

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

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GEORGE SASSOWER, individually, and on behalf
of the PEOPLE OF THE STATE OF NEW YORK,

Petitioner,

93 Civ 177

-against-

N.Y. State Attorney General ROBERT ABRAMS
and N.Y. State Comptroller EDWARD V. REGAN,
Respondents.

For Writs of Prohibition and Mandamus.
-----X

Petitioner, individually and on behalf of the PEOPLE OF THE STATE OF NEW YORK

["People"], respectfully sets forth and alleges:

AS AND FOR A FIRST CAUSE OF ACTION

1. Plaintiff brings this action directly under the Constitution and laws of the United States, with jurisdiction in the U.S. District Court existing by virtue of 28 U.S.C. §1331, §1343, §2201, and 18 U.S.C. §1964.

2a. Plaintiff, a private person, is a born American and New York citizen, battle-starred veteran of World War II and, except for military service, has continually resided in the State of New York and the United States.

b. By reason of the aforementioned, plaintiff is entitled to all the rights, privileges and immunities contained in the U.S. Constitution, and laws, rules and regulations enacted thereunder.

3a. The respondent, ROBERT ABRAMS ["Abrams"], was and still is the Attorney General of the State of New York, and at all of the times hereinafter mentioned has acted and is acting under "color [pretense] of law".

b. The respondent, EDWARD V. REGAN ["Regan"], was and still is the Comptroller of the State of New York, and at all of the times hereinafter mentioned has acted and acts under "color of law".

4. Petitioner, in this cause of complaint, seeks a writ of prohibition against respondent, Abrams, enjoining his defense representation of himself and other state officials, in money damage tort actions, at state cost and expense: (1) in the federal courts of this Circuit; and (2) in personal-capacity actions in the

New York State courts and/or where such representation does not comport with legitimate sovereign interests.

5a. The federal courts created by Congress, by virtue of the Eleventh Amendment of the U.S. Constitution, do not have subject matter jurisdiction in, inter alia, money damage tort actions against the state, state bodies, or state officials, sued in their representative or official capacity, where the state sustains the financial burden of any potential recovery by the plaintiff or any other claimant.

b. For more than 100 years, notwithstanding the inexact language contained in the Eleventh Amendment, the Supreme Court of the United States has consistently held that such constitutional prohibition includes damage suits by the citizens of the state sued, as well as citizens of other states (Hans v. Louisiana, 109 U.S. 446 [1890]), absent congressional legislation and/or state waiver on the subject matter, at bar lacking.

6. In the state courts there is no lawful authority for Abrams to defend himself and/or others, in personal-capacity actions and/or proceedings, at state cost and expense (cf. Executive Law §63[1]).

7. Also clearly established is the proposition that where money damage liability does not exist, the cost of any litigation cannot be imposed upon the state (Kentucky v. Graham (473 U.S. 159, 165 [1985])).

8. Notwithstanding the aforementioned, Abrams, at state cost and expense, under "color of law", continues to intrude himself in order to defend himself and other state officials, in personal-capacity actions, in the federal and state courts.

9. Such intentional judicial intrusion in the federal and state courts by Abrams, at state cost and expense, in personal-capacity litigation is made more egregious by the fact such representation is intended to advance criminal racketeering adventures which are contrary to legitimate state interests, monetarily and otherwise.

10a. An injunction should be issued prohibiting Abrams, from any defense representation in the federal courts in this Circuit, at state cost and expense, and from any representation in the state courts, at state cost and expense, in personal-capacity actions and proceedings.

b. The aforementioned is without prejudice to any action that may be taken by the federal courts in other circuits.

AS AND FOR A SECOND CAUSE OF ACTION

11. Plaintiff repeats, reiterates and realleges each and every allegation of the complaint marked "1" through "10" inclusive, with the same force and effect as though more fully set forth herein, and further alleges:

12. In and without the judicial forums, in this Circuit and elsewhere, Abrams has expended an extraordinary amount of state funds, under "color of law", in order to conceal and advance criminal racketeering adventures, wherein he and his purported clients were and are sued in their personal-capacities.

13a. In addition to the aforementioned unlawful expenditure of state funds to advance a criminal racketeering adventures, monies due and payable to the federal, state and local sovereigns, were diverted to the private pockets of the Abrams' conspirators.

b. State funds were expended by Abrams in order to divert monies payable, in haec verba, "to the [federal] court" to the pockets of the Abrams' cronies.

c(1) State funds were expended by Abrams in order to divert monies due the state and local governments, also diverted to the Abrams cronies (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]).

(2) As independently confirmed by, inter alia, Jonathan Ferziger of United Press, International, and published by, inter alia, the Village Voice:

"By signing three extraordinary agreements in 1985, however, Raffé agreed ... In exchange, the court agreed to let him go free. The tab so far has come to more than \$2.5 million, paid to the [Abrams' cronies]. Raffé continues to pay with checks from his A.R. Fuels Co. business. 'That's outrageous. It's unbelievable. It's disturbing.' Said Attorney General Abrams when he saw copies of the checks. Abrams is the statutory watchdog over court-appointed receivers like Feltman."

d. In addition to the aforementioned, in consideration for his freedom under a criminal conviction, Abrams' exacted for himself and members of his office, an agreement that Raffé would execute releases in their personal favor.

14. The aforementioned sovereign monies unlawfully diverted from the state and local sovereigns to private pockets, as well as the state expenditures for same, must be recaptured by the state.

15. The respondent, Regan, under a writ of mandamus, should be mandated to recapture such monies from Abrams and his co-conspirators, official and lay, in favor of the state and the People.

AS AND FOR A THIRD CAUSE OF ACTION

16. Plaintiff repeats, reiterates and realleges each and every allegation of the complaint marked "1" through "15" inclusive, with the same force and effect as though more fully set forth herein, and further alleges:

17. Included in plaintiff's constitutional rights, privileges and immunities, is his entitlement to equal protection of the laws (XIV Amendment of the U.S. Constitution), the right to speak, petition and associate freely (Amendment I of the U.S. Constitution).

18. However, by reason of plaintiff's resistance to and exposure of the corruption of Abrams and his co-conspirators, Abrams, at state cost and expense, has pursued plaintiff and those who Abrams and his co-conspirators believe are associated or cooperating with plaintiff.

19a. Such Abrams misconduct, at state cost and expense, has included intervening in proceedings involving plaintiff wherein he has no legitimate interests (e.g., Sassower v. Sheriff, 824 F.2d 184 [2d Cir.-1987]), and also dragooning the representation of state officials, who have not requested or authorized his conflicting representation, for fear that their own personal selected legal representatives will not comport themselves with Abrams desires and those of his co-conspirators.

b. The cases in which Abrams has unlawfully involved himself, at state cost and expense, have been the litigation involving PUCCINI CLOTHES, LTD. ["Puccini"], the ESTATE OF EUGENE PAUL KELLY ["Kelly Estate"] and the incarceration of DENNIS F. VILELLA ["Vilella"].

20a. In the Puccini matter, wherein Abrams is the statutory fiduciary, all of its judicial trust assets were diverted to the Abrams' cronies leaving nothing for legitimate creditors, including plaintiff.

b. A mandatory statutory "duty" imposed upon Abrams is to make application to compel the court-appointed receiver to "settle his account" if not voluntarily rendered within 18 months (Bus. Corp. Law §1216[a]). However, Puccini was involuntarily dissolved more than 12 years ago, and there is no "accounting" and no application to compel an accounting.

c. The Abrams' co-conspirators, acting under color of law, made all of Puccini's judicial trust assets the subject of larceny and unlawful plundering.

d. In federal and state courts, at state cost and expense, Abrams, in the Puccini matter, defends himself and his co-conspirators, who are sued in their personal-capacities, and wherein no damages are requested against the state.

21a. The Surrogate in the Kelly Estate, satisfies personal obligations, monetary and otherwise, from estates in his court by having them submit false and exaggerated bills, which his appointed Public Administrator would then approve.

b. The only method that such Surrogate could settle his account on appeal, was to wait until the lawyer for most of the beneficiaries, including one who was apparently incompetent, was dead, and by not serving plaintiff.

c. Abrams did not protect the rights of the beneficiaries of the deceased attorney, including the one apparently incompetent, nor any creditor, in the federal or state courts, but the Surrogate, at state court and expense, who was sued in his personal capacity.

d. Here again, as a result of this fraud, with the Abrams' cooperation, at state cost and expense, nothing remained for the beneficiaries of the Kelly Estate.

22a. Vilella was convicted and has been incarcerated for the past 5 years for admittedly a crime that never occurred.

b. Here again, in federal and state courts, Abrams in federal and state courts, at state court and expense, defends those sued in a personal capacity disregarding the rights of Vilella and the cost to the state of approximately \$25,000 per year to keep him incarcerated.

23. Abrams must be enjoined, under a writ of prohibition, from selectively pursuing plaintiff and those who he perceives to be associated or cooperating with him, at state cost and expense, as a result of plaintiff's resistance to his personal corrupt activities, particularly when they do not comport with state sovereign interests.

24. This proceeding is also without prejudice to any damage claim that plaintiff may have against Abrams personally.

WHEREFORE, it is respectfully prayed that the relief requested herein be granted in all respects, with costs.

Dated: October 15, 1991

GEORGE SASSOWER
Plaintiff, pro se
16 Lake Street,
White Plains, N.Y. 10603
(914) 949-2169

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Docket No. 93 Civ 177

Preliminary
Restraining Order
and
Temporary Injunction

It appearing to the satisfaction of this Court that New York State Attorney General ROBERT ABRAMS and other state officials have and continue to be defended in money damage actions, in the federal courts, at state cost and expense; and it further appearing that New York State Attorney General ROBERT ABRAMS and other state officials, in personal-capacity actions, have and continue to be defended in money damage actions in the New York State courts, at state cost and expense; and it further appearing that such defense representation in the federal courts by New York State Attorney General ROBERT ABRAMS under "color of law", at state cost and expense, is clearly violative of the prohibition contained in Amendment XI of the United States Constitution; and it further appears that the defense representation by New York State Attorney General ROBERT ABRAMS under "color of law", in personal-capacity actions, in the New York State courts is beyond the legal powers of New York State Attorney General ROBERT ABRAMS; and it further appears that such unconstitutional and unauthorized defense representation by New York State Attorney General ROBERT ABRAMS, at state cost and expense, is being made in order to advance and conceal privately motivated criminal racketeering adventures, which adventures are contrary to New York State legitimate interests, monetarily and otherwise, and include the diversion of monies due the courts and government in favor of private individuals; and it further appears that New York State Attorney General ROBERT ABRAMS, under "color of law" and at state cost and expense is invidiously pursuing plaintiff, and those who are perceived to be associated or cooperating with him, by reason of petitioner's resistance and exposure of his criminal racketeering activities; and due notice and full and fair opportunity to controvert the allegations made this application and in plaintiff's complaint of October 15, 1992 has been afforded, it

is

ORDERED, that this application for a preliminary restraining order and temporary injunction be and the same is hereby granted; and it is further

ORDERED, that N.Y. State Attorney General ROBERT ABRAMS, be and he is hereby restrained from defending himself and others, at state cost and expense, in money damage actions in the federal courts of the Second Circuit, or engaging in any activities in the federal forum which cause an economic burden to the state, as being violative of Amendment XI of the U.S. Constitution and a fraud on the state treasury; and it is further

ORDERED, that N.Y. State Attorney General ROBERT ABRAMS, be and he is hereby restrained from defending himself and others under "color of law", at state cost and expense, in personal-capacity money damage actions in the New York State courts, as being legally unauthorized; and it is further

ORDERED, that N.Y. State Comptroller EDWARD V. REGAN, is hereby mandated, under a preliminary writ of mandamus, to insure that no further state funds are disbursed or obligations incurred for the unconstitutional and/or unlawful activities of New York State Attorney General ROBERT ABRAMS, as hereinabove described.

Dated: Albany, New York
October , 1992
at o'clock .M

UNITED STATES DISTRICT JUDGE

CERTIFICATION OF SERVICE

On October 16, 1992 I served a true copy of this Proposed Order for a Temporary Restraining Order and a Preliminary Injunction by mailing same and plaintiff's complaint in a sealed envelope, first class, with proper postage thereon, addressed to N.Y. State Attorney General Robert Abrams and N.Y. State Comptroller Edward V. Regan, The Capitol, Albany, N.Y. 12224, that being their last known addresses.

Dated: October 16, 1992

GEORGE SASSOWER