied.

This was part of the decision of the judge. "The motion is granted."

MR. SASSOWER: I don't think your Honor read it right, Judge. I don't --

THE REFEREE: You read it then. It's Judge Seymour Schwartz, not Hilda Schwartz, and the

decision was rendered January 25, 1984.

MR. SASSOWER: I was going by memory, but I think you read it incorrectly.

Let me see what it says there.

It says here on the top of Page 2 --

THE REFEREE: Yes. Motion is granted solely --

MR. SASSOWER: No, no. It says that -- first of all, it says that it's premature. This was a fraud.

THE REFEREE: The decision reads "The receiver alleges that the audit of the corporate records will be forthcoming, which indicates that the motion to remove the receiver is premature, at least. Accordingly the motion is granted solely to the extent that Petitioner Raffae, Dann, and Sorrentino are all directed to file a statement of affairs pursuant to the June 4, 1980 order, within 45 days after publication of this order."

MR. SASSOWER: Okay. Now --

THE REFEREE: Right?

MR. SASSOWER: Right, it's right and it's wrong. I'll --

THE REFEREE: Did I read it correctly?

MR. SASSOWER: Now you read it correctly. Okay.

1
2 THE REFEREE: I read it correctly before,
3 too.

4 MR. SASSOWER: You didn't read the second
5 part. "The accounting firm" --

6 First of all, this motion was made very
7 shortly after November 7, when I got some of
8 the hard evidence, and I found that the order of
9 June 4, 1980, which required sworn statements,
10 was never filed.

11 As far as Raffé was concerned, he never had
12 possession of the books and records, and he knew
13 nothing about it. He was not an operating officer.
14 The receiver --

15 So, I found, one, that those statements
16 had never been filed.

17 Two, the receiver said, "Oh, we haven't
18 got an accounting yet, because we're waiting
19 for a report from Rashba and Pokart."

20 They, thereafter-- who was appointed
21 April 6, 1983, said, "Feltman never told me to make
22 this report."

23 It was only in November when we made the
24 motion, so, all along, Feltman was saying,
25 "I'm waiting for the report, I'm waiting for the

report."

When I saw the checkbook and some of the other books and contacted Rashba and Pokart, they had not even started on it.

We found this out after motion was made.

So, Feltman said in here that, "We're waiting for the accountant's report."

Had just been given to the accountant. It had been given to the accountant in April. That's the first thing.

The second thing is, this was the first time that we made a motion based upon the evidence that the receiver was betraying his judicial trust, and had judgment imposed upon Puccini of almost a half million dollars, because they did not disclose the Kreindler, larceny, and perjury.

So, this is a rather lengthy motion.

And, what Judge Schwartz said here, didn't really deny it.

He said, "It's premature, let's see what happens when the accounting report comes in."

Because what he says here is okay, because the receiver said "We're waiting for the accountant's report."

When the accountant's report came in and showed this massive larceny, we renewed the motion.

What happened? While that motion was pending, Feltman went over, got this order of October -- of January 23rd, with this phony affidavit of service, that never saw Special 1, going in or going out, which directed three motions to be aborted.

One of the motions that it directed, was this Judge Schwartz order, because it was based -- their opposing papers were absolutely perjurious from top to bottom, so what you have here is not a denial, it's a qualified denial but the qualification was based upon, again, again, more perjurious affidavits, and we have the statements from Rashba and Pokart, and everything else.

Now, can I answer a question that you asked me before, your Honor?

THE REFEREE: Go ahead.

MR. SASSOWER: At this point --

MR. STRAUS: May we have the question that Mr. Sassower is responding to?

MR. SASSOWER: The Judge asked me about going to the District Attorney's office.

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MR. STRAUS: That's not a question.

MR. SASSOWER: His Honor made the comment several times about why I don't go to the District Attorney's office.

Do you want an answer to the question?

THE REFEREE: I don't want an answer. That's not my problem.

MR. SASSOWER: Do you want an answer?

THE REFEREE: I don't want an answer.

MR. SASSOWER: Judge, I'm walking around because I lost a piece of my eyeglasses and I'm looking for it as I testify.

It's hard for me to put my glasses on and see at the same time.

THE REFEREE: Twelve --

MR. SASSOWER: Judge Ascione.

MR. STRAUS: This is --

MR. SASSOWER: This is the great one. I really wish you had Judge Sascione in here.

THE REFEREE: Sir, did you make a motion?

MR. SASSOWER: That can't be answered yes or no.

THE REFEREE: For an order to renew and re-argue the decision of the court dated June 2,

1983, by compelling the receiver to serve and file a full and crystal clear detailed and amended statement pursuant to Business Corporation Law 1207, an interim accounting, together with any other further and different relief that this court may seem just and proper in the premises. It was granted. This was granted.

MR. STRAUS: The one in Mr. Sassower's left hand.

THE REFEREE: You have it.

MR. SASSOWER: Yes. Okay. Again, Judge --

THE REFEREE: The answer is, "Yes, but."

MR. SASSOWER: But, it's not the same thing. Judge Ascione granted him an extension of time to file an account until February 1st, 1984.

Came February 1st, 1984, he didn't file an accounting.

THE REFEREE: Go ahead.

MR. SASSOWER: He didn't file an accounting. But, in that '80, in the prior one, it was a settle order.

THE REFEREE: Sir, I'm still on December 13, 1983.

MR. SASSOWER: Right.

THE REFEREE: Are we all through with that?

MR. SASSOWER: I'm sorry. I'm showing you -- you see, it says, "Settle order on June 2nd."

You want to know, it says, "Reargue and renew."

There was no order settled on it, so, when it came February 1st, 1984, and he still didn't file an accounting, pursuant to Judge Ascione's decision, where no order was entered, so, we wanted to incorporate this decision with this motion, because no order was entered here, it was just a technicality, so, we said, "Okay, Judge Ascione, you said he has until February 1st, 1984. February 1st, 1984 is here. He didn't file a 1207 statement."

He wasn't -- all things that the law requires that he do, he did not do, but the law requires that he do a lot of things and he doesn't do them.

If he doesn't do them, you have to make a motion at the time it comes up.

Now, we, what he leaves out here is the Judge Ascione order of May 16, 1984, and you really can't understand what happened afterward unless you understand Judge Ascione's order of May 16, 1984.

Do you have it, Mr. Straus?

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2 MR. STRAUS: It's in evidence. I have what's
3 in evidence, Mr. Sassower. That's it. Do you have
4 it?

5 MR. SASSOWER: I don't have it here, no.

6 THE REFEREE: What are you looking for?

7 MR. SASSOWER: The May 16 order.
8 You can't -- you cannot properly answer --

9 THE REFEREE: May 16?

10 MR. SASSOWER: Yes, 1984.

11 MR. STRAUS: It's not on this list.

12 MR. SASSOWER: So, I'll tell you what the
13 Judge Ascione of May 16, '84 was. I'll try to get
14 a copy of it.

15 MR. STRAUS: I'll object to Mr. Sassower
16 testifying to an order that's not in evidence.

17 MR. SASSOWER: I know what it says.

18 MR. STRAUS: You may think you know.

19 THE REFEREE: What's the relevance of it?

20 MR. SASSOWER: Because you can't understand
21 everythng that happened.

22 THE REFEREE: Tell us in substance what you
23 believe he said.

24 MR. SASSOWER: I know what he said.

25 THE REFEREE: Tell us what you believe he said.

1
2 MR. SASSOWER: We made a motion in March
3 when the evidence started coming through about
4 the wholesale larceny here of judicial trust
5 funds, et cetera, et cetera, et cetera.

6 We made a motion that went to Judge Ascione
7 to look into about six or seven different items in
8 the matter.

9 Judge Ascione referred the matter for a full
10 hearing as to all these matters to Referee Diamond.

11 That came down on May 16.

12 Referee Diamond was supposed to examine all
13 parties involved in what happened to Puccini,
14 after June 4, 1980.

15 There were two people who absolutely knew
16 nothing about what happened to Puccini, because
17 they had no part in it.

18 One was Milton Kaufman. He was dead.
19 He died before June 4, 1980.

20 And Hyman Raffé was the second.

21 Hyman Raffé was never in control of the
22 assets --

23 MR. STRAUS: Your Honor, can we find out
24 what the decision was? Must we have --

25 MR. SASSOWER: That's the decision.

They were supposed to inquire as to everybody who had anything to do with Puccini's assets after June 4.

As a result of that, Referee Diamond examined only Hyman Raffé.

Hyman Raffé got up there and testified.

He said, "What are you examining me for?" in sum and substance. "I'm Mr. Clean here. I never had the assets. I've been trying to find out what's going on here."

THE REFEREE: Then what happened?

MR. SASSOWER: He refused to examine anybody else. He refused to examine Barr, Citibank, Kreindler and Relkin, Arutt or anything else.

So, Diamond refused any accountings, everything, right down the line.

The Attorney-General, who had a duty to demand accountings was Cook.

He was a one-man unit, but, he had also been commandeered to represent Diamond, Riccobono, all right.

THE REFEREE: So, you had no other recourse but to file an action, is that right?

MR. SASSOWER: Right.

1
2 THE REFEREE: When did you file the action,
3 and what were you seeking?

4 That was December 13, 1983, and were you
5 before Judge Ascione?

6 Let's talk about the first one before
7 Judge Ascione.

8 MR. SASSOWER: That was just for statements.

9 THE REFEREE: It was similar relief to Novem-
10 ber 25 and February 4.

11 MR. SASSOWER: But, it's a year later.

12 Don't forget the law says you have to file
13 the statements every year.

14 THE REFEREE: Next is January 16, '84.

15 MR. SASSOWER: Do you understand that you
16 have to file? It's like income tax.

17 The fact that you file an income tax return
18 in 1982 doesn't mean that you don't have to file
19 it in 1983 and 1984, so they were not filing it
20 each and every year and each and every year we'd
21 make a motion and each and every year, they'd get
22 an extension, the 1207 statement, which is not
23 an accounting. The 1207 statement only says
24 "This is what I have and this is what I spent."
25 It is not an accounting. That was all together false

Okay. But that goes to the Attorney-General, nobody else. It's filed in the County Clerk's Office also.

MR. STRAUS: Your Honor, could you direct Mr. Sassower's attention to the charge?

MR. SASSOWER: I am.

THE REFEREE: January 16, '84.

MR. SASSOWER: Who was that?

MR. STRAUS: Judge Saxe.

MR. SASSOWER: This will take an hour.

THE REFEREE: An hour?

MR. SASSOWER: Yes.

Judge, there's no way of answering Judge Saxe properly, unless you give me full opportunity, because you don't like these accusations that are unsupported and I don't blame you in that respect, but, if you don't like accusations that are unsupported, then you have to give me an opportunity to support the accusations.

Now, which would you want, your Honor?

MR. STRAUS: Your Honor, it doesn't make any difference whether the accusations were true or not true.

The point is, how Mr. Sassower proceeded

which is what this case is about.

Whether he believed that that's what happened, or can actually prove it, what the courts decided is a matter of record, and that's what this case is about.

MR. SASSOWER: I'm saying that Judge Saxe has a statutory disqualification.

Judicial Law 14 disqualification.

THE REFEREE: His decision is still in effect.

MR. SASSOWER: No, it isn't.

MR. STRAUS: It's not in effect? Mr. Sassower says that's just plain untrue.

THE REFEREE: When was he reversed?

MR. SASSOWER: You didn't hear what I said.

THE REFEREE: I heard what you said.

MR. SASSOWER: Judicial law. A Judicial Law 14 disqualification, according to the cases --

THE REFEREE: Sir, according to the record, Judge Saxe's decision is in front of me and it's still in effect.

MR. SASSOWER: All Judge Saxe's decisions are phonies.

THE REFEREE: Okay.

MR. SASSOWER: Am I entitled to explain, give

1
2 give evidence?

3 MR. STRAUS: If your Honor pleases, I don't
4 think Mr. Sassower is entitled to try to give evi-
5 dence to establish that an order, which is a valid
6 order, and in the record, is not a valid order,
7 by going behind the order, and developing what he
8 regards as the reasons why it's not valid. That's
9 not relevant.

10 MR. SASSOWER: I didn't say the reasons.

11 MR. STRAUS: The order is in evidence.

12 MR. SASSOWER: You don't know what a Judicial
13 14 disqualification is.

14 THE REFEREE: Mr. Sassower, you said all of
15 Judge Saxe's decisions are phonies. Okay.

16 MR. SASSOWER: That's the wrong word. They are
17 void.

18 THE REFEREE: You voided them?

19 MR. SASSOWER: The --

20 THE REFEREE: Who voided them?

21 MR. SASSOWER: The law does.

22 MR. STRAUS: We seem to have some confusion,
23 your Honor.

24 If Mr. Sassower takes the opinion that if he
25 believes something is void, even though a court --

THE REFEREE: That's a statement.

MR. SASSOWER: Judge, write down Judicial Law 14.

THE REFEREE: Sir, as far as I'm concerned, the decision of Judge Saxe is in evidence.

MR. SASSOWER: Now, let's see what he did.

THE REFEREE: Now, you want to go into what he said.

MR. SASSOWER: You said the motion is frivolous.

THE REFEREE: I didn't say anything. You first said they're phonies and now they are void.

MR. SASSOWER: It's a motion.

MR. STRAUS: Objection. The motion speaks for itself.

MR. SASSOWER: Returnable January 31st, 1984. Okay.

Don't read the decision, first. He wants to make up stories. Okay, for his partner in the Feltman firm. That's one thing.

Let's see what the motion is, and what the documents attached to it are, and let's not worry about fairy tales.

MR. STRAUS: The documents are in evidence.
Mr. Sassower does not have to read them into the
record.

MR. SASSOWER: I'll give you direct.
Attached to that motion --

Would your Honor look at the last page, please?

THE REFEREE: Sir, I looked at the document.

MR. SASSOWER: Did you look at the last page?

THE REFEREE: After the judge reviewed the
document, he rendered a decision.

Do you want to read the decision?

MR. SASSOWER: No.

THE REFEREE: You don't?

MR. SASSOWER: Did you look at the last page?

THE REFEREE: Go ahead.

MR. SASSOWER: Did you look at the last page?

THE REFEREE: I'm not on the witness stand.
The last page has a cancelled check, \$4495 made
out to Arutt, Nachamie, et cetera.

MR. SASSOWER: Right.

THE REFEREE: That's the last page.

MR. SASSOWER: Right.

THE REFEREE: What do you want?

MR. SASSOWER: Dated November 16, 1981.

1
2 THE REFEREE: November 16, '81.

3 MR. SASSOWER: It went through the bank on
4 November --

5 MR. STRAUS: Objection. Are we trying the
6 case now?

7 MR. SASSOWER: No. Wait a second.

8 MR. STRAUS: I don't understand why Mr.
9 Sassower is reciting what's in the papers. They're
10 in evidence.

11 They have been in evidence for quite sometime.

12 MR. SASSOWER: Fine, good-bye. Next. Next.
13 I'd like to tell you some of the things that went
14 on here.

15 I'd like to have Dave Cook here. He'll tell
16 you the things that were going on here, between
17 them, between the Feltman firm and Judge Saxe.

18 THE REFEREE: You say there was chicanery
19 between -- between Saxe and the Feltman firm.

20 MR. SASSOWER: I'd like to produce evidence,
21 not from my -- I'm saying that I'd like to produce
22 witnesses, documents, testimony.

23 THE REFEREE: Not here.

24 MR. SASSOWER: Why not?

25 THE REFEREE: It's the wrong forum. I'm not a

law enforcement agency. Go to the crime commission.
Go the bar association.

MR. SASSOWER: No, that's the only obligation of Mr. Straus and that's your Honor's obligation.
I've been enjoined.

THE REFEREE: Go to the Stern Commission.

MR. SASSOWER: I've been enjoined. It's a professional disciplinary body.

THE REFEREE: When were you enjoined?

MR. SASSOWER: Gammerman's order.

THE REFEREE: You said you were still filing motions, in '86.

MR. SASSOWER: I'm not filing the Gammerman order.

THE REFEREE: You said Gammerman didn't disqualify you.

MR. SASSOWER: I'm not violating his order.
I'm not looking for trouble.

What I have to do, I do.

THE REFEREE: I'd like you to be more consistent, but that's your prerogative.

MR. SASSOWER: What, what kind of consistency do you want?

THE REFEREE: You answer one way, then when

1
2 you're confronted with it --

3 MR. SASSOWER: I have a -- when I have an
4 obligation to my client, I have no options, but if I
5 want to go to the Grievance Committee --

6 THE REFEREE: Go anyplace you want, but this
7 is the wrong forum for that.

8 MR. SASSOWER: But it's real evidence.
9 How come you're so concerned as to every word and
10 every order, but you are not concerned about larceny
11 or perjury or corruption?

12 THE REFEREE: Sir --

13 MR. SASSOWER: Why aren't you concerned about
14 it?

15 THE REFEREE: Sir, the matter before me, if it
16 was before me, believe you me, I'd be concerned,
17 but I wasn't appointed by the Appellate Division
18 to report on crime and corruption.

19 MR. SASSOWER: Fine. I'm not asking you to
20 find crime and corruption, but maybe in protecting
21 a client's rights I have to find out about it --

22 THE REFEREE: That's what you did, but when?

23 MR. SASSOWER: In protecting a client's
24 rights --

25 THE REFEREE: When I call your attention to

the decisions, you want out.

MR. SASSOWER: I don't want out. I want to explain it.

THE REFEREE: You want to explain away the decision.

MR. SASSOWER: I want to explain away the entire power --

THE REFEREE: We're engaging in colloquy now.

MR. SASSOWER: -- the power of the judge to decide.

THE REFEREE: We'll adjourn now. It's a quarter to five.

MR. STRAUS: We have to fix some new dates then, your Honor.

Next week would be the 15th and the 17th.

MR. SASSOWER: Judge --

THE REFEREE: I'm only available, unfortunately, the 17th, next week.

MR. SASSOWER: I'll see what I can cancel out for the 17th, but I want to say my mother is eighty-one years of age and I go down and I try to go down for three days on Passover.

MR. STRAUS: Next week is not Passover.

MR. SASSOWER: I want to tell you before.

1
2 THE REFEREE: Passover I'll not be here,
3 so you can count out from April 23rd through
4 April 27.

5 MR. STRAUS: Can we schedule April 22nd,
6 your Honor?

7 MR. SASSOWER: No. I'll be down -- I'm going
8 to Florida. Tickets are already bought.

9 MR. STRAUS: If your Honor pleases, I would
10 request that we have this continued, a date for
11 April 22nd.

12 MR. SASSOWER: I can't.

13 MR. STRAUS: Mr. Sassower, if you are direct-
14 ed to, you have to be here.

15 MR. SASSOWER: I'll not be here April 22nd,
16 your Honor, okay?

17 THE REFEREE: At 10:00 a.m, the 17th of
18 April, and the next date --

19 MR. STRAUS: Do we have a date after that,
20 your Honor? Perhaps we can conclude on the 17th?

21 THE REFEREE: Let's hold it on the 17th,
22 and see what happens. All right.

23 oOo
24
25