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(Sample of the letters sent to the members of the Judicial Conference of the U.S.)

June 9, 2008

Chief Justice John G. Roberts, Jr.  
Presiding Officer of the Judicial Conference of the U.S.  
c/o Supreme Court of the United States  
Washington, D.C. 20543

Dear Mr. Chief Justice Roberts,

I am addressing you as Presiding Officer of the Judicial Conference, as I did last February 9 and March 27 to comment on the Rules for Judicial Conduct and Judicial Disability Proceedings. Thereunder will be processed my complaint against U.S. Bankruptcy Judge John C. Ninfo, II, WBNY, for bias, prejudice, and abuse of power in support of a bankruptcy fraud scheme and its cover up. I am sending you a copy of it below. It will provide the opportunity to determine whether those Rules and the Breyer Report that preceded them were only parts of the strategy of the Judiciary to mislead Congress into believing that it was making an honest effort to exercise responsibly its Congressionally granted power of judicial self-discipline.

The complaint concerns the abuse by Judge Ninfo of unaccountable power on behalf of the other most insidious corruptor: money! Lots of it, for **1)** he has allowed the whereabouts of at least \$673,657 of a debtor to remain unknown -\$291,470 earned in just the three years preceding his bankruptcy petition and \$382,187 received in a string of eight mortgages- **2)** a debtor who was a 39-year veteran of the financing and banking industries and claimed in the petition to have only \$535 in hand and on account and after filing it remained employed in precisely the bankruptcy department of a major bank with \$65 billion in assets, which together with **3)** the debtor was represented by a partner of the law firm of which Judge Ninfo was a partner at the time of taking the bench; and **4)** another lawyer for the debtor had taken before Judge Ninfo, according to PACER, 525 cases, which pale by comparison with **5)** the 3,907 *open* cases before the Judge that the trustee had out of **6)** the unmanageable 3,909 cases that the assistant U.S. trustee and the Trustee for Region 2 let him amass, both of whom **7)** allowed the trustee, with no time to request and review supporting documents from debtors, simply to rubberstamp his petition to collect his 10% fee from every payment to the creditors by recommending its approval to **8)** Judge Ninfo, who to cover up for them denied me *every single document* that I requested both to survive **9)** the debtor's artifice of a motion to disallow my claim at a sham evidentiary hearing, and prove what **10)** this is: insiders of the bankruptcy system running a bankruptcy fraud scheme.

This complaint is based on incontrovertible facts found in the debtor's petition and the evidentiary hearing transcript.<sup>1</sup> It is before Chief Judge D. Jacobs of the Court of Appeals for the 2<sup>nd</sup> Circuit, which has an insurmountable conflict of interests, for Judge Ninfo is its reappointed appointee. The complaint is now before you and the Conference so that when it is dismissed with no special committee investigating it, as were systematically 99.88% of the 7,462 filed in 1997-2006, you all can be shown to know what you have been doing: tolerating a judge engaged in coordinated wrongdoing with others. Thus, I respectfully request that you use the Rules' 'informal means for disposing of complaints' to cause **a)** the appointment of a special committee, **b)** its issuance of the proposed document production order<sup>1</sup>, and **c)** the publication of its report. Meanwhile, I look forward to hearing from you.

Sincerely, *Dr. Richard Cordero, Esq.*

<sup>1</sup> [http://Judicial-Discipline-Reform.org/JNinfo/DrCordero\\_JNinfo\\_ex\\_6jun8.pdf](http://Judicial-Discipline-Reform.org/JNinfo/DrCordero_JNinfo_ex_6jun8.pdf)

June 6, 2008

**Judicial Misconduct Complaint  
under 28 U.S.C. §351 against  
U.S. Bankruptcy Judge John C. Ninfo, II, WBNY, Rochester, NY,  
for bias, prejudice, and abuse of judicial power  
in support of a bankruptcy fraud scheme and its cover up<sup>1</sup>**

I, Dr. Richard Cordero, Esq., state the following under penalty of perjury:

1. U.S. Bankruptcy Judge John C. Ninfo, II, WBNY, in Rochester, NY, has engaged in a series of acts in *In re DeLano*, 04-20280, WBNY, (hereinafter *DeLano*) so consistently in favor of local parties and insiders of the bankruptcy system and so blatantly in disregard of the rule of law and the facts and detrimental to NY City resident and outsider Dr. Richard Cordero, Esq., as to constitute a pattern of intentional and coordinated wrongdoing from which a reasonable person can infer his bias, prejudice, and abuse of power in furtherance of a bankruptcy fraud scheme. His conduct in that case is the source of this complaint, for it constitutes “conduct prejudicial to the effective and expeditious administration of the business of the courts”. 28 U.S.C. §351(a)
2. Mr. David Gene DeLano commenced that case by filing together with Wife Mary Ann a petition for bankruptcy relief from their debts in January 2004 (D:23-60)<sup>2</sup>. He was at the time a 39-year veteran of the banking and financing industries and continued after the filing to work for a major bank, M&T Bank, precisely as an officer in its bankruptcy department. Mrs. DeLano was a Xerox technician, a person experienced in thinking methodically along a series of technical steps. They named Dr. Cordero as one of their unsecured creditors in Schedule F (D:40)
3. Not only did Mr. DeLano have superior knowledge to avoid bankruptcy, he was also an insider of the bankruptcy system. There lies the crux of the matter, for he knows too much about wrongdoing in that system to be denied approval of his own, voluntary bankruptcy petition when the perfect time came for him and his wife to shed their debts, that is, three years before their retirement to a golden pot. This timing allowed them to file under 11 U.S.C. Chapter 13, “Adjustment of Debts of an *Individual with Regular Income*” (emphasis added) and propose a three-year plan (D:59¶1), thereby avoiding liquidation under Chapter 7.
4. These general circumstances made the DeLanos’ bankruptcy petition suspicious. This should have been apparent to a judicial officer like Judge Ninfo, who has a legal duty under 11 U.S.C. §1325(a)(3) to ascertain whether the debtor’s “plan [of debt repayment] has been proposed in good faith and not by any means forbidden by law”. Additionally, there were particular considerations arising from the intrinsically incongruous and implausible declarations of the DeLanos in

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<sup>1</sup>This complaint is filed under objection to the inherent partiality of judges judging their peers and systematically dismissing such complaints and the self-interest of Chief Judge D. Jacobs and his CA2 peers in not finding their own two-term Appointee J. Ninfo involved in a bankruptcy fraud scheme. See ¶20 infra.

<sup>2</sup>All parenthetical references concern exhibits that can be found either in the CD attached hereto or downloaded through [http://Judicial-Discipline-Reform.org/JNinfo/DrCordero\\_v\\_JNinfo\\_6jun8.pdf](http://Judicial-Discipline-Reform.org/JNinfo/DrCordero_v_JNinfo_6jun8.pdf).

their petition that exacerbated its suspiciousness. All this would have led a reasonable person, not to mention a judge used to dealing with fraudulent claims, to scrutinize the petition closely and require production of what Mr. DeLano would as a matter of course expect to receive from, or require of, any applicant for a loan or payment rescheduling: supporting documents. None was provided by the DeLanos or required by Chapter 13 Trustee George Reiber, Esq., (D:74), as of the day when the Trustee was to recommend the approval of their plan to Judge Ninfo.

5. Indeed, the DeLanos declared in Schedules A-J, the Statement of Financial Affairs, and the Plan for Debt Repayment accompanying the petition (collectively referred to herein as the petition):
  - a) that their total assets were \$263,456 while their total liabilities were only \$185,462, yet they proposed to repay only 22¢ on the dollar; (D:29, 23)
  - b) that they had in cash and on account only \$535 (D:31), although they declared that their excess income after subtracting from their monthly income their monthly living expenses was \$1,940 (D:45), and that in just the three fiscal years preceding their bankruptcy filing they had earned \$291,470 (D:47; 2001-03 1040 IRS forms at D:186-188).
  - c) that they owed \$98,092 on 18 credit cards (D:38), while they valued their household goods at only \$2,810 (D:31), less than their \$3,880 excess income in only two months and less than even 1% of the \$291,470 that they had earned in the previous three years! Even couples in urban ghettos end up with goods in their homes of greater value after having accumulated them over their worklives of more than 30 years;
  - d) that their only real property was their home, appraised two months before their filing at \$98,500, as to which their mortgage was still \$77,084 and their equity only \$21,416 (D:30) ...after making mortgage payments for 30 years! and having received during that period at least \$382,187 through a string of eight known mortgages! (D:341-354) *Mind-boggling!* For each of those mortgages they had to pay closing costs. For example, just for the last known mortgage they had to pay \$3,444. (D:351, 354 lines 1400 and 1602) Judge Ninfo could not have either competently or honestly believed that Career Banker DeLano would waste on closing costs for eight mortgages more money than the equity he ended up with.
6. Bankruptcy Officer DeLano and his wife were assisted in their filing by Christopher K. Werner, Esq., a lawyer for 28 years and partner in his firm, Boylan Brown. (D:28) According to PACER, he had appeared in 525 cases before Judge Ninfo as of February 28, 2005.
7. As to Trustee Reiber, PACER listed his 3,909 *open* cases as of April 2, 2004, 3,907 of them before Judge Ninfo. Assistant U.S. Trustee Kathleen Dunivin Schmitt allowed Trustee Reiber, her supervisee, to accumulate in his hands such an unmanageable number of *open* cases. So unmanageable that she allowed him to have his attorney, James W. Weidman, Esq., conduct the DeLanos' meeting of creditors on March 8, 2004, 11 U.S.C. §341, in a room of her office while he took care of business in Judge Ninfo's courtroom --her friendly next door neighbor is the local office of the U.S. Department of Justice in the cozily small federal building in Rochester-. This constituted a breach of his legal duty under 28 CFR §58.6(10) to conduct each such meeting

personally, a breach so serious as to give cause for his removal as trustee.

8. At that meeting, Att. Weidman examined the DeLanos under oath while being officially recorded on an audio-tape. Then he asked whether there was any creditor in the audience. Dr. Cordero was the only creditor of the DeLanos present. He identified himself and stated his desire to examine them. Mr. Weidman asked him to fill out an appearance form and to state what he objected to. Dr. Cordero submitted the form (D:68) as well as copies to him and Mr. Werner of his Objection to Confirmation of their Plan of Debt Repayment (D:63). No sooner had he asked Mr. DeLano to state his occupation –he answered ‘a bank loan officer’- and then how long he had worked in that capacity -he said 15 years, but see Transcript=Tr:15/17-16/15- than Mr. Weidman unjustifiably asked Dr. Cordero whether and, if so, how much he knew about the DeLanos’ having committed fraud, and when he would not reveal what he knew, Att. Weidman put an end to the meeting even though Dr. Cordero had asked only two questions! (D:79§§I-III; Add:889§II)
9. Later that afternoon at the confirmation hearing before Judge Ninfo in the presence of Trustee Reiber and Att. Weidman and without being contradicted, Dr. Cordero brought to the Judge’s attention how that Attorney had prevented him from examining the Debtors. Rather than uphold the law and Dr. Cordero’s right thereunder, Judge Ninfo faulted him for having missed “the local practice” and stated that he should have phoned to find out what that practice was and, if he had done so, he would have learned that the trustee would not allow a creditor to go on asking questions. (D:99§C) Thereby the Judge protected the co-scheming “locals” from the law of the land of Congress, which provides for a series of meeting where creditors can engage in a very wide-scope examination of the debtors. (§341; FRBkrP 2004(b); D:283¶¶a-b, 98§II; SApp:1659 4<sup>th</sup> para. et seq.; D:362§2; Add:891§III)
10. From that first appearance of the *DeLano* case before Judge Ninfo, his conduct showed disregard for the law and the facts as well as coordination with others to protect the DeLanos from being incriminated and in turn incriminating him and other co-schemers. (D:379§3) So did the latter. Thus, from then on, Dr. Cordero kept insisting that Trustees Reiber (D:75¶¶6-7) and Schmitt (D:94¶80a, d, f) and U.S. Trustee for Region 2 Deirdre A. Martini (D:96§g) comply with their duty under 11 U.S.C. §704(4) and (7) to investigate the DeLanos and obtain the documents necessary to support their suspicious petition. Yet Trustee Reiber, who is supposed to represent the creditors’ interests (D:79§1) and Trustee Schmitt (84§IV) tried to limit him to a one hour examination of the DeLanos and to make him miss it by not informing him of the date (D:74, 94§d.3-4, 103, 111, 112, 122, 124, 138, 147, 149). Trustee Martini refused to remove Trustee Reiber and to order the DeLanos to produce those documents. (D:137, 139, 141, 154, 158)
11. For six months, the DeLanos and Trustee Reiber treated Dr. Cordero as a creditor by pretending to entertain his request for documents while dragging out their production. (D:161, 162, 164, 189) They never produced any bank account statements. The documents that they eventually produced were incomplete, even missing pages! (D:194§II) Dr. Cordero analyzed them (D:165-188) in light of the petition. In a written statement submitted to Judge Ninfo (D:193), Dr. Cordero showed that the DeLanos had concealed assets, a violation of 18 U.S.C. §152(1), and

thereby committed bankruptcy fraud, which is punishable by up to 20 years in prison and a fine of up to \$500,000 under 18 U.S.C. §§152-157, 1519, and 3571.

12. Only then did the DeLanos move to disallow Dr. Cordero's claim. (D:218) Yet, that was the claim that *they* had included in their petition (D:40) and that Mr. DeLano had known as a third party claim for almost two years (D:142, 259) in the context of another case before Judge Ninfo, *Pfuntner v. Trustee Kenneth Gordon et al.*, 02-2230, WBNY (CA:1977/Table of Cases), in which Dr. Cordero was a defendant and brought Mr. DeLano in as a third-party defendant.
13. Judge Ninfo ordered an evidentiary hearing for the DeLanos' motion to disallow (D:279, 332). He cited no authority whatsoever to overcome the legal presumption of validity that Rule 3001(f) attaches to a proof of claim (D:256§VII), such as Dr. Cordero's (D:142). Nor did he cite any authority to require that Dr. Cordero prove his claim against Mr. DeLano in *Pfuntner*, (D:278), thereby severing it from its context of all the other claims, parties, issues, and facts in that case in order to determine it in isolation in *DeLano*, which worked out to Mr. DeLano's benefit and Dr. Cordero's detriment. (D:441) In preparation for the evidentiary hearing, Dr. Cordero requested documents (D:287), only for the DeLanos (D:313, 314) and the Judge (D:317, 325, 327; Transcript=Tr:188/7-189/21) to deny him *every single document*. (D:320§II)
14. However, at the evidentiary hearing on March 1, 2005, Mr. DeLano testified that he was the bankruptcy officer responsible for protecting from further loss M&T Bank's security interest in the storage containers bought with a loan by its bankrupt client, Premier Van Lines. He then admitted to having mishandled the disposal of such containers in an effort to avoid storage fees by the warehouse where Premier had left them; and to having misrepresented to Dr. Cordero the whereabouts of the containers holding his stored property, thus causing him compensable harm. (Pst:1281§d, 1285¶70; Tr:155/14-156/25, 160/24-161/5, 174/5-175/8, 176/5-10) Mr. DeLano's testimony corroborated Dr. Cordero's claims contained in his complaint in *Pfuntner* served on M&T and Mr. DeLano on November 21, 2002 (Add:534/after entry 13, 797§D) concerning their mishandling of his stored property. It established Dr. Cordero's claim against Mr. DeLano in *DeLano*. (Tr:177/18-178/9) Nevertheless, Judge Ninfo held that Mr. DeLano was "confused" and disallowed Dr. Cordero's claim against Mr. DeLano, despite having being contradicted by Mr. DeLano's attorney, Mr. Werner, who stated, "I believe Mr. DeLano has given a fair statement of his position and facts, your honor". (Tr:187/22-25; Pst:1282¶64)
15. The timing and handling of the DeLanos' motion to disallow Dr. Cordero's claim revealed such motion as an artifice resulting from coordination between Judge Ninfo and other schemers to force Dr. Cordero into a sham evidentiary hearing where his claim on Mr. DeLano would be disallowed to cover up the DeLanos' fraud. So Judge Ninfo deprived him of standing in *DeLano* and of the right to request documents proving that the DeLanos' had concealed assets and evaded their debts through false statements as well as incriminating all of them in its enabling mechanism: a bankruptcy fraud scheme. To avoid production of those documents, the DeLanos, with the Trustee's recommendation (Add:871-875, 937-938; Pst:1175) and Judge Ninfo's approval (Add:942), were allowed to pay their attorneys legal fees in the amount of \$27,953, although

they had claimed in the petition to have only \$535 in hand and on account. (D:31; CA:1924§V)

16. Judge Ninfo abused his position by failing to disclose that one of Mr. DeLano's attorney, Michael Beyma, Esq., was at the time a partner in the law firm Underberg & Kessler (D:531) of which the Judge was also a partner when he took the bench in 1992. Mr. Beyma represented Mr. DeLano in *Pfuntner*, where he was also the attorney for M&T Bank. The Bank could be held jointly and severally liable with Mr. DeLano. Hence, they decided to protect by all means a presumably very important client, which as of December 31, 2007, had over \$65 billion in assets.
17. To that end, Judge Ninfo engaged in flagrantly biased conduct: At the evidentiary hearing, he looked on in complicit silence while Atts. Werner and Beyma signaled answers to Mr. DeLano during his examination under oath. When Dr. Cordero protested in each of several occasions, the Judge ludicrously pretended that he had not seen them do so despite the fact that the attorneys were only a few feet in front of him and near Dr. Cordero's table in the courtroom. (Tr.28/13-29/4:Beyma, 75/8-76/3:Beyma, 141/20-143/16:Werner; Pst:1289§f) Similarly, he abandoned his role of impartial fact-finder to become Mr. DeLano's Chief Advocate while reducing Att. Werner to Deferential Second Chair. He can be "heard" do so in the transcript. (Pst:1255§E)
18. One can also read Judge Ninfo's power-abusive, self-interested refusal to allow Dr. Cordero to appear by phone at the hearing of his motion to revoke the Judge's confirmation of the DeLanos' plan. He thus protected Local Trustee Reiber from the challenge of NYC-resident Dr. Cordero to both the shockingly perfunctory and unprofessional "Trustee's Report" and the Judge's untenable claim that the Trustee had investigated the DeLanos and cleared them of fraud despite no mention thereof in his "Report" and his never having received or subpoenaed the documents that he reluctantly requested only at Dr. Cordero's insistence. (Add:1041, 1065, 1066, 1094, 1095, 1125)
19. Judge Ninfo, in a coordinated cover up with the trustees, refused to ask the DeLanos to account for their declared income of \$291,470 or their mortgage receipts of \$382,187. As a result, there still remain unaccounted for known concealed assets worth at least \$673,657. (SApp:1654) This is in just one case of the 3,907 *open* cases that Trustee Reiber had before Judge Ninfo. They do not include the 3,383 cases that Trustee Schmitt allowed Chapter 7 Kenneth Gordon, the trustee in *Pfuntner*, to amass and of which 3,382 were before Judge Ninfo.(D:235§c, 361§1, 594¶13)
20. Therefore, Dr. Cordero respectfully requests that with §352(a) 'expeditiousness' and §353(a) 'promptness' **a)** CA2 C.J. Jacobs recuse himself –see fn.1 supra-; **b)** a §353 special committee be appointed, composed of independent investigators from outside the 2nd Circuit who are not even admitted to appear in its courts; **c)** every formal or informal statement made by Judge Ninfo or others concerning this complaint be served on Dr. Cordero for him to reply to; **d)** Dr. Cordero be allowed to examine witnesses at every hearing; **e)** the committee recommend the removal and impeachment of Judge Ninfo; **f)** subpoena the documents listed in the proposed production order; and **g)** make a report under 18 U.S.C. §3057(a) to Kenneth W. Kaiser, Assistant Director of the FBI's Criminal Investigative Division in Washington, DC.

Respectfully submitted on June 6, 2008

*Dr. Richard Cordero, Esq.*

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of the

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U.S. Bankruptcy Judge John C. Ninfo, II, WBNY, Rochester, NY,  
for bias, prejudice, and abuse of judicial power  
in support of a bankruptcy fraud scheme and its cover up**

**and**

**Links to Access the Files Containing Exhibits  
referred to in the complaint using the format (Letters:#)**

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by

**Dr. Richard Cordero, Esq.**

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  - b) Table of Notices given since May 5, 2003, to the 2<sup>nd</sup> Circuit Court of Appeals and Judicial Council, the Circuit Judges, and others of Evidence of a Bankruptcy Fraud Scheme in the Bankruptcy and District Courts, WDNY.....CA:1978
  - c) Links to access the files containing the references .....CA:1980  
[http://Judicial-Discipline-Reform.org/DeLano\\_record/CA2\\_produce\\_recuse\\_18jul7.pdf](http://Judicial-Discipline-Reform.org/DeLano_record/CA2_produce_recuse_18jul7.pdf)
19. CA2's dismissal of February 7, 2008, of the appeal of DeLano .....CA:2180
20. Dr. Cordero's petition of March 14, 2008, in CA2 for panel rehearing and hearing en banc in *DeLano* to determine the question of exceptional importance: to what extent is the Court's integrity compromised by supporting or tolerating a bankruptcy fraud scheme? .....CA:2191  
[http://Judicial-Discipline-Reform.org/Follow\\_money/enbanc\\_14mar8.pdf](http://Judicial-Discipline-Reform.org/Follow_money/enbanc_14mar8.pdf)
21. CA2' denial of May 9, 2008, of the rehearing motion, issued on May 16, 2008, as the mandate .....CA:2210

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### **Links to Access the Files Containing Exhibits referred to in the complaint using the format (Letters:#)**

Type the corresponding Internet address in the address bar of your Internet browser and replace the last segment –the file name- with the corresponding LETTERNUMBER-RANGE.pdf containing the number of the reference that you want to look up, i.e. for reference (CA:1725§VII): you end up with this:

[http://Judicial-Discipline-Reform.org/DeLano\\_record/CA1700-2090.pdf](http://Judicial-Discipline-Reform.org/DeLano_record/CA1700-2090.pdf)

#### **I. D:#, Add:#, Pst:#, SApp:#, CA:# comprising pages 1-2231+ of the *DeLano* cases**

[http://Judicial-Discipline-Reform.org/DeLano\\_record/LETTERNUMBER-RANGE.pdf](http://Judicial-Discipline-Reform.org/DeLano_record/LETTERNUMBER-RANGE.pdf)

[D1-102.pdf](#)      [D103-202.pdf](#)      [D203-300.pdf](#)      [D301-424.pdf](#)      [D425-508q.pdf](#)  
[Transcript.pdf](#)  
[Add509-710.pdf](#)      [Add711-910.pdf](#)      [Add911-1170.pdf](#)      [Pst1171-1500.pdf](#)  
[SApp1501-1699.pdf](#)      [CA1700-2090.pdf](#)      [CA2091\\_end.pdf](#)

**II. A:# comprising pages 1-2229 of the *Pfuntner* cases**

[http://Judicial-Discipline-Reform.org/Pfuntner\\_record/LETTERNUMBER-RANGE.pdf](http://Judicial-Discipline-Reform.org/Pfuntner_record/LETTERNUMBER-RANGE.pdf)

[A1-260.pdf](#)    [A261-352.pdf](#)    [A353-733.pdf](#)    [A734-1060.pdf](#)    [A1061-1300.pdf](#)  
[A1301-1600.pdf](#)    [A1601-1674.pdf](#)    [A1675-1764.pdf](#)    [A1765-2229.pdf](#)

## Service List

I, Dr. Richard Cordero, Esq., affirm that I served a copy of this judicial misconduct complaint against U.S. Bankruptcy Judge John C. Ninfo, II, on the following judicial officers:

Chief Justice John G. Roberts, Jr.  
Presiding Officer  
Judicial Conference of the U.S.  
c/o Supreme Court of the United States  
1 First Street, N.E  
Washington, D.C. 20543  
Public Information Office: (202)479-3211  
Clerk's Office: (202)479-3011

Justice Ruth Bader Ginsburg  
Circuit Justice for the Second Circuit  
Supreme Court of the United States  
1 First Street, N.E  
Washington, D.C. 20543

Mr. Jeffrey P. Minear  
Administrative Assistant to the Chief Justice  
Supreme Court of the United States  
1 First Street, N.E  
Washington, D.C. 20543

Mr. James C. Duff  
Judicial Conference Secretary & AO Director  
Administrative Office of the U.S. Courts  
One Columbus Circle, NE  
Washington, D.C. 20544  
tel. (202)502-2600

Judge Ralph K. Winter, Jr.  
Chairman of the Committee on Judicial  
Conduct and Disability  
c/o U.S. Court of Appeals, 2<sup>nd</sup> Circuit  
500 Pearl Street  
New York, NY 10007  
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Judge Pasco M. Bowman, II  
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and Disability  
c/o U.S. Court of Appeals, 8<sup>th</sup> Circuit  
111 South 10th Street  
St. Louis, MO 63102  
tel. 816-512-5800

Judge Carolyn R. Dimmick  
Member of the Committee on Judicial Conduct  
and Disability  
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700 Stewart Street  
Seattle, WA 98101  
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Judge Dolores K. Sloviter  
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and Disability  
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18614 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106  
tel. (215)597-1588

Judge Joseph A. DiClerico, Jr.  
Member of the Committee on Judicial Conduct  
and Disability  
c/o U.S. District Court, DNH  
55 Pleasant Street, Room 110  
Concord, NH 03301  
tel. (603)225-1423

Chief Judge Michael Boudin  
c/o U.S. Court of Appeals, 1<sup>st</sup> Cir.  
1 Courthouse Way  
Boston, MA 02210  
tel. (617)748-4431

Judge Ernest C. Torres  
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Federal Courthouse  
One Exchange Terrace  
Providence, RI 02903  
tel. (401)752-7203

Chief Judge Jacobs  
U.S. Court of Appeals, 2<sup>nd</sup> Cir.  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007  
tel. (212)857-8500

Chief Judge William K. Sessions, III  
c/o U.S. District Court, DVT  
Post Office Box 928  
Burlington, VT 05402-0928  
tel. (802)951-6350

Chief Judge Anthony J. Scirica  
c/o U.S. Court of Appeals, 3<sup>rd</sup> Cir.  
U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106  
tel. (215)597-2399

Chief Judge Garrett E. Brown  
c/o U.S. District Court, DNJ  
402 East State St., Rm 2020  
Trenton, NJ 08608  
tel. (609)989-2009

Chief Judge Karen J. Williams  
c/o U.S. Court of Appeals, 4<sup>th</sup> Cir.  
1100 E. Main St., Annex, Ste. 501  
Richmond, VA 23219-3517  
tel. (804)916-2700

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Abingdon, VA 24212-0669  
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Chief Judge Edith Hollan Jones  
c/o U.S. Court of Appeals, 5<sup>th</sup> Cir.  
515 Rusk Street, Rm 12505  
Houston, TX 77002-2655  
tel. (713)250-5484

Judge Sim Lake, III  
c/o U.S. District Court, SDTX  
515 Rusk Avenue, Rm 9535  
Houston, TX 77002  
tel (713)250-5177; fax (713)250-5010

Chief Judge Danny J. Boggs  
c/o U.S. Court of Appeals, 6<sup>th</sup> Cir.  
U.S. Courthouse, 100 E. Fifth St.  
Cincinnati, OH 45202-3988  
tel. (513)564-7000

Judge Thomas M. Rose  
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200 West Second Street  
Dayton, OH 45402  
tel. (937) 512-1600

Chief Judge Frank H. Easterbrook  
c/o U.S. Court of Appeals, 7<sup>th</sup> Cir.  
219 S Dearborn St, Rm 2702  
Chicago, IL 60604  
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Judge Wayne R. Andersen  
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Chief Judge James B. Loken  
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tel. (651)848-1300

Judge Lawrence L. Piersol  
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Sioux Falls, SD 57104  
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Chief Judge Alex Kozinski  
c/o U.S. Court of Appeals, 9<sup>th</sup> Cir.  
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San Francisco, CA 94119-3939  
tel. (415)355-8000

Judge Charles R. Breyer  
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450 Golden Gate Ave, Rm C338  
San Francisco, CA 94102  
tel. (415)522-2000

Chief Judge Robert H. Henry  
c/o U.S. Court of Appeals, 10<sup>th</sup> Cir.  
1823 Stout Street  
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Judge Alan B. Johnson  
c/o U.S. District Court, DWY  
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Cheyenne, WY 82001-3658  
tel. 433-2170; fax (307)433-2152

Chief Judge J. L. Edmondson  
c/o U.S. Court of Appeals, 11<sup>th</sup> Cir.  
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Atlanta, GA 30303  
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Judge Myron H. Thompson  
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Chief Judge Douglas H. Ginsburg  
c/o U.S. Court of Appeals, DCC  
333 Constitution Avenue, N.W.  
Washington, D.C. 20001  
tel. (202)216-7190

Chief Judge Thomas F. Hogan  
c/o U.S. District Court, DCD  
333 Constitution Avenue, NW  
Washington, DC 20001; tel. (202)354-3420

Chief Judge Paul R. Michel  
c/o U.S. Court Appeals for the Federal Circuit  
717 Madison Place, N.W  
Washington, D.C. 20439  
tel. (202)633-6550

Chief Judge Jane A. Restani  
c/o U.S. Court of International Trade  
One Federal Plaza  
New York, NY 10278-0001  
tel. (212) 264-2018; fax (212) 264-1085

Magistrate Judge Robert B. Collings (Observer)  
c/o U.S. District Court, DMA  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, MA 02210  
tel. (617)748-9233

Chief Bkr. Judge David S. Kennedy (Observer)  
c/o U.S. District Bankruptcy Court, WDTN  
200 Jefferson Ave., Suite 413  
Memphis, TN 38103  
tel. (901)328-3522

June 6, 2008

59 Crescent Street  
Brooklyn, NY 11208

*Dr. Richard Cordero, Esq.*

Dr. Richard Cordero  
tel. (718) 827-9521

**Special Committee**  
**appointed under 28 U.S.C. §353**  
**to investigate judicial misconduct complaint**  
**no. 02-08-90073**  
**filed under 28 U.S.C. §351 with**  
**the Circuit Clerk of**  
**The Court of Appeals for the Second Circuit**  
**500 Pearl Street, New York, NY 10007**  
**on June 6, 2008**

In the exercise of its full subpoena powers under 28 U.S.C. §356(a) and Rule 13(d) of the Rules for Judicial Conduct and Judicial Disability Proceedings adopted by the Judicial Conference of the United States under 28 U.S.C. §358 on March 11, 2008 (hereinafter the Rules or Rule #), the Special Committee orders as follows:

**A. Persons and entities concerned by this Order**

1. The subject judge;
2. David DeLano and Mary Ann DeLano (hereinafter the DeLanos), formerly resident at 1262 Shoecraft Road, Webster, NY 14580, and debtors in *In re David and Mary Ann DeLano*, 04-20280, WBNY; *Cordero v. DeLano*, 05-cv-6190L, WDNY; and *Dr. Richard Cordero v. David and Mary Ann DeLano*, 06-4780-bk, CA2, (hereinafter *DeLano*);
3. Devin L. Palmer, Esq. and Christopher K. Werner, Esq., attorneys for the DeLanos, Boylan, Brown, Code, Vigdor & Wilson, LLP, 2400 Chase Square, Rochester, NY 14604, tel. (585)232-5300; and any and all members of their law firm;
4. James Pfunter, at the address of his attorney, David MacKnight, Esq., or successor, at Lacy, Katzen, Ryen & Mittlemann, LLP, 130 East Main St., Rochester, NY 14604; tel. (585)454-5650, plaintiff in *Pfunter v. Trustee Gordon et al.*, 02-2230, WBNY (hereinafter *Pfunter*);
5. Kathleen Dunivin Schmitt, Esq., Assistant U.S. Trustee for Rochester, Office of the U.S. Trustee,

U.S. Courthouse, 100 State Street, Rochester, NY, 14614, tel. (585)263-5812, and any and all members of her staff, including, but not limited to, Ms. Christine Kyler, Ms. Jill Wood, and Ms. Stephanie Becker;

6. Ms. Diana G. Adams, U.S. Trustee for Region 2, and Deirdre A. Martini, former U.S. Trustee for Region 2, Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004, tel. (212)510-0500, and any and all members of their staff;
7. Chapter 13 Trustee George Reiber, South Winton Court, 3136 S. Winton Road, Rochester, NY 14623, tel. (585)427-7225, and any and all members of his staff, including, but not limited to, James Weidman, Esq., attorney for Trustee Reiber;
8. Trustee Kenneth W. Gordon, Gordon & Schall, LLP, 1099 Monroe Ave., Ste. 2, Rochester, NY 14620-1730; tel. (585)244-1070, and any and all members of his staff;
9. M&T Bank, 255 East Avenue, Rochester, NY, tel. (800)724-8472;
10. David Palmer, 1829 Middle Road, Rush, NY 14543, and his company, Premier Van Lines, debtor in *In re Premier Van Lines*, 01-20692, WBNY (hereinafter Mr. Palmer/Premier and *Premier*);
11. David M. Dworkin & Jefferson Henrietta Associates, at the address of their attorney, Karl S. Essler, Esq., Fix Spindelman Brovitz & Goldman, P.C., 295 Woodcliff Drive, Suite 200, Fairport, NY 14450, tel. (585) 641-8000; fax (585)641-8080;
12. Mary Dianetti, Bankruptcy Court Reporter, 612 South Lincoln Road, East Rochester, NY 14445, tel. (585)586-6392;
13. Paul R. Warren, Esq., Clerk of Court, U.S. Bankruptcy Court, 1220 U.S. Courthouse, 100 State Street, Rochester, NY 14614, tel. (585)613-4200, and any and all members of his staff, including, but not limited to, Deputy Clerk in Charge Todd M. Stickle and Case Administrator Karen S. Tacy;

14. U.S. District Judge David G. Larimer and Rodney C. Early, Clerk of Court, U.S. District Court, 2120 U.S. Courthouse, 100 State Street, Rochester, N.Y. 14614, tel. (585)613-4000, fax (585) 613-4035, and any and all members of their staff; and
15. Any and all persons or entities that are in possession or know the whereabouts of, or control, the documents or items requested hereinafter.

**B. Procedural provisions applicable to all persons and entities concerned by this Order, who shall:**

16. Understand a reference to a named person or entity to include any and all members of such person's or entity's staff or firm;
17. Comply with the instructions stated below and complete such compliance within seven days of the issue of this Order unless a different deadline for compliance is stated below;
18. Be held responsible for any non-compliance and subject to the continuing duty to comply with this Order within the day each day after the applicable deadline is missed, under pain of being named the subject of a contempt proceeding under 28 U.S.C. §332(d);
19. Understand 'document' broadly to mean 'an object that holds information or data in any form', whether the form be print, digital, electronic, or otherwise; and the object be any of the following or similar objects:
  - a) paper, including any type of graphic or photographic paper, film, and equivalent;
  - b) a removable storage device, such as a floppy, CD, DVD, external hard disk; flash, stick, or card memory; electronic memory strip, such as found on plastic cards; and audio or video tape;
  - c) fixed storage device, such as an internal hard disk of a computer, server, or mainframe;
  - d) an audio or video cassette, such as used in a tape recorder or camcorder;
  - e) a wireless handheld digital device, such as an iPod, Blackberry, or smartphone;

20. Understand any reference below to a specific type of document to include any other type of document in which the information referred to or derived therefrom, such as through addition, deletion, modification, correction, transformation from one form to another, or rearrangement for inclusion in a database, is available;
21. Produce of each document within the scope of this Order those parts stating as to each transaction covered by such document:
  - a. the time and amount of each such transaction;
  - b. the rates, including but not limited to normal and delinquent rates, applied to the transaction;
  - c. the opening and closing dates of the transactions reported in the document, such as a statement of account;
  - d. the description of the goods or service concerned by the transaction;
  - e. the source or recipient of funds or who made any charge or claim for funds;
  - f. the opening date of, the payment due date of the amount owing on, and the good or delinquent standing of, the account, agreement, or contract concerned by the document;
  - g. the beneficiary of any payment;
  - h. the surety, codebtor, or collateral; and
  - i. any other matter relevant to this Order or to the formulation of the terms and conditions of such document;
22. Certify individually as such person, or if an entity, by its representative, in an affidavit or an unsworn declaration subscribed as provided for under 28 U.S.C. §1746 (hereinafter collectively referred to as a certificate), with respect to each document produced that it has not been the subject of any addition, deletion, correction, or modification of any type whatsoever and that it is the whole of the document without regard to the degree of relevance or lack thereof of any part

of such document other than any part requiring its production; or certify why such certification cannot be made with respect to any part or the whole of such document and attach the whole document to the certificate;

23. Produce any document within the scope of this Order by producing a true and correct copy of it and hold the original available for inspection as provided for under ¶27 below;
24. In application of the principle “If in doubt, disclose”, produce a document and/or a certificate concerning it whenever a reasonable person acting in good faith would:
  - a. believe that at least one part of such document comes within the scope of this Order;
  - b. be in doubt as to whether any or no part of a document comes within that scope; or
  - c. think that another person with an adversarial interest would want such production or certificate made or find it of interest in the context of ascertaining whether any individual or entity concerned by this Order has committed an offense, including, but not limited to, bribery, bankruptcy fraud, or supported or tolerated a bankruptcy fraud scheme involving any such, and/or any other, individual or entity; and
25. File any document produced or certificate made pursuant to this Order with this Special Committee and serve it on the Judicial Conference Committee on Judicial Conduct and Disability, Administrative Office of the U.S. Courts, One Columbus Circle NE, Washington, DC 20544, tel. (202)502-1100, fax (202)502-1033; Dr. Richard Cordero, Creditor in *DeLano* and Defendant in *Pfuntner*, 59 Crescent Street, Brooklyn, NY 11028, tel. (718)827-9521; and the trustee succeeding Trustee George Reiber when appointed (hereinafter the successor trustee).
26. The production of documents within the scope of this Order shall be made pursuant to the following timeframes:
  - a. within two weeks of the date of this Order, such documents dated January 1, 2000, or since, to date;

b. within 30 days of the date of this Order, such documents dated since January 1, 1975, to December 31, 1999, including the first and last dates of such period.

27. The holder of the original of any document within the scope of this Order shall certify that he or she holds such original and acknowledges the duty under this Order to hold it in a secure place, ensure its chain of custody, and produce it upon order of this Committee, the Judicial Council of the Second Circuit, the Judicial Conference, or its Judicial Conduct and Disability Committee (hereinafter the complaint authorities) or request of Dr. Cordero or the successor trustee.

### **C. Substantive provisions**

28. Any person or entity concerned by this Order who with respect to any of the following documents **i)** holds such document (hereinafter holder) shall produce a true and correct copy thereof and a certificate; **ii)** controls or knows the whereabouts or likely whereabouts of any such document (hereinafter identifier) shall certify what document the identifier controls or knows the certain or likely whereabouts of, and state such whereabouts and the name and address of the known or likely holder of, such document:

- a. The subject judge's annual financial disclosure reports since 1992, required to be filed under the Ethics in Government Act of 1978, 5 U.S.C. Appendix;
- b. The minutes, transcript, stenographic packs and folds, audio tape, and any other recording of the status conference and pretrial hearing in *Pfuntner* requested by Trustee Schmitt on December 10, 2002, and held before Judge Ninfo on January 10, 2003;
- c. The transcript and stenographic packs and folds of the hearing in *Pfuntner* held before Judge Ninfo on:

- |                      |                   |                     |
|----------------------|-------------------|---------------------|
| 1) December 18, 2002 | 4) April 23, 2003 | 7) July 2, 2003     |
| 2) February 12, 2003 | 5) May 21, 2003   | 8) October 16, 2003 |
| 3) March 26, 2003    | 6) June 25, 2003  |                     |

d. Trustee Schmitt and Trustee Reiber or their respective successors shall within 10 days of this Order arrange for, and produce:

- 1) The audio tape of the meeting of creditors of the DeLanos held on March 8, 2004, at the Office of the U.S. Trustee in Rochester, room 6080, and conducted by Att. Weidman;
- 2) its transcription on paper and as a PDF file on a floppy disc or CD; and
- 3) the video tape shown at the beginning of such meeting and in which Trustee Reiber was seen providing the introduction to it.

e. The transcript of the meeting of creditors of the DeLanos held on February 1, 2005, at Trustee Reiber's office, which transcript has already been prepared and is in possession of Trustee Reiber, who shall produce it on paper and as a PDF file on a floppy disc or CD;

f. The original stenographic packs and folds on which Reporter Dianetti recorded the evidentiary hearing of the DeLanos' motion to disallow Dr. Cordero's claim, held on March 1, 2005, in the Bankruptcy Court, shall be kept in the custody of the Bankruptcy Clerk of Court and made available upon request to the complaint authorities, Dr. Cordero, and the successor trustee;

g. The transcript and stenographic packs and folds of the hearing in *DeLano* held before Judge Ninfo on:

- |                    |                      |                      |
|--------------------|----------------------|----------------------|
| 1) March 8, 2008   | 4) August 25, 2004   | 7) November 16, 2005 |
| 2) July 19, 2004   | 5) December 15, 2004 |                      |
| 3) August 23, 2004 | 6) July 25, 2005     |                      |

h. The documents obtained by Trustee Reiber in connection with *DeLano* and by Trustee Gordon in connection with *Pfuntner*, regardless of the source, up to the date of compliance with this Order, whether such documents relate generally to the DeLanos' or Mr.

Palmer/Premier's bankruptcy petition or particularly to the investigation of whether either or both of them have committed fraud, regardless of whether such documents point to their joint or several commission of fraud or do not point to such commission but were obtained in the context of such investigation;

- i. The statement reported in *DeLano*, WBNY docket 04-20280, entry 134, to have been read by Trustee Reiber into the record at the confirmation hearing on July 25, 2005, of the DeLanos' plan of debt repayment, of which there shall be produced a copy of the written version, if any, of such statement as well as a transcription of such statement exactly as read and the stenographic packs and folds used by the reporter to record it;
- j. The financial documents in either or both of the names of the DeLanos, or those of Mr. Palmer/Premier, or otherwise concerning a financial matter under the total or partial control of either or both of them, respectively, regardless of whether either or both exercised or still exercise such control directly or indirectly through a third person or entity, and whether for their benefit or somebody else's, in the case of the DeLanos since January 1, 1975, to date, and in the case of Mr. Palmer since he began to work for, or do business as, or acquired partially or totally, or otherwise controlled, Premier Van Lines to date ,

1) Such as:

- (a) the ordinary, whether the interval of issue is a month or a longer or shorter interval, and extraordinary statements of account of each and all checking, savings, investment, retirement, pension, credit card, and debit card accounts at or issued by M&T Bank and/or any other entity, whether banking, financial, investment, commercial, or otherwise, in the world;
- (b) the unbroken series of documents relating to the purchase, sale, or rental of any property or share thereof or right to its use, wherever in the world such

property may have been, is, or may be located, by the DeLanos and Mr. Palmer/Premier, respectively, including but not limited to:

- (i) real estate, including but not limited to the home and surrounding lot at 1262 Shoecraft Road, Webster (and Penfield, if different), NY 14580;
  - (ii) Premier Van Lines, any similar moving or storage company, or other business, whether incorporated or not incorporated;
  - (iii) moving and storage equipment, including, but not limited, to vehicles, forklifts, crates, padding and packaging material; and
  - (iv) personal property, including any vehicle, mobile home, or water vessel;
- (c) mortgage documents;
- (d) loan documents;
- (e) title documents and other documents reviewing title, such as abstracts of title;
- (f) prize documents, such as lottery and gambling documents;
- (g) service documents, wherever in the world such service was, is being, or may be received or given; and
- (h) documents concerning the college expenses of each of the DeLanos' children, Jennifer and Michael, including but not limited to tuition, books, transportation, room and board, and any loan extended or grant made by a government or a private entity or a parent or relative for the purpose of such education, regardless of whose name appears on the documents as the loan borrower or grant recipient;

2) the production of such documents shall be made pursuant to the following timeframes:

- (a) within two weeks of the date of this Order, such documents dated since January 1, 2000, to date;

(b) within 30 days from the date of this Order, such documents dated since January 1, 1975, to December 31, 1999.

29. The Clerk of the Bankruptcy Court shall certify copies of all the orders in *DeLano* and *Pfuntner*, including the following of:

a. in *DeLano*:

- 1) July 26, 2004, for production of some documents by the DeLanos;
- 2) August 30, 2004, severing Dr. Cordero's claim against Mr. DeLano from *Pfuntner*, and requiring Dr. Cordero to take discovery from Mr. DeLano to prove his claim against him while suspending all other proceedings until the DeLanos' motion to disallow Dr. Cordero's claim was finally determined;
- 3) November 10, 2004, denying Dr. Cordero all his requests for discovery from Mr. DeLano;
- 4) December 21, 2004, scheduling *DeLano* for an evidentiary hearing on March 1, 2005;
- 5) April 4, 2005, holding that Dr. Cordero has no claim against Mr. DeLano and depriving him of standing to participate in any future proceedings in *DeLano*;
- 6) August 8, 2005, ordering M&T Bank to pay the Trustee;
- 7) August 9, 2005, confirming the DeLanos' debt repayment plan after hearing Trustee Reiber's statement and obtaining his "Trustee's Report", that is, his undated "Findings of Fact and Summary of 341 Hearing" and his undated and unsigned sheet titled "I/We filed Chapter 13 for one or more of the following reasons";
- 8) November 10, 2005, letter denying Dr. Cordero his request to appear by phone to argue his motion of November 5, 2005, to revoke the order of confirmation of the DeLanos' debt repayment plan;
- 9) November 22, 2005, denying Dr. Cordero's motion to revoke the confirmation of the

- plan;
- 10) Notice of January 24, 2007, releasing Mr. DeLano's employer, M&T Bank, from making further payments to Trustee Reiber.
  - 11) February 7, 2007, discharging the DeLanos after completion of their plan;
  - 12) June 29, 2007, providing, among other things, for the allowance of the final account and the discharge of Trustee Reiber, the enjoinder of creditors, the closing of the DeLanos' estate, and the release of their employer from the order to pay the Trustee;
- b. in *Pfuntner*:
- 1) December 30, 2002, to dismiss Dr. Cordero's cross-claims for defamation as well as negligent and reckless performance as trustee against Trustee Gordon;
  - 2) February 4, 2003, to transmit the record in a non-core proceeding to the District Court, WDNY, combined with findings of fact, conclusions of law, and the Recommendation not to grant Dr. Cordero's request for entry of default judgment;
  - 3) Attachment of February 4, 2003, to the Recommendation of the Bankruptcy Court that the default judgment not be entered by the District Court;
  - 4) February 18, 2003, denying Dr. Cordero's motion to extend time to file notice of appeal;
  - 5) July 15, 2003, ordering that a "discrete hearing" be held in Rochester on October 23, 2003, followed by further monthly hearings;
  - 6) October 16, 2003, Disposing of Causes of Action;
  - 7) October 16, 2003, denying Recusal and Removal Motions and Objection of Richard Cordero to Proceeding with Any Hearings and a Trial;
  - 8) October 23, 2003, Finding a Waiver by Dr. Cordero of a Trial by Jury;
  - 9) October 23, 2003, setting forth a Schedule in Connection with the Remaining Claims

of the Plaintiff, James Pfunter, and the Cross-Claims, Counterclaims and Third-Party Claims of the Third-Party Plaintiff, Richard Cordero;

10) October 28, 2003, denying Dr. Cordero's Motion for a More Definitive Statement of the Court's Order and Decision.

30. The Bankruptcy Clerk shall produce copies of the following documents referred to in the docket of *Premier* or connected to that case:

a. Documents entered in the docket:

1) the monthly reports of operation for March through June 2001, entered as entries no. 34, 35, 36, and 47;

2) the reports for the following months until the completion of the liquidation of Premier;

3) the court order closing that case, which is the last but one docket entry, but bears no number;

4) the court order authorizing the payment of a fee to Trustee Gordon and indicating the amount thereof, which is the last docket entry, but bears no number.

b. Documents that are only mentioned in other documents in that case but not entered themselves anywhere:

1) the court order authorizing payment of fees to Trustee Gordon's attorney, William Brueckner, Esq., and stating the amount thereof; cf. docket entry no. 72;

2) the court order authorizing payment of fees to Auctioneer Roy Teitsworth and stating the amount thereof; cf. docket entry no. 97;

3) the financial statements concerning Premier prepared by Bonadio & Co., for which Bonadio was paid fees; cf. docket entries no. 90, 83, 82, 79, 78, 49, 30, 29, 27, 26, 22, and 16;

- 4) the statement of M&T Bank of the proceeds of its auction of estate assets on which it held a lien as security for its loan to Premier; the application of the proceeds to set off that loan; and the proceeds' remaining balance and disposition; cf. docket entry no. 89;
- 5) the information provided to comply with the order described in entry no. 71 and with the minutes described in entry no. 70;
- 6) the Final report and account referred to in entry no. 67 and ordered filed in entry no. 62.

31. The Committee requests under Rule 13(c) that the Director of the Administrative Office of the U.S. Courts hire special staff, such as a reputable and certified accounting and title firm, that is:

- a. from a state other than those in the Second Circuit;
- b. unfamiliar with any aspect of *DeLano* and *Pfuntner*;
- c. independent and unrelated and unknown to any party or officer in WDNY and WBNY;
- d. capable of faithfully representing pursuant to law the interests of the DeLanos' unsecured creditors and Mr. Palmer/Premier's unsecured creditors and customers;
- e. qualified to investigate the financial affairs of the subject judge and the other parties concerned by this Order on the basis of the documents described herein and similar documents, such as those already produced and included in the record of *DeLano* and *Pfuntner*, to determine whether such judge committed, or aided and abetted the commission of, whether alone or with others, tolerated, or failed to report under, among others, 18 U.S.C. §3057(a), bankruptcy fraud, particularly concealment of assets, wrongful valuation of assets or disposition thereof, wrongful handling of exemptions, other false or misleading financial statements, and solicitation or taking of a bribe or an unlawful gratuity or benefit, at any time and in any form in connection with a bankruptcy petition, a meeting of creditors, an

evidentiary hearing, a confirmation hearing, or similar document or proceeding; and

f. charged with producing a report, accompanied with supporting documents, of the inflow, outflow, and current whereabouts of the assets of the subject judge and of the known earnings and mortgage receipts of at least \$673,657 that such judge allowed the DeLanos' not to account for (cf. *DeLano* record in CA2, page SApp:1654), -whether such assets of the judge be earnings, real or personal property, rights, or otherwise, or be held jointly or severally by him and/or others directly or indirectly under their control anywhere in the world since three years before his appointment to the bench in 1992 to date.

32. Notwithstanding the above and without detriment to any party's duty to carry it out, *DeLano* and *Pfuntner* are reported under 18 U.S.C. §3057(a) to the U.S. Attorney General, with the recommendation that they be investigated by U.S. attorneys and FBI agents, such as those from the U.S. Department of Justice and FBI offices in Washington, D.C., or Chicago, who are unfamiliar with either of those cases and unacquainted with any of the parties to either of them, or court officers, whether judicial or administrative, or trustees, directly or indirectly involved in, concerned with, or affected by either of those cases, or that may be investigated, and that no former or current staff of the offices of the Department of Justice or the FBI in either Rochester or Buffalo, NY, participate in any way whatsoever in conducting such investigation, except that such staff be required to provide all information requested of them and to volunteer all information in their possession or whose certain or likely whereabouts they know and that they consider, or similar staff unrelated to either case or the parties to them would consider, potentially or actually relevant to the investigation.

FOR THE SPECIAL COMMITTEE:

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Date