U.S. SENATE BANKING, HOUSING & URBAN AFFAIRS
U.S. SENATE SELECT COMMITTEE OF ETHICS

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In the Matter of

Senator ALFONSE M. D'AMATO
MICHAEL CHERTOFF, Esq.

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This is an interrelated complaint concerning: (i) former U.S. Attorney MICHAEL CHERTOFF*1 of the District of New Jersey, presently Majority Counsel of the Senate Banking Committee making inquiry into the "Whitewater Matter"; and (ii) Senator ALFONSE M. D'AMATO* of New York, the Chairman of that Committee, for the making of such Chertoff appointment, and related misconduct.

1a. Mr. Chertoff, while with the U.S. Attorney's Office in New Jersey, was engaged, with others, in criminal racketeering activities, which included defrauding, in multiple respects, the federal government.

All essential facts contained in this presentation against Mr. Chertoff are from uncontroverted public documents, copies of which will be forwarded for any assertion that is disputed, although complainant expects that nothing here will or can be disputed.

The validity of all statements, legal and otherwise, are flawless and unassailable.

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1 * Indicates those to whom a copy of this publication is being mailed so that opportunity of response is afforded, indeed responses are solicited.

The failure of complainant to receive controverting statements or material by September 28, 1995, shall be deemed an admission of the correctness of the allegations made.

All conclusions concerning the criminal activities by Mr. Chertoff and others, including defrauding the federal purse, are inescapably compelled.

b. Mr. Chertoff served as the U.S. Attorney for the District of New Jersey between October 22, 1990 and May 1, 1994.

Prior to October 22, 1990, for a number of years, Mr. Chertoff served as the First Assistant U.S. Attorney and then as Acting U.S. Attorney in that federal district.

2. Mr. Chertoff would not have been appointed to his present position as Counsel to Senator D'Amato's Committee had he not, while associated with the U.S. Attorney's Office in New Jersey, conducted himself unlawfully, defrauding and acting adverse to the legitimate interests of the United States.

The U.S. Attorney's Office for the District of New Jersey was defending, at staggering federal cost, individuals sued in their personal capacity, in their personal names, without the execution of any 28 *U.S.C.* §2679[d] certificates, or United States substitution, and who were acting contrary to sovereign interests, although Congress clearly did not authorized expenditures of federal funds under such circumstances.

The United States was not being sued, as conclusively evidenced by the absence of any 28 *U.S.C.* §2675[a] notices of claim, nor were there any interests of the United States that needed defending.

One of many examples of the scandalous situation existing in the U.S. Attorney's Office in New Jersey was its refusal to join complainant in attempting to recover, in favor of the United States, monies payable "to the ['federal'] court", which were diverted to the private pockets of those who claimed they had influence with, *inter alia*, Senator D'Amato. Instead, at federal cost and expense, the U.S. Attorney's Office personally represented those who were involved in such criminal diversion of such funds.

U.S. Trustee NOVALYN WINFIELD characterized the expenditures being made, including by the U.S. Attorney's Office in New Jersey, as "staggering" (*New Jersey Law Journal*, July 13, 1989).

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3. The underlying issues in New Jersey litigation during Mr. Chertoff's association with the U.S. Attorney's Office revolved around: (i) the larceny of <u>all</u> of the judicial trust assets of PUCCINI CLOTHES, LTD., leaving <u>nothing</u> for its legitimate beneficiaries, and related activities; (ii) the larceny of <u>all</u> of the disposable trust assets in the ESTATE OF EUGENE PAUL KELLY and GENE KELLY MOVING AND STORAGE, TRUSTS, leaving <u>nothing</u> for their prime, almost exclusive, beneficiaries, *to wit.*, the three (3) motherless infants of the predeceased daughter of the testator/settlor, and related activities; and (iii) the conviction and incarceration of DENNIS F. VILELLA ["Vilella-The Hostage"] for 'phantom' crimes, which no one, including Nassau County NY District Attorney DENIS DILLON* denies were ever committed by anyone, in an attempt to extort the silence of this complainant in the unrelated Puccini matter.

Simultaneously with this presentation, informational demands are being served on NY State Attorney

General DENNIS C. VACCO* and JOHN S. REED*, CEO of CITIBANK, N.A., which are self-explanatory.

4. On April 22, 1991, complainant submitted to U.S. Attorney Chertoff, for transmission to the Grand Jury, a seven (7) page factual statement, plus exhibits, whose contents were not denied by anyone, including Chertoff, containing the following opening paragraph:

> "Pursuant to my constitutional First Amendment right to petition, my right to communicate with the grand jury (e.g. 18 *U.S.C.* §1504, §3332) and the obligation of the grand jury to inquire into criminal activities, I respectfully request an invitation to testify and show you my extensive documented evidence of criminal racketeering activities, with judicial involvement, in your judicial district."

The unambiguous language of the statute (18 *U.S.C.* §3332[a]), the Congressional intent in its enactment, and judicial interpretation on the subject (*Matter of Grand Jury Application*, 617 F. Supp. 199 [SDNY-1985]), compelled U.S. Attorney Chertoff, as a matter of ministerial compulsion, to transmit complainant's communication to the Grand Jury, so that such body could exercise its statutory "duty" and investigate the allegations of criminal activities.

Although U.S. Attorney Chertoff did not deny his ministerial obligation to transmit complainant's information concerning criminal activities in the District of New Jersey to the Grand Jury he, without any articulated reason, failed to forward such document which, without more, was a racketeering crime (18 *U.S.C.* §1961) and should disqualify him from his present position as the Senate inquisitor in the "Whitewater Matter".

As Mr. Chertoff was aware, any Grand Jury investigation would have resulted in a request that indictments be filed against him and his co-conspirators (*United States v. Cox*, 342 F.2d 167 [5th Cir. -1965] cert. denied 381 U.S. 935 [1965]).

* * *

"NAILING JELLYFISH TO THE WALL"
PART "A"
DEFRAUDING THE FEDERAL GOVERNMENT

> "It is elementary that the United States, as sovereign, is immune from suit save as it consents to be sued ..., and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit. A waiver of sovereign immunity cannot be implied but must be unequivocally expressed. In the absence of clear congressional consent, then, there is no jurisdiction ... in any ... court to entertain suits against the United States." (*United States v. Mitchell*, 445 U.S. 535, 538 [1980] [emphasis added]).

The *Constitution of the United States* (Article 1, §9[7]) provides:

> "No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipt and expenditures of all public money shall be published from time to time".

As a matter of fundamental constitutional law, under the aegis of "federal sovereign immunity", no court or agency has "subject matter jurisdiction" to entertain any money damage claim against the United States, its agencies, or its officers and employees acting within the "scope" of their offices or employment, or burdening the United States with litigation expense, absent Congressional authorization, and then only by complying with the conditions and limitations of such authorization.

Where congressional authorization does not exist for the money damage claims against the United States, and/or the conditions of such congressional authorization not complied with, the proceedings lack subject matter jurisdiction, rendering such litigation to be null, void and of no legal effect, and in addition thereto, where the federal expenditures were wilfully disbursed, a criminal fraud has been committed.

Examples of some, but not all, of the instances where financial frauds were perpetrated upon the federal purse by, *inter alia*, the U.S. Attorney's Office in New Jersey, in the Puccini/Kelly/Vilella litigation follow:

"NAILING JELLYFISH #1 TO THE WALL"

All opinions, in all the courts, all hold that the courts lack subject matter jurisdiction to impose any financial burden on the United States unless a 28 U.S.C. §2675[a] notice of claim has been filed, as clearly and specifically provided for by statute, but not if federal officials and/or employees are sued in their personal capacities, or no financial burden is sought to be imposed upon the United States.

In complainant's actions before U.S. District Court Judge NICHOLAS H. POLITAN* of New Jersey, none of those actions were supported by any 28 *U.S.C.* §2675[a] notice of claim, and only the *de minimis* expenditure of federal funds involved in writing a simple letter to Judge Politan, substantially as follows, could have been constitutionally justified:

Honorable Sir:

Since the pending actions are not based upon a 28 U.S.C. §2675[a] notice of claim, the U.S. Attorney is without lawful authority to expend any federal monies in the defense of such litigation, which obviously is against the defendants in their personal, not governmental, capacities.

However, since the uncontroverted claims of the plaintiff involve the diversion of all monies payable "to the [federal] court", including monies paid on plaintiff's behalf, to the private pockets of some of the defendants, the United States has an interest in such diverted monies, and other monies which are claimed to be the property of the United States.

Most Respectfully,
U.S. Attorney.

Defending complainant's federal actions in New Jersey, at "staggering" federal cost and expense, not bottomed on any extant 28 *U.S.C.* §2675[a] notice of claim, rendered the purported merit dispositions to be null, void and no effect2, as all reported cases hold, and the federal expenditures from such unauthorized representation, in which Chertoff was a participant, was a criminal fraud upon the federal purse.

"NAILING JELLYFISH #2 TO THE WALL"

The FEDERAL TORT CLAIMS ACT ["FTCA"] provides that if the U.S. Attorney General, or any of his/her authorized

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2 The litigation before Judge Politan proliferated with subject matter jurisdictional infirmities, including the XI Amendment/Hans (*Hans v. Louisiana*, 134 U.S. 1 [1890]) jurisdictional bar.

The Chertoff office, the state attorney general, and everyone else, knew that Judge Politan had been "fixed" and "corrupted", since no federal judge would entertain litigation and pretend to make a merit disposition, where the XI Amendment/Hans constitutional bar was obvious, as well as the unauthorized federal representation by the U.S. Attorney, at federal cost and expense, which Judge Politan also intentionally ignored.

representatives (28 *CFR* §15.3), certifies that the officer and/or employee had been acting within the "scope" of his office or employment at the time of the occurrence, the United States would be substituted as the defendant, and the action would be defended at federal cost and expense (28 *U.S.C.* §2679[d]).

At all times there are approximately 100 officials who are authorized to issue 28 *U.S.C.* §2679[d] "scope" certificates (28 *CFR* §15.3). However, neither Chertoff nor any other authorized official, have ever been willing to issue "scope" certificates for any of the federal defendants in the actions which were pending in New Jersey.

Nevertheless, the U.S. Attorney's Office in New Jersey, had been "fixed" and "corrupted" to represent them, in their personal capacities, at federal cost and expense, defrauding the federal purse thereby.

28 *U.S.C.* §2679[d] further provides that if the U.S. Attorney General, or any one of his/her authorized representatives, fails or refuses to issue "scope" certificates, an Article III jurist, such as Judge Politan, can "scope" adjudicate the involved federal officials and/or employees, triggering the United States substitution, and authorizes federal representation, at federal cost and expense (28 *U.S.C.* §547).

Nevertheless, neither Judge Politan nor any other Article III jurist has ever been willing to "scope" adjudicate the federal defendants in the New Jersey actions.

A "fixed" and "corrupted" Judge Politan, permitted the federal treasury to be defrauded by the U.S. Attorney in New

Jersey, by allowing rogue federal jurists and officials, to be represented at federal cost and expense.

The clear mandate of the statute, <u>all</u> reported cases, and the uniform practice is "<u>no</u> `scope' status, means <u>no</u> federal representation, at federal cost and expense" (*Kelley v. United States*, 568 F.2d 259, 264-265 n. 4 [2nd Cir.-1978] cert. denied 439 U.S. 830 [1978]; *Sullivan v. Freeman*, 944 F.2d 334 [7th Cir.-1991]; *Tassin v. Neneman*, 766 F. Supp. 974 [Kan.-1991]), as every federal jurist and every U.S. attorney, including Judge Politan and Chertoff, were aware.

The New Jersey litigation, by reason of the aforementioned, and other, infirmities, is null, void and of no legal effect, in addition to constituting a criminal and financial fraud upon the United States and its taxpayers.

"<u>NAILING JELLYFISH #3 TO THE WALL</u>"

The Order of U.S. District Court Judge EUGENE H. NICKERSON*3 of the Eastern District of New York, imposed substantial fines and penalties upon HYMAN RAFFE and complainant, his attorney, payable "to the [federal] court", which monies, including those paid on behalf of complainant, were <u>all</u> diverted to, Citibank and KREINDLER & RELKIN, P.C.* ["K&R"], or those who engineered the larceny of Puccini's judicial trust assets, and the federal court/government received <u>nothing</u>4.

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3 U.S. Judge Eugene H. Nickerson was the former County Executive of Nassau County, during a time when Senator D'Amato was an official in that county.

4. Senator D'Amato has known of such unlawful diversion of federal funds, and other criminal activities by K&R and Citibank, since at least December of 1989, which was was arranged by DONALD B. RELKIN, Esq., of K&R.

The U.S. Attorney's Office and Chertoff refused to support and/or opposed complainant's efforts to have such diverted monies recaptured in favor of the federal court/government, knowingly defrauding the federal treasury thereby.

K&R, at the time of the Judge Nickerson proceeding, in order to obtain the continued cooperation of the other culprits involved in the Puccini criminal larceny, and to induce complainant and his client to succumb, openly flaunted the fact that Judge Nickerson had been "fixed" and "corrupted", which Judge Nickerson, by his conduct, clearly confirmed.

K&R was also flaunting those commissioned by it and Citibank to corrupt Judge Nickerson, which included Senator D'Amato, which Judge Nickerson and other federal jurists from Nassau County, by their conduct also confirmed.

Almost one (1) year <u>after</u> the termination of the Nickerson action, in still another attempt to silence complainant by a show of his unbridled power, Judge Nickerson ran roughshod over pleas of not-guilty, and without a trial, without the opportunity for a trial, without any confrontation rights, *in absentia*, without due process, without the right of allocution, without any live testimony in support thereof, and without any constitutional or legal waiver, he found Raffe and complainant guilty of non-summary criminal contempt and imposed substantial fines payable "to the federal court".

Congress created every federal court, except the Supreme Court of the United States. Congress has also legislated the powers and obligations of the courts it created.

Every federal judge knows that as a result of the impeachment of U.S. District Court Judge JAMES H. PECK, Congress enacted the Act of March 2, 1831. JAMES BUCHANAN, then Chairman of the Judiciary Committee of the House of Representatives, thereafter the 15th President of the United States, represented that as a result of such legislation LUKE LAWLESS, Esq., would be "the last victim" by jurists, such as Judge Peck, abusing the non-summary contempt power.

Judge Peck, simply had a "short fuse", when he abused, the non-summary contempt power against his critic, attorney Lawless which Congress by its 1831 legislation attempted to prevent reoccurrence.

On the other hand, Judge Nickerson, is a corrupt jurist, who wilfully usurps the legal limitation of his judicial office in order to aid, abet and facilitate the criminal activities of his patrons, which thereafter included the diversion of monies payable "to the federal court" to their pockets.

"<u>NAILING JELLYFISH #4 TO THE WALL</u>"

Chief U.S. Circuit Court Judge JON O. NEWMAN* of the Second Circuit and [former] Chief U.S. District Court Judge CHARLES L. BRIEANT* of the Southern District of New York, are prime participants in the matters revolving around the Puccini/Kelly Estate/Vilella matters.

Obviously, if no authorized official or judge will "scope" certify Chief Judge Newman, Chief Judge Brieant, or other jurist or official involved, they clearly were <u>not</u> "acting within the scope of their [judicial] offices".

Any and all doubt on the subject, and there never was any such doubt, was laid to rest by the <u>judicial concessions</u> made in *Sassower v. McFadden* (SDNY-93Civ.0342), and that they are not reporting taxable income, not paying taxes thereon, and in other ways violating the criminal code.

> " 1. None of the federal defendants, represented by the U.S. Attorney, including CHARLES L. BRIEANT ['Brieant'], ... JON O. NEWMAN ['Newman'], ... have applied for and/or received a 28 *U.S.C.* §2679[d] 'scope' certificate.
>
> 2. The federal defendants being represented by the U.S. Attorney, including Brieant, ... Newman, know and are clearly aware that such federal representation, at federal cost and expense, in this personal capacity action is unauthorized (28 *U.S.C.* §547), and that <u>they are defrauding the federal purse</u>. [emphasis supplied]
>
> 3. The U.S. Attorney ... and Assistant U.S. Attorney ... also know and are aware that in this personal capacity action, their representation of the federal defendants is unauthorized and <u>they are defrauding the federal purse</u>. [emphasis supplied]
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> 4. [The] defendants in this action, including Brieant ... Newman ... <u>know and are aware</u> that <u>their actions</u> as alleged herein, which includes the diversion of monies payable 'to the federal court' to private pockets, <u>are contrary to the legitimate and monetary interests of the United States</u>. [emphasis supplied]
>
> 5. [The] federal defendants in this action, including Brieant ... Newman ... know and are aware that <u>their actions</u> as alleged herein, <u>are criminal in nature and violative of the federal criminal code</u>. [emphasis supplied]
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> 6. The federal defendants ... including Brieant ... Newman ... <u>are aware that such personal capacity civil representation for criminal activities itself, compromises and obstructs the ability of the U.S. Attorney to prosecute them for their criminal activity in this jurisdiction</u>. [emphasis supplied]
>
> 7. The federal defendants ... including Brieant ... Newman ... <u>are aware</u> that such

personal capacity civil representation violates the constitutional scheme for the separation of powers, and is unconstitutional. [emphasis supplied]

8. The federal defendants ... including Brieant ... Newman ... are aware that such personal capacity civil representation, at federal cost and expense, is effectively an unlawful increase in these defendants' compensation, constitutes 'taxable income', and that they defendants have no intention of reporting such 'taxable income' on their tax returns, or paying taxes upon such income." [emphasis supplied]

"NAILING JELLYFISH #5 TO THE WALL"

Penalty monies resulting from non-summary criminal contempt convictions belong to the sovereign (*Gompers v. Buck's Stove*, 221 U.S. 418, 447 [1911]; *Goodman v. State*, 31 N.Y.2d 381, 340 N.Y.S.2d 393, 292 N.E.2d 665 [1972]).

In one order, NY Administrative Judge XAVIER C. RICCOBONO, who FELTMAN, KARESH, MAJOR & FARBMAN, Esqs.* ["FKM&F"], was openly flaunting was being "paid-off", had one of his judicial lackeys, also run roughshod over pleas of not-guilty, and without a trial, without the opportunity for a trial, without any confrontation rights, *in absentia*, without due process, without the right of allocution, without any live testimony in support thereof, and without any constitutional or legal waiver, Raffe and his attorneys, *to wit.*, complainant and SAM POLUR, Esq., were found guilty of non-summary criminal contempt, and each sentenced to be incarcerated for 30 days.

Complainant and Polur, served their full term of incarceration, less good time allowance, while Raffe, in the compelled absence of his incarcerated attorneys, was threatened by, *inter alia*, members of the judiciary, with incarceration for seven (7) years and other draconian consequences, succumbed. In Raffe's words, he had no alternative, "judges are thieves".

In order to avoid incarceration, which was the fate of complainant and Polur, Raffe agreed: (i) to pay "extortion" monies to the Puccini racketeers; (ii) execute releases to (a) federal and state judges; (b) the NY State Attorney General; and (c) the other Puccini racketeers, including Citibank and K&R; (iii) discharge complainant and Polur as his attorneys; and (iv) give other manifestly illegal considerations.

These extortion payments, are made through HOWARD M. "Bag-Man" BERGSON, Esq* and exceeds the sum of $2,500,000, as verified by, *inter alia*, Raffe, Bergson and JONATHAN FERZIGER of UNITED PRESS INTERNATIONAL (*Village Voice*, June 6, 1990). Again, in Raffe's own words "they are bleeding me to death".

Complainant moved:

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

Although the underlying facts were not controverted by anyone, the U.S. Attorney and Judge Politan, did not support complainant's attempt to abort such continued extortion, but instead charged him with one count of non-summary criminal contempt for making such motion.

The termination of the flow of extortion monies to the Puccini racketeers, or turned over to the sovereign, as supported by case law, was an intolerable thought to Judge Politan, the U.S. Attorney, and the other Puccini racketeers, and they had Chief U.S. Judge District Court Judge JOHN F. GERRY* of New Jersey, waylaying such motion, and leaving it undetermined.

"NAILING JELLYFISH #6 TO THE WALL"

For simply making the aforementioned motion to abort, manifestly illegal, extortion payments, the U.S. Attorney's Office and Judge Politan, caused to be issued warrants for complaint's arrest, charging him with a single count of non-summary criminal contempt, the lowest "crime" (an offense) in the federal criminal code.

Complainant agreed to voluntarily surrender, provided Judge Politan and/or the U.S. Attorney could produced a valid arrest warrant.

Instead of producing a valid arrest warrant, Judge Politan and the U.S. Attorney's Office dispatched battalions of F.B.I. agents and U.S. Marshals in order to locate complainant and arrest him. During such period of time, Judge Politan and the U.S. Attorney's Office recognized the invalidity of the warrant, and issued a superseding warrant.

Their search for complainant became frantic when he advised them that they could arrest him during his scheduled appearances on radio "talk-shows". In an attempt to abort complainant's appearance on such radio "talk-shows", a frantic search was made of complainant and he was arrested the day before his scheduled appearance, all at needless and staggering federal cost and expense.

"NAILING JELLYFISH #7 TO THE WALL"

Having arrested complainant, charged with a single count of non-summary criminal contempt, complainant, a born American citizen, a battle star veteran of World War II, was held without bail for two months, at federal cost and expense.

Complainant, who landed on Omaha Beach, more than 50 years ago, and spent December 1944 in the Ardennes, did not flee from the scene of battle then, and had no intention of fleeing and avoiding a charge of non-summary criminal contempt.

During this two (2) month period of his without bail incarceration, he was, in hand-cuffs and leg-irons, shuttled through a substantial portion of the United States, and was incarcerated for a month in Rochester, Minnesota, all at federal cost and expense.

Seven (7) years later, after the monumental expenditure of federal monies, these contempt proceedings have not, as yet, been completed, through no fault of complainant.

PART "B"
THE PUCCINI FRAUD - "CITIWATER"
IN A NUTSHELL

1a. All of the judicial trust assets of PUCCINI CLOTHES, LTD. were made the subject of larceny, engineered by K&R

and Citibank[5] leaving nothing for any of its nationwide legitimate creditors, as Chertoff was aware.

More than $1,000,000 of Puccini's judicial bank deposited cash trust assets, in addition to its other assets, were employed by K&R and Citibank to bribe and corrupt, as Chertoff was aware.

b. All of the substantial monies payable, *in haec verba*, "to the [federal] court" by Order of U.S. District Court Judge Nickerson were diverted to K&R and Citibank and the federal court/treasury received nothing, as Chertoff was aware.

c. There was and is still being extorted from HYMAN RAFFE ["Raffe-The Hostage"], the major stockholder and creditor of Puccini, and its prime victim, "more than $2,500,000", by K&R, Citibank, and their co-conspirators in order to avoid incarceration under a sham order of non-summary criminal contempt, as Chertoff was aware.

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5 The involuntary dissolution of Puccini, a solvent corporation, and the subsequent larceny of its assets, was the direct result of Citibank's unlawful and unethical "estate chasing practices", as they were partially described by the RALPH NADER STUDY GROUP* (*Leinsdorf and Etra*, Grossman Publishers), which Citibank, in its responsive book (*Citibank, Nader and The Facts*, Published by Citibank), did not deny were its practices.

For having Citibank named as the co-executor of the Estate of Milton Kaufman, monies from the Kaufman Estate was siphoned to K&R for fictitious or needless legal services. Thus, for example, for merely sending a *pro forma*, one page claim letter, which should have necessitated no more than two (2) minutes of legal effort, K&R billed Citibank, the co-executor of the Kaufman Estate, $5,397, claiming such letter required five attorneys and 57.70 hours of legal effort, which was paid by Citibank from the Kaufman Estate.

As the Nader Group appropriately entitled the Citibank practice, "Your Lawyer Has A Friend At Citibank".

The amounts paid by "Raffe-The Hostage", according to the written agreement, are correlated to complainant's activities, in exposing this criminal racket, as Chertoff was aware.

2a. In all jurisdictions, state and federal, before a court-appointed receiver, trustee, administrator, conservator or guardian, or his surety can be discharged of their obligations, he _must_ "account" for his stewardship, and afford due process to all those having an interest in such assets.

The obligation for a public accounting of his stewardship by a court-appointee cannot be lawfully waived, excused or enjoined, in any jurisdiction, state or federal, since the public is entitled to know the manner the judiciary administers judicial trust assets.

At a time when K&R-Citibank had unlawfully dissipated more than $4,000,000 of Puccini's bank deposited trust assets, including seventeen (17) checks made payable to themselves, Citibank filed a perjurious affidavit reading, in part, as follows, as Chertoff was aware:

> "... Raffe claims that the plaintiffs and the third-party defendants have entered into some unspecified agreement, ... pursuant to which the 'assets [of Puccini] have been dissipated for the benefit of plaintiffs'. Once again, _no documentary evidence is offered in support of this groundless assertion. ... The unsupported and baseless charge that the Estate has dissipated the assets of Puccini Clothes, Ltd. is totally false. The Estate has received no monies whatsoever from Puccini Clothes, Ltd._"

Under the non-waivable provisions of *NY Bus. Corp. Law* §1217, the maximum that could be paid to the court-appointed receiver, according to his own statement on the subject, was

$7,667.27. However, for concealing the Citibank-K&R larceny and not making any attempt at recovery, more than $700,000 was paid, as Chertoff was aware.

Since awards, in most part by Referee Diamond, who had no authority to make awards, and certainly not 100 times the statutory maximum, no *NY Judiciary Law* §35-a Statements were ever filed, although mandated by statute to be filed by the week after the award.

b. There was no possible way that there can be any proper accounting for Puccini's judicial trust assets, without revealing the massive larceny, including the judicial involvement therein, and providing restitution to those defrauded, including to Puccini, the helpless judicial trust, as Chertoff was aware.

Consequently, a fraudulent legal notice was published in the NEW YORK TIMES:

> "NOTICE OF INTENTION BY RECEIVER TO FILE ACCOUNTS FOR FINAL SETTLEMENT before Donald Diamond, Special Referee, on October 30, 1986, ... that he be discharged and his bond vacated".

There was <u>no</u> "accounting" for Puccini's judicial trust assets, final or otherwise, the published legal notice to the contrary notwithstanding. The "accounting", for which a legal notice was published in the New York Times, was 'phantom' and 'non-existent'.

A true accounting would commence with Puccini's assets as of June 4, 1980, the day it was involuntarily dissolved, not some date almost two (2) years later, after K&R-Citibank had unlawfully dissipated virtually all its judicial trust assets, and without indicating that such engineered larceny resulted in a "receivable".

Even if a "final accounting" existed, and it did not, NY State Referee DONALD DIAMOND* does not have the statutory authority to approve any accounting, discharge a receiver, or his surety; or make awards (*NY CPLR* §4317[b]). His non-consensual judicial authority was and is insignificant and virtually nil.

3a. Complainant, who was not served with notice, had his attention drawn to such NY Times inconspicuous legal notice, and on October 27, 1986, three days before the scheduled the fraudulent "approval" proceeding, filed a petition in bankruptcy vesting his assets, including his contractually based, constitutionally protected judgment against Puccini in the U.S. District Court (28 *U.S.C.* §1334[d]), thereby aborting such Diamond fraud, and causing to be surfaced, a cornucopia amount of hard evidence of fraud and corruption.

b. Nor is there any "Final Judgment" or "Final Order" terminating the Puccini receivership proceedings, as Chertoff is also aware.

Without a "Final Judgment" or "Final Order", there can be no claim of *res judicata*, and complainant was not "relitigating" anything, as Chertoff was aware.

PART "C"
THE KELLY FRAUD
IN A NUTSHELL

1. All the disposable assets in the ESTATE OF EUGENE PAUL KELLY were employed to satisfy the personal obligations of Surrogate-Judge ERNEST L. SIGNORELLI of Suffolk County, New York

and those of his appointee, ANTHONY MASTROIANNI, leaving nothing for any beneficiary.

Thereafter, the federal taxing authorities imposed substantial penalties upon Mastroianni personally for his failure to make the tax payments due.

Mastroianni, thereupon, *ex parte*, without due process, seized the assets of GENE KELLY MOVING & STORAGE TRUSTS, wherein complainant was the trustee, and used those assets to pay such taxes imposed upon him personally.

The bottom line, the prime beneficiaries of the Kelly Estate and Kelly Trusts, three infant children of Kelly's predeceased daughter, received nothing.

There has been no due process settlement of the Mastroianni accounting, wherein the prime infant motherless beneficiaries received nothing, but there have been awards to the attorneys involved, including those who were appointed to protect the rights of the aforementioned motherless infants.

Since such awards could not be justified, there have been no *NY Judiciary Law* §35-a Statements filed, although mandated by statute to be filed by the week after the awards.

2. Signorelli-Mastroianni unable to account for the Kelly Estate assets, contrived, concocted and fabricated the assertion that no accounting could be rendered because complainant had the Kelly books and records, extensively published such and similar statements, and without due process, incarcerated complaint twice, incarcerated his spouse and one of their children, and otherwise imposed upon them a reign of judicial terror.

Thereafter, when made the subject of cross-examination, Signorelli, Mastroianni and their entourage admitted and confessed these and similar extensively published statements were false, that at all times they had the Kelly books and records, and nothing prevented them from accounting for the Kelly Estate assets.

"NAILING JELLYFISH #9 TO THE WALL"

In New Jersey, all federal judges and officials involved in the Signorelli-Mastroianni larceny, and related outrages, were defended in their personal capacities, without any 28 *U.S.C.* §2675[a] notice of claim, or 28 *U.S.C.* §2679[d] "scope" status, at federal cost and expense, by the U.S. Attorney's Office and Chertoff.

In New Jersey, all state judges and officials, including Signorelli were defended, at state cost and expense, notwithstanding the XI Amendment/Hans subject matter jurisdictional bar.

PART "D"
THE VILELLA OUTRAGE
IN A NUTSHELL

Complainant refused to remain silent concerning these corrupt judicial practices, despite the reign of terror imposed upon him, and a media confirmed first offer of $500,000, which was summarily rejected, with the demand that no such further offer be tendered.

Therefore, such reign of terror was extended to those who were perceived to have some leverage over his activities, including DENNIS F. VILELLA, a college graduate, married, with two small children, very active in civic and church affairs, and a clean and immaculate criminal record.

Vilella was charged with attempted murder in the second degree and first degree assault "with a tire iron".

According to the uncorroborated testimony of the alleged victim of this "tire iron assault", she was struck "on the head", "violently", "with all his might", "about 20 times", by Vilella, a *pro se* defendant, and sustained "six skull fractures".

The trial judge and prosecutor concealed from the jury, the fact that the alleged victim testified falsely, in that the hospital record, which was in evidence, contained an X-Ray Report which revealed "no skull fractures, and also a CAT Scan Report which showed a no brain damage, in addition to other hospital evidence that this "tire iron assault" never took place.

Indeed, no one, repeat no one, including the District Attorney Dillon, who has read the uncorroborated testimony of the alleged victim, and the hospital reports denies that this tire iron assault <u>never</u> occurred.

Since complainant refuses to agree to remain silent about judicial corruption in exchange for the release of "Vilella-The Hostage", Vilella remains incarcerated, at taxpayers expense, after more than eight (8) years.

PART "E"
THE NASSAU COUNTY REIGN OF TERROR
IN A NUTSHELL

In addition to Judge Nickerson, District Attorney Dillon, and other Nassau County judges and officials, have imposed upon complainant a "reign of terror", in an attempt to compel complainant's silence.

These Nassau County jurists include Circuit Court Judges GEORGE C. PRATT and JOSEPH M. McLAUGHLIN and U.S. District Court Judge I. LEO GLASSER.

Dated: September 13, 1995

Respectfully submitted,

GEORGE SASSOWER
Complainant, pro se.
16 Lake Street,
White Plains, NY 10603
(914) 949-2169