

84/3/6

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HYMAN RAFFE, individually and on :
behalf of PUCCINI CLOTHES, LTD., :

Plaintiffs, :

-against- :

Index No. 84 Civ. 0305
(TCP)

CITIBANK, N.A., and JEROME H. BARR, :
individually, and as executors of the :
Estate of Milton Kaufman; KREINDLER :
& RELKIN, P.C.; LEE FELTMAN; FELTMAN, :
KARESH & MAJOR; ARUTT, NACHAMIE, :
BENJAMIN, LIPKIN & KIRSCHNER, P.C.; :
RASHBA & POKART, P.C.; EUGENE DANN; :
ROBERT SORRENTINO; ROBERT ABRAMS, as :
Attorney General of the State of New :
York; JOHN V. LINDSAY; and SUPREME :
COURT OF THE STATE OF NEW YORK, :
COUNTY OF NEW YORK, :

AFFIDAVIT OF JOHN V.
LINDSAY IN SUPPORT OF
HIS MOTION TO DISMISS
THE COMPLAINT

Defendants. :

-----X

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JOHN V. LINDSAY, being duly sworn, deposes and says:

1. I am a defendant herein and I submit this affidavit in support of the motion to dismiss the complaint for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted. As was previously explained to the

Court, I have been in Nepal for several weeks and, accordingly, was unavailable to submit my affidavit heretofore.

2. By order of Hon. Thomas V. Sinclair, Jr., J.S.C. dated June 4, 1980 ("the June 4 Order"), I was designated the intended receiver of the assets of Puccini Clothes Ltd. in a dissolution proceeding pending in New York State Supreme Court for the County of New York. I was advised of this appointment by letter dated June 5, 1980, enclosing a copy of the June 4 Order, from Donald B. Relkin, Esq., attorney for the petitioners in the dissolution proceeding.

3. Shortly thereafter, Mr. Relkin advised my law firm (1) that the June 4 Order had been appealed and (2) that Mr. Relkin believed that the controversy involving Puccini Clothes might be settled amicably. In view of the circumstances, I deferred qualifying as a receiver.

4. Contrary to plaintiff's assertion in Paragraph 18 of the Verified Complaint, at no time did Mr. Relkin request that I not communicate with the other parties in the Puccini matter. Nor was there any understanding or communication between myself and Mr. Relkin or anyone else regarding my communications with the other parties in interest.

5. After my discussion with Mr. Relkin in June, 1980, I received no further communication relating to the matter until January, 1981, when Mr. Relkin again telephoned to advise that settlement apparently could not be reached and to request that I qualify as a receiver. Mr. Relkin spoke with my partner, William L.D. Barrett, Esq., on these matters and sent him a confirming letter dated January 9, 1981. Mr. Barrett also received a letter dated January 13, 1981 from plaintiff's counsel, Mr. Sassower, informing us that argument of the appeal of the June 4 Order was scheduled for January 16, 1981.

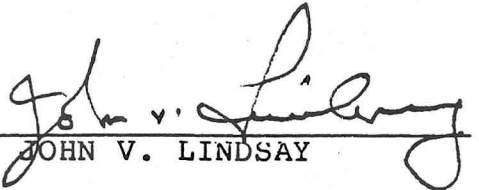
6. By letter dated January 15, 1981, attached as Exhibit A to the affidavit of Charles T. Lee, sworn to on February 24, 1984, I informed the Clerk of Special Term, Part 1 of New York State Supreme Court for New York County that I declined the appointment as receiver.

7. Contrary to plaintiff's assertions, I did not accept a receivership of the assets of Puccini Clothes under the order of June 4, 1980.

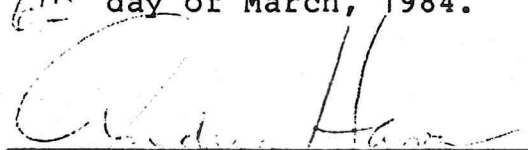
8. I never filed the oath and bond which are prerequisites to the qualification of a receiver under Section 1204

of the Business Corporation Law and under the order of June 4, 1980.

9. I took no action whatsoever with respect to the assets of Puccini Clothes.


JOHN V. LINDSAY

Sworn to before me this
6th day of March, 1984.


NOTARY PUBLIC

ANDREA HASSON
NOTARY PUBLIC, State of New York
No. 31-4621647
Qualified in New York County
Commission Expires March 30, 1985