

Dr. Richard Cordero

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August 4, 2005

Ms. Karen Greve Milton
Circuit Executive
U.S. Court of Appeals for the Second Circuit
40 Foley Square, Rm 2904
New York, NY 10007

Re: supplementation of comments on the reappointment of J. John C. Ninfo, II

Dear Ms. Milton,

Last March 17, I made a submission to the Second Circuit Court of Appeals and Judicial Council in response to the request for public comments on the reappointment of Bankruptcy Judge J.C. Ninfo, WBNY. This is a supplement (cf. FRCivP 26(e)) that evidences the pertinence of the statement that I made there: "If the judges of the Court or the Council...cannot imagine one of their own being biased unless they witness him being unashamedly so, they can listen to him in his own words by ordering a transcript of the March 1 hearing in the DeLano case. Then they can ascertain what drives his conduct"

Indeed, on March 1, 2005, the evidentiary hearing took place of the motion to disallow my claim against Mr. DeLano in the bankruptcy case of David and Mary Ann DeLano. Judge Ninfo disallowed it. Oddly enough, Mr. DeLano is a 32-year veteran of the banking industry now specializing in bankruptcies at M&T Bank. He declared having only \$535 in cash and account when filing for bankruptcy in January 2004, but earned in the 2001-03 fiscal years \$291,470, whose whereabouts the Judge refused to request that he account for and, thus, are unknown to date.

At the end of the hearing, I asked Reporter Mary Dianetti to count and write down the numbers of stenographic packs and folds that she had used, which she did. For my appeal from the disallowance and as part of making arrangements for her transcript, I requested her to estimate its cost and state the numbers of packs and folds that she would use to produce it. As shown in the exhibits pgs. E:1-11, she provided the estimate but on three occasions expressly declined to state those numbers. Her repeated failure to state numbers that she necessarily had counted and used to calculate her estimate was quite suspicious. So I requested that she agree to certify that the transcript would be complete and accurate, distributed only to the clerk and me, and free of tampering influence. However, she asked me to prepay and explicitly rejected my request! If a reporter in this Circuit refuses to vouch for the reliability of her transcript, does this Court vouch in her stead to the Supreme Court? Would you want your rights and obligations decided on such a transcript?

There is evidence that Reporter Dianetti is not acting alone. Other clerks answerable to Judge Ninfo have also violated the rules to deprive me of that transcript and, worse still, did likewise concerning the transcript of a hearing before him in *Pfuntner v. Trustee Gordon et al.*, where Mr. DeLano, who handled the bankruptcy for M&T, and I are parties. In both cases, timely and reliable transcripts carried the risk of enabling the peers of Judge Ninfo to 'listen' to his bias and disregard for the law, the rules, and the facts at those hearings. Therefore, I respectfully request that you submit the accompanying supplement and exhibits to the Court and the Council so that they **1)** consider in the reappointment process the evidence showing that Judge Ninfo's conduct and that of others in his court form a pattern of non-coincidental, intentional, and coordinated wrongdoing that supports a bankruptcy fraud scheme and **2)** report it to U.S. Attorney General Alberto Gonzales under 18 U.S.C. 3057(a). Looking forward to hearing from you,

sincerely,

Dr. Richard Cordero

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March 17, 2005

Ms. Karen Greve Milton
Circuit Executive
U.S. Courts for the Second Circuit
40 Foley Square, Rm. 2904
New York, NY 10007

Re: public comments on the reappointment of Judge John C. Ninfo, II

Dear Ms. Milton,

I hereby bring to the attention of the Second Circuit Court of Appeals and Judicial Council facts on the basis of which they should decide not to reappoint Bankruptcy Judge John C. Ninfo, II, WBNY, to a new term of office because of his participation in a pattern of wrongdoing and bias.

Those facts are found in the 15 orders of Judge Ninfo (235 et seq., *infra*) and other documents and statements entered in the dockets of two cases which I, as a party, know first-hand, i.e., *Pfuntner v. Gordon et al*, no. 02-2230 (401), and *In re DeLano*, no. 04-20280 (425). These writings are supplemented by the stenographic recordings of the 15 hearings in those cases (56). These materials produced by or in connection with Judge Ninfo describe action taken by him since 2002 that so repeatedly and consistently disregards the law, the rules, and the facts (cf. 7§2) to the benefit of local parties (15C), including debtors (471 et seq.) that the evidence indicates have concealed assets (18§1;24§3), and to my detriment, I being the only non-local and pro se party, as to establish his participation in a pattern of non-coincidental, intentional, and coordinated (89F; 168§II) wrongful acts (66§I) supporting a bankruptcy fraud scheme (216§V).

In a judicial misconduct complaint (111) and in motions filed in this Court (125; 201) in *In re Premier*, dkt. no. 03-5023 (451), I informed of these facts Chief Judge John M. Walker, Jr., (cf. 151; 219) and members of this Court and of the Judicial Council, who dismissed them without any investigation. So routinely this is the way that judges dispose of complaints about their peers that last June Justice Rehnquist appointed Justice Breyer to head a committee to study the judges' misapplication of the Misconduct Act of 1980. Indeed, judges have turned the self-disciplining mechanism of judicial complaints into a sham, a term used advisedly upon the foundation of facts. Do judges also disregard systematically comments from the public before reappointing a bankruptcy judge, thereby turning the request for such comments into a public relations sham (cf 23§2)? The term is justified given that under 28 U.S.C. §152 the appointment does not even require such request, let alone the holding of public hearings, cf. §44(a).

If the judges of the Court or the Council are serious about judicial integrity, they can review the exhibits (51) and ask themselves whether Judge Ninfo abides by his oath of office at §453 or knows the law (41D;131B-C). But if they cannot imagine one of their own being biased unless they witness him being unashamedly so, they can listen to him in his own words by ordering a transcript of the March 1 hearing in the *DeLano* case (31). Then they can ascertain what drives his conduct and the scheme through a DoJ and FBI investigation (44F). If the appearance, not the reality, of bias is enough under §455 to require the recusal of a judge, as was reaffirmed in *Microsoft v. U.S.*, 530 U. S. 1301, 1302 (2000) (*Rehnquist, C. J.*), how can the evidence of judicial wrongdoing linked to a bankruptcy fraud scheme not be enough for a judge to discharge his or her duty to investigate a complaint about it or report it for investigation under 18 U.S.C. §3057? How much must Judge Ninfo abuse a litigant or how public must his wrongdoing be before his peers care?

sincerely, 

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September 6, 2005

[also sent to Circuit Justice Ginsburg and the other 2nd circuit judges]

Circuit Judge Dennis Jacobs
Member of the Judicial Council of the 2nd Circuit
U.S. Court of Appeals for the Second Circuit
40 Foley Square
New York, NY 10007

Dear Judge Jacobs,

Re: 2nd supplement to comments against
reappointing J. John C. Ninfo, II, WBNY

Last March I responded to the Appeals Court's request for comments on the reappointment of Judge Ninfo. I indicated that the Court and the Judicial Council could 'hear' him express his bias and disregard for the law, the rules, and the facts by obtaining the transcript of the evidentiary hearing held on March 1, 2005, of the motion raised by the debtors in *David and Mary Ann DeLano* (04-20280) to disallow my claim. Revealingly enough, that is the transcript that Bankruptcy Court Reporter Mary Dianetti has refused to certify as complete, accurate, and untampered-with. (E:9-11) The evidence thereof is what I submitted to the Court and the Council in the supplement of last August 3.

New evidence discussed in the supplement below shows that the Reporter's refusal is part of a bankruptcy fraud scheme: Judge Ninfo has confirmed the DeLanos' debt repayment plan upon the pretense that the trustee investigated and cleared them of fraud in his "Report" (E:271-273; §I) although the Judge knew that there was no investigation (§IIA) because he had refused to order them to produce even checking and savings account statements and because the trustee, who before asking for any documents from the DeLanos vouched for the good faith of their bankruptcy petition, had a conflict of interests in conducting an investigation that could prove him wrong (§IIB; E:309-323). Through his confirmation without investigation (§IIC), Judge Ninfo allowed the whereabouts of \$291,470 earned by the DeLanos in just 2001-03 to remain unknown and the astonishing string of mortgages (¶53, E:284-298) to go unexplained through which the DeLanos took in \$382,187 since 1975 only to end up 30 years later with equity in the very same home of a meager \$21,415 and a mortgage debt of \$77,084! Over \$670,000 unaccounted for! Not enough, for Judge Ninfo spared them repayment of over \$140,000. Thereby Judge Ninfo protected a scheme and Mr. DeLano, who has spent his 32-year career in banking, is currently in charge of bankruptcies of clients of his bank (¶36), and has learned so much about bankruptcy abuses that the Judge could not risk letting an investigation indict Mr. DeLano for playing the system, lest he disclose his incriminating knowledge in a plea bargain.

Hence, Judge Ninfo cannot let the transcript be produced and the Reporter be investigated or the Trustee be removed. I moved for that on July 18 and 13, respectively; but neither the Reporter nor the Trustee has bothered to file even a stick-it with the scribble "I oppose it". But wait! I raised those motions in my appeal before Judge David Larimer (05cv6190, WDNY). How did they know that he would not grant them by default and cause them to lose their jobs? Yet, they must know that Judge Larimer's protection of Judge Ninfo and the others by not ruling on my motions -four, the earliest filed in *June*- can lead me to petition for a writ of mandamus again (cf. 03-3088, CA2). Do they know that the Court will deny it and leave me with a frozen appeal or no option but to file my brief without the transcript? (E:333-343) The scheme! How high does it reach? (cf. 03-8547 and 04-8510, CA2)

Circumstantial and documentary evidence warrants that Judge Ninfo not be appointed. Instead, let your duty to safeguard the integrity of judicial officers and process cause him to be investigated for participating in a bankruptcy fraud scheme; and let your duty under 18 U.S.C. 3057(a) cause you to report this matter to A.G. Alberto Gonzales for investigation. Looking forward to hearing from you,

sincerely,

Dr. Richard Cordero

SUPPLEMENTATION OF COMMENTS
against the reappointment of
Bankruptcy Judge John C. Ninfo, II, WBNY
submitted to
the Court of Appeals
for the Second Circuit
and
the Judicial Council of the Second Circuit
on August 3, 2005

Dr. Richard Cordero states under penalty of perjury the following:

1. On March 17, 2005, Dr. Richard Cordero submitted comments against the reappointment of Bankruptcy Judge John C. Ninfo, II, WBNY, supported by exhibits showing how Judge Ninfo has engaged and allowed other court officers and local parties to engage since 2002 in a series of acts of bias and disregard for the law, the rules, and the facts so consistently to the benefit of the local parties and the detriment of Dr. Cordero in two related cases, namely, *Pfuntner v. Trustee Gordon et al.*, no. 02-2230, and *David and Mary Ann DeLano*, no. 04-20280, WBNY, as to form a pattern of non-coincidental, intentional, and coordinated wrongdoing in support of a bankruptcy fraud scheme.
2. In those comments, Dr. Cordero indicated that the judges of the Court of Appeals and the Judicial Council could witness by themselves the biased conduct of Judge Ninfo if they would “listen to him in his own words by ordering a transcript of the March 1 hearing in the DeLano case. Then they can ascertain what drives his conduct and the scheme.” (Exhibit page 257, infra=E:257) He added the caveat that they, however, would have to establish the authenticity of the transcript given the Judge’s tolerance for wrongdoing. The pertinence of that statement has now been proved by the express refusal of the official court reporter in Judge Ninfo’s court, Reporter Mary Dianetti, to agree to certify that her own transcript of her stenographic recording of that evidentiary hearing before the Judge on March 1 will be complete and accurate, distributed only to the clerk and Dr. Cordero, and free of tampering influence. How extraordinary!, for what is a transcript worth whose reliability the reporter herself will not vouch for?
3. The full significance of Reporter Dianetti’s refusal is only deepened upon knowing that the transcript in question would confirm and reveal to the appellate and supervising peers of Judge

Ninfo the role that he has played as on-the-bench advocate for Mr. DeLano before and during the evidentiary hearing. Judge Ninfo called that hearing to hear the motion raised by the DeLanos to disallow Dr. Cordero’s claim against Mr. DeLano and his disallowance of the claim was a foregone conclusion. Therefore, let’s begin by establishing the circumstances of Reporter Dianetti’s refusal to certify the reliability of her own transcript.

Table of Contents

- I. Reporter Dianetti declined stating on three occasions the count of the stenographic packs and folds that she had counted to arrive at her transcript cost estimate; Dr. Cordero requested confirmation that her reluctance was not motivated by her concerns about the transcript’s content; but the Reporter requested prepayment while refusing to certify that the transcript would be complete and accurate, distributed only to the clerk and Dr. Cordero, and free of tampering influence3
- II. Reporter Dianetti already tried on a previous occasion to avoid submitting a transcript and submitted it only over two and half months later and only after Dr. Cordero repeatedly requested it.....7
 - A. Reporter Dianetti and other officers have disregarded the law and rules by their way of dealing with Dr. Cordero at hearings and his transcript requests9
- III. The Clerk of the Bankruptcy Court disregarded the rules by transmitting the record to the District Court when it could not possibly be complete; yet District Judge Larimer disregarded the rules and repeatedly scheduled the appellate brief for a date before Dr. Cordero would receive and use the transcript to write it12
- IV. Reporter Dianetti’s refusal to certify the transcript’s reliability is another manifestation of court officers who disregard the law, the rules, and the facts in support of a bankruptcy fraud scheme15
- V. Conclusion and Requested Action.....18

Dates of Letters Exchanged Between			Exhibit Page
	Dr. Cordero	Court Reporter Dianetti	E:#
1.	April 18, 2005		1
2.		May 3	2
3.	May 10		3
4.		May 19	4
5.	May 26		6
6.		June 13	7

7.	June 25		9
8.		July 1	11

I. Reporter Dianetti declined stating on three occasions the count of the stenographic packs and folds that she had counted to arrive at her transcript cost estimate; Dr. Cordero requested confirmation that her reluctance was not motivated by her concerns about the transcript's content; but the Reporter requested prepayment while refusing to certify that the transcript would be complete and accurate, distributed only to the clerk and Dr. Cordero, and free of tampering influence

4. At the end of the evidentiary hearing on March 1, 2005, which lasted from 1:31 p.m. till 7:00 p.m., Dr. Cordero approached Reporter Dianetti while she was still at her seat and Court Attendant Lorraine Parkhurst was by her side. He asked the Reporter how many packs and folds of stenographic paper she had used. That question spun Reporter Dianetti into a profound state of confusion and nervousness, all the more astonishing since she was only gathering the materials that she had just finished using to record the single hearing that afternoon. (Exhibits page 207, section B, infra=E:207B) The Reporter and Attendant Parkhurst counted the packs and folds and both wrote down the numbers (E:203); but on that occasion, the Reporter did not provide an estimate of the cost of the transcript.

5. Over a month and a half later, contemporaneously with designating the items in the record for the appeal from the decision resulting from that evidentiary hearing, Dr. Cordero requested in his letter of April 18 to Reporter Dianetti (E:1) that she provide a cost estimate and indicate the number of stenographic packs and folds "that you will be using to prepare the transcript". In so doing, Dr. Cordero was simply exercising his right under 28 U.S.C. §753(b), providing that:

§753(b) [last paragraph] The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge.

6. Since Dr. Cordero lives in New York City, hundreds of miles away from the bankruptcy clerk's office in Rochester, NY, and since he, by contrast, would be charged for ordering the transcript, it is only reasonable that he would want to have the closest equivalent to an inspection in person of the original records by asking the Court Reporter to describe what she would transcribe at his expense. This sort of "dealings with parties requesting transcripts" must fall precisely within the scope of §753(c). Hence, Dr. Cordero simply asked for information that he was legally entitled to obtain.

7. In her answer of May 3 (E:2), Reporter Dianetti failed to provide any count of packs and folds of steno-

graphic paper because it “was given to you after the hearing was completed”. Yet, she must have counted them since she provided “the estimated cost...of \$600 to \$650”. But she added the caveat “Please understand this is an estimate only.” Thereby she undermined the reliability of what in the normal course of business would have been deemed the lower and upper limits of the estimate.

8. Hence, in his letter to her of May 10 (E:3), he asked that she state by how much more her estimate could fluctuate and added “This makes it all the more necessary that you state how many packs of stenographic paper and how many folds in each pack constitute the whole of your recording.”
9. In her letter of May 19 (E:4), Reporter Dianetti surprisingly stated that “I am unable to state how much my estimate can fluctuate, if it fluctuates at all, unless I prepare the entire transcript prior to your ordering it.” Her statement was self-contradictory because if her estimate may not fluctuate “at all”, then how could she provide an initial estimate with lower and upper limits, which by definition mark the margins of fluctuation? What would determine whether the final “cost...of \$600 to \$650” was \$600, \$650, anywhere in between, or even outside that range? Since Reporter Dianetti is an official reporter, who earns her living as such, who would prepare the transcript based on her own recording of a proceeding, and who had provided an estimate that already fluctuated by almost 10%, how could she not have an idea of by “how much my estimate can fluctuate”? After all, how many variables can possibly affect the final number of transcript pages? Is one of them censure by somebody else with indisputable authority?
10. Making her estimate even more incomprehensible, Reporter Dianetti again failed to provide in that letter of May 19 the count of stenographic packs and folds that she would use to prepare the transcript because “you already have that information” (E:4). Did she have it too?; if so, why not just restate it in a straightforward business fashion? Moreover, there was something very odd to her failure to appreciate the difference between the count of packs and folds that she had written down for Dr. Cordero on March 1 and what she had recently counted and would actually “be using to prepare the transcript”, as Dr. Cordero had asked in his first letter of April 18 (E:1).
11. Thus, in his letter to her of May 26 (E:6), Dr. Cordero pointed out that:

If you cannot state those limits, the final amount can be anywhere above or below that fork [of \$600 to \$650]. In practical terms this means that there is no estimate at all. Consequently, I am left to assume all the risk and be liable for whatever final price you bill me for. I hope you will agree that does not sound either fair to me or an acceptable business arrangement.

12. In her response of June 13 (E:7), Reporter Dianetti agreed to an upper limit of \$650 and stated a cost per page of \$3.30. This implied that for a meeting that lasted 5.5 hours, she had estimated a

maximum of 197 pages. However, she added the astonishing statement that:

Also, I am listing the number of stenographic packs and the number of folds in each pack and this is **the same information** that was given to you on the afternoon of the hearing as I had marked each pack with the number of folds within your view and **am just giving you those exact numbers** at this time. (emphasis added)

13. How astonishing indeed, for Reporter Dianetti was emphatically avoiding any statement of the numbers of packs and folds that she would actually use to prepare the transcript! Why and to what extent would those numbers differ from the numbers of packs and folds that she had used to record the March 1 evidentiary hearing? Moreover, if she did not even have to count the packs and folds to arrive at her estimate of the transcript cost, why would she on her May 3 and 19 letters not simply restate “the same information...[with which] I had marked each pack”, thus nipping in the bud any suspicion? Dr. Cordero pointed this out unambiguously in his letter to her of June 25 (E:9):

Instead, I made what I meant you to state quite clear in my latest letter to you of May 26:

[since] you necessarily had to count the number of stenographic packs and their folds to calculate the number of transcript pages and estimate the cost of the transcript...provide me with that count...Therefore...

2. state the number of stenographic packs and the number of folds in each that comprise the whole recording of the evidentiary hearing and **that will be translated into the transcript.** (emphasis added)

14. The fact is that Reporter Dianetti recorded the evidentiary hearing on a stenographic machine, presumably the same that she uses for recording every other bankruptcy proceeding, using the same type of stenographic paper, whose folds were pulled in and filled with recording content at the same rate, so that the same amount of content would fill transcription pages at the same rate.

15. Unquestionably, the very aim of a stenographic recording of a proceeding is to record it “verbatim” (§753(b)) so that two stenographers, or for that matter, any number of stenographers possessing the same “qualifications...determined by standards formulated by the Judicial Conference” (§753(a)), and recording the same proceeding on the same type of equipment and paper should end up producing a transcription with the same content having the same length. That is a logical and practical imperative of the system of reporting court proceedings. As the Supreme Court put it, ‘the §753(b) duty to produce verbatim transcripts affords no discretion in carrying out this duty to reporters, who are to record, as accurately as possible, what transpires in court’, *Antoine v Byers & Anderson, 508 US 429, 124 L Ed 2d 391, 113 S Ct 2167 (1993)*.

16. Since her refusal made no sense from either a business or technical point of view, why was she

so evasive about stating the number of packs and folds that “will be translated into the transcript”? Was she concerned about how much content of the evidentiary hearing recording would be allowed to make it into the transcript, which would determine its number of pages, which would in turn reveal the number of packs and folds from which the transcript was produced? If so, her concern cast in issue the transcript’s reliability as well as the integrity of the court reporting process.

17. Hence, Dr. Cordero asked her in his letter of June 25 (E:10) to agree to:

...provide a transcript that is an accurate and complete written representation, with neither additions, deletions, omissions, nor other modifications, of the oral exchanges among the litigants, the witness, the judicial officers, and any other third parties that spoke at the DeLano evidentiary hearing...

...simultaneously file one paper copy with the clerk of the bankruptcy court and mail to [Dr. Cordero] a paper copy together with an electronic copy...and not make available any copy in any format to any other party...[and]

...truthfully state in your certificate [that] you have not discussed with any other party (aside from me)...the content...of your stenographic recording of the DeLano evidentiary hearing or of the transcript...[otherwise] you will state their names, the circumstances and content of such discussions or attempt at such discussions, and their impact on the preparation of the transcript.

18. In her July 1 letter (E:11) the Reporter required that Dr. Cordero prepay by “a money order or certified check in the amount of \$650.00 payable to “Mary Dianetti””, made no provision for the final cost coming out, once she applied her own \$3.30/page rate, at her own lower estimate of \$600 or even lower because, as she had put it in her May 3 letter (E:2), “Please understand this is an estimate only”, and then added without offering any explanation: “The balance of your letter of June 25, 2005 is rejected.”

19. How come “rejected”?! It must be quite obvious that Reporter Dianetti has no justification to refuse to agree that her transcript will be accurate and complete, not distributed to others (aside from the clerk) yet paid for by Dr. Cordero, and not subject to anybody’s tampering influence. Who in his right mind would pay \$650 up front for a product that he has already been given evidence will be defective and unsuitable for the intended purpose? Would you want your rights and obligations determined on a transcript for whose reliability the reporter herself will not vouch?

20. The answers to those questions are obvious. In addition, the foundation for asking them becomes all the stronger by the fact that this is not the first time that Reporter Dianetti has tried to prevent Dr. Cordero from obtaining the transcript of her recording of a proceeding before Judge Ninfo, whose disregard for the law, the rules, and the facts would have been revealed by a complete and accurate transcript.

II. Reporter Dianetti already tried on a previous occasion to avoid submitting a transcript and submitted it only over two and half months later and only after Dr. Cordero repeatedly requested it

21. In September 2002, *Pfuntner v. Gordon et al*, docket no. 02-2230, WBNY, was commenced and therein Dr. Cordero was named a defendant. He cross-claimed against Chapter 7 Trustee Kenneth Gordon for having negligently and recklessly performed his duties as trustee to the detriment of Dr. Cordero and for making defamatory statements against him to Judge Ninfo so as to induce the Judge not to cause an investigation of the Trustee, as Dr. Cordero had requested. (E:134¶¶6-11) Trustee Gordon moved to dismiss and his motion was heard on December 18, 2002, with Dr. Cordero appearing pro se by phone. Judge Ninfo dismissed the cross-claims summarily at the hearing despite the genuine issues of material fact raised by Dr. Cordero (E:135§§1-3) and even though discovery had not started on any aspect of the case, not even disclosure pursuant to FRBkrP 7026 and FRCivP 26(a)(1) had been provided by any party other than Dr. Cordero (E:150¶75) although the case had been commenced three months earlier (E:152¶80). At the end of the hearing, Dr. Cordero stated that he would appeal.
22. Interestingly enough, according to PACER, <https://ecf.nywb.uscourts.gov/>, between April 12, 2000, and June 26, 2004, Trustee Gordon appeared as trustee in 3,383 cases, in 3,382 out of which he did so before Judge Ninfo! By contrast, Dr. Cordero was a non-local litigant living hundreds of miles away in New York City and appearing in one case. Had Judge Ninfo developed a modus operandi with a trustee who had become a fixture litigant in his court so that to protect Trustee Gordon and their modus operandi the Judge got rid of what he could only deem to be one of the weakest of defendants, a one-time non-local pro se on the phone?
23. That question is warranted by the series of acts of disregard for the law, the rules, and the facts engaged in by Judge Ninfo (E:140§§2-4; 62A), District Judge David G. Larimer (E:142C; ¶35 below), clerks (E:92§II; 139B-§B1), trustees (E:134¶¶6-11; 36§V), and parties (E:145D; 68B-71§1) since even before *Pfuntner* was commenced in 2002. Their mutually reinforcing conduct points to systemic disregard for duty and legality among a group of people in daily contact in a small federal building, growing closely-knit by their related functions and the use of their power to do, not the right thing, but rather the good thing for their common interest because each member can count on all the others for similar supportive disregard, to the detriment of non-members (E:151§§1-6; ¶41 below) and the integrity of the system (E:117C-E). The following statement of facts describes an instance of such clique in action.

24. After Judge Ninfo's order of December 30, 2002, dismissing the cross-claims against Trustee Gordon was sent from Rochester and delivered in New York City, Dr. Cordero phoned Reporter Dianetti at (585)586-6392 on January 8, 2003, to request a transcript of the December 18 hearing. After checking her stenographic packs and folds, she called back and told him that there could be some 27 pages and take 10 days to be ready. Dr. Cordero agreed and requested the transcript. Yet, weeks went by without his hearing from her. He had to call her and the Bankruptcy Court on several occasions to ask why he had not received the transcript, but he could only either record messages on her answering machine or leave them for her with a clerk.
25. It was not until March 10, 2003, after Dr. Cordero called Reporter Dianetti and was already recording another message, that she, screening the call, finally picked up the phone. After giving an untenable excuse, she said that she would have the 15 pages ready for... "You said that it would be around 27?!" She gave another untenable excuse and promised to have everything in two days 'and you want it from the moment you came in on the phone.' What an extraordinary comment! It implied that there had been an exchange between the court and Trustee Gordon before Dr. Cordero had been put on speakerphone and that she was not supposed to include it in the transcript, so she wanted to obtain his tacit consent for her to leave it out. Dr. Cordero told her that he wanted everything and that her statement gave him the impression that other exchanges had taken place between the Judge and Trustee Gordon before and after he, Dr. Cordero, was on the phone. She said that she had to look up her notes and put Dr. Cordero on hold. When she came back, she asked him whether he wanted everything from the moment the Judge had said 'Good morning, Dr. Cordero.' He said no, that he wanted everything from the moment the Judge must have said 'Good morning, Mr. Gordon.'" She again put Dr. Cordero on hold to look up the calendar. She said that before his hearing began, there had been an evidentiary hearing. He asked her the name of the parties, but she said that she would have to look up the calendar. She said that Dr. Cordero's hearing had begun at 9:30 a.m.
26. As attested to by her certificate, Reporter Dianetti did complete the transcript in the next two days, on March 12, 2003. This shows how inexcusable it was for her to delay doing so for more than two months after Dr. Cordero first contacted her on January 8 to have her produce the transcript. However, there is evidence that she did not deliver it directly to him. Indeed, although the date on her certificate is March 12, the transcript was not mailed to him until March 26, precisely the day of the hearing at 9:30 a.m. of Dr. Cordero's motion for relief from Judge Ninfo's denial of his motion to extend time to file the notice of appeal (E:136§3) from the dismissal of his

cross-claims against Trustee Gordon. In fact, the transcript was not entered in docket no. 02-2230 until March 26. It is noteworthy that after Dr. Cordero made a statement at that hearing, Judge Ninfo said that he had not heard anything different from his moving papers, denied the motion, and cut off abruptly the telephone connection through which Dr. Cordero was appearing. The transcript was then mailed and it reached Dr. Cordero on March 28. This reasonably suggests that it was unlawfully withheld from him until the Judge could learn what he had to say at the hearing. Was Reporter Dianetti told to submit her transcript to a higher-up court officer so that its contents could be vetted in light of that hearing before a final version would be sent to Dr. Cordero?

27. The transcript turned out to consist, not of 27 pages as Reporter Dianetti had estimated after consulting her notes on January 8, but only of 15 pages of transcription! She claimed that because Dr. Cordero was on speakerphone, she had difficulty understanding what he said. Her transcription of his statements has many “unintelligible” notes marking missing passages so that it is difficult to make out what he said. If she or the court speakerphone regularly garbled what the person on speakerphone said, it is hard to imagine that either would last long in their respective functions. These facts warrant asking whether she was told to disregard his request for the transcript; and when she could no longer do so, to garble his statements. Has she been told the same in other cases?
28. Was Reporter Dianetti also told and, if so, by whom, to leave out the exchanges between Judge Ninfo and Trustee Gordon before Dr. Cordero was put on speakerphone or after the Judge terminated the phone communication at the hearing on December 18, 2002? The foundation for this question is not only her comment so implying. In fact, on many occasions since then (E:225), Judge Ninfo has cut off abruptly the phone line to Dr. Cordero, in contravention of the norms of civility. It is most unlikely that without announcing that the hearing or meeting was adjourned or striking his gavel, but simply by pressing the speakerphone button to hang up unceremoniously on Dr. Cordero, Judge Ninfo brought thereby the hearing or meeting to its conclusion and the parties in the room just turned on their heels and left without uttering another word.

A. Reporter Dianetti and other officers have disregarded the law and rules by their way of dealing with Dr. Cordero at hearings and his transcript requests

29. It is more likely that on the subject of the hearing or meeting Judge Ninfo spoke with the other parties in Dr. Cordero’s absence, thereby engaging in ex parte communications with them “concerning matters affecting a particular case or proceeding” in violation of FRBkrP 9003. (cf. E:119D) Likewise, by so abruptly cutting off a phone connection, the Judge gave any reasonable

person at the opposite end of the phone line cause for offense and the appearance of animosity and unfairness. Moreover, by so doing, the Judge, whether by design or in effect, prevented Dr. Cordero from bringing up any further subjects, even subjects that he had explicitly stated earlier in the hearing that he wanted to discuss; and denied him the opportunity to raise objections for the record. Of graver significance in legal terms is that by Judge Ninfo terminating a proceeding without giving notice thereof to a party he violated his duty to afford all parties to a hearing the same opportunity to be heard and hear the judge and the other parties. Thus, Judge Ninfo showed incivility and partiality, disregarded the rule prohibiting ex parte communications, and denied Dr. Cordero due process of law as required under the 5th Amendment.

30. As to Reporter Dianetti, by not delivering her transcript promptly and directly to Dr. Cordero upon completing it on March 12, 2003, she violated §753(b) which provides that:

28 U.S.C. §753(b)...Upon the request of any party to the proceeding which has been so recorded...the reporter...shall **promptly** transcribe the original records...and attach to the transcript his official certificate, and deliver the same to the party...making the request. (emphasis added)

31. The Reporter also violated FRBkrP 8007(a), providing thus:

FRBkrP 8007. (a) *Duty of reporter to prepare and file transcript.* On receipt of a request for a transcript, the reporter shall acknowledge on the request the date it was received and the date on which the reporter expects to have the transcript completed and shall transmit the request, so endorsed, to the clerk or the clerk of the bankruptcy appellate panel. On completion of the transcript the reporter shall file it with the clerk and, if appropriate, notify the clerk of the bankruptcy appellate panel. If the transcript cannot be completed within 30 days of receipt of the request the reporter shall seek an extension of time from the clerk or the clerk of the bankruptcy appellate panel and the action of the clerk shall be entered in the docket and the parties notified. If the reporter does not file the transcript within the time allowed, the clerk or the clerk of the bankruptcy appellate panel shall notify the bankruptcy judge.

32. If she could not have the transcript “completed within 30 days of receipt of the request”, let alone the 10 days that she had said it would take her to transcribe the mere 27 pages that she herself had estimated, why did she not comply with her obligation that “the reporter shall seek an extension of time from the clerk”? If she did, why did the clerk in turn fail to comply with his obligation that “the action of the clerk shall be entered in the docket and the parties notified”? In either event, Dr. Cordero was left without either the transcript or notice. Hence, either the Reporter or the clerk, or both violated the duty to proceed timely, promptly, and with notice. Discharging with promptness transcript-related duties is so important that the FRBkrP restate that obligation thus:

FRBkrP 5007. Record of Proceedings and Transcripts

(a) Filing of record or transcript.

The reporter or operator of a recording device shall certify the original notes of testimony, tape recording, or other original record of the proceeding and **promptly** file them with the clerk. The person preparing any transcript shall **promptly** file a certified copy. (emphasis added)

33. By so dealing with that transcript, Reporter Dianetti also violated §753(a), which provides that “...Each reporter shall take an oath faithfully to perform the duties of his office....” However, her conduct takes on sinister significance because her violations in 2003 occurred in the context of *Pfuntner*, the case that contains Dr. Cordero’s claim against Mr. DeLano (E:23 fn.1) and that Judge Ninfo linked to *DeLano* in his decision on appeal of April 4, 2005 (E:46§I, 51§IV. Therefore, it is reasonable to ask whether her refusal to certify the reliability of the transcript in *DeLano* is also linked to her mishandling of the transcript in *Pfuntner*; if so, with whom is she coordinating her conduct?; and why is it important thereby to influence adversely Dr. Cordero’s appeals? (E:157F) What is the benefit gained or harm avoided by those engaged in such unlawful conduct?
34. Indeed, there is no reason to think that Reporter Dianetti was ‘faithfully performing her duties’, as required by the oath that she took under 28 U.S.C. §753(a), until Dr. Cordero just happened to drop in. This warrants asking whether in other cases she has in coordination with other officers manipulated transcripts to alter their contents or even prevent their receipt. Hence, her conduct is evidence of that broader, systemic disregard for duty and legality where manipulation of transcripts is only part of a larger scheme. (E:92§II; 158§1) The evidence providing the foundation for these queries should concern the Court of Appeals and the Judicial Council because such disregard by her and others not only denies due process to individuals, but also undermines the integrity of the administration of justice. That has grave implications, for there is evidence that disregard for duty and legality reaches higher in the judicial hierarchy than the Bankruptcy Court. Do the circuit judges and the members of the Council know that Judge Ninfo has allowed disregard for duty and legality to spread throughout and outside his court?

III. The Clerk of the Bankruptcy Court disregarded the rules by transmitting the record to the District Court when it could not possibly be complete; yet District Judge Larimer disregarded the rules and repeatedly scheduled the appellate brief for a date before Dr. Cordero would receive and use the transcript to write it

35. The evidence points to Reporter Dianetti not having acted alone. Just as Bankruptcy Court Clerk Paul Warren disregarded the rules on that occasion (§32 above; cf. E:139B-§B1), he has in the instant case, likewise with detrimental effect on any use by Dr. Cordero of the transcript. So Dr. Cordero sent pursuant to FRBkrP 8006 his Designation of Items in the Record to the Bankruptcy Court. Clerk Karen Tacy filed it on April 21, 2005, and on that very same day –after strange hesitation, or was it consultation? (E:188 entries 108 and 109)- transmitted the record to the District Court.
36. However, FRBkrP 8007(b) provides that “When the record is complete for purposes of appeal, the clerk shall transmit a copy thereof forthwith to the clerk of the district court.” It is obvious that the record could not possibly have been complete on the very day in which it was filed since the 10 days provided under FRBkrP 8006 for “the appellee [to file and serve] a designation of additional items to be included in the record on appeal” had not even started to run. (E:165) Moreover, contact with Reporter Dianetti for production of the transcript had only been initiated, as shown by the copy of Dr. Cordero’s letter of April 18 to her (E:1) accompanying his designation. So when writing his appellant brief, he would hardly be able to take into consideration either the transcript or appellee’s designation, submitted only on May 3 (E:229 entry 5) and delivered in NYC on May 10.
37. Nevertheless, District Judge Larimer issued a scheduling order on April 22, the day after receiving the record, providing that “Appellant shall file and serve its brief within 20 days after entry of this order on the docket”. (E:167) Since the record contained a copy of Dr. Cordero’s April 18 letter to Reporter Dianetti, the Judge too must have known that the Reporter had hardly received it and that no arrangement could have been agreed upon for the production of the transcript. In any event, FRBkrP 8007(a) (§31 above) would allow the Reporter 30 days to complete the transcript and if she had not done so by that time, she could ask for an extension. Therefore, to require the filing of his appellate brief within 20 days would in effect prevent Dr. Cordero from receiving, let alone using, the transcript in writing the brief or even making it part of the record and thereby available in any subsequent appeal to the Court of Appeals or the Supreme Court.
38. On a phone conversation that Dr. Cordero had with Bankruptcy Clerk of Court Warren on May 2 concerning the premature transmittal of the record in disregard of FRBkrP 8007(b), the Clerk

defended the transmittal and refused to withdraw the record. So on that date, Dr. Cordero faxed to the District Court his objection to its scheduling order and requested that Judge Larimer rescind it. (E:169) He pointed out that the “premature...acts [of both courts] have forced Dr. Cordero to devote time and effort to research and writing to comply with the deadline for submitting his brief while waiting on the Bankruptcy Court to acknowledge its mistake and withdraw the record”.

39. Disregarding the violation of the rules and that concrete detriment, Judge Larimer did not rescind his scheduling order. Instead, on May 3 he issued another order requiring Dr. Cordero to file his appellate brief by June 13. (E:171) In so doing, he did not even mention the legal and factual basis of Dr. Cordero’s objection to premature transmittal of the incomplete record and the consequences in practical terms of the scheduling order.
40. As a result, Dr. Cordero was forced to write again to raise before Judge Larimer a “Motion for compliance with FRBkrP 8007 in the scheduling of appellant’s brief”. (E:172) It pointed out that the District Court did not receive a “record [that] is complete for purposes of appeal”, as required under FRBkrP 8007(b), so that in contravention of the rules it received an incomplete one; therefore, it had not obtained and still did not currently have jurisdiction over the case to issue a scheduling order.
41. Dr. Cordero noted that there was no justification for all the waste of time and effort as well as enormous aggravation that was being caused to him by requiring that he research, write, and file his brief by June 13 although not only had he not received the transcript, but also nobody knew even when the Reporter would complete it, let alone deliver it to him. Hence, if the transcript were delivered before the brief-filing deadline, he would have to scramble to read its hundreds of pages and then rework his whole brief to take them into consideration and do in a hurry any necessary legal research. Worse yet, if the transcript were delivered after that filing deadline and before the District Court’s decision, he would have to move for leave to amend his brief and, if granted, write another brief. But if the transcript were not filed timely and the Bankruptcy Clerk notified Judge Ninfo thereof under FRBkrP 8007(a), the outcome could not be known in advance, not to mention that the circumstances of the Reporter’s failure to complete it timely could give rise to a host of issues. And what would happen, Dr. Cordero asked, if the transcript was delivered *after* the Court had issued its decision?! He concluded that there was no legal basis for putting on him the onus of coping with all that burdensome extra work and uncertainty.
42. In its third scheduling order of May 17 (E:175), Judge Larimer did not show any awareness of these issues, let alone that they were his concern. On the contrary, he issued his order as if:

Appellant requested additional time within which to file and serve his brief. That request is granted, in part. Appellant shall file and serve his brief within twenty (20) days of the date that the transcript of the bankruptcy proceedings is filed with the Clerk of the Bankruptcy Court.

43. No! Dr. Cordero had certainly **not** “requested additional time”. What he had requested was for the Court to act in accordance with the law: (E:174)

Rescind its scheduling order requiring that he file his brief by June 13 and reissue no such order until in compliance with FRBkrP 8007(b) it has received a complete record from the clerk of the bankruptcy court.

44. Judge Larimer’s last order means in practice that if Reporter Dianetti ever files her transcript and it is found objectionable, Dr. Cordero will once more have to move the District Court to rescind that order and undertake corrective measures. In terms of the law, it means that the Judge issued a third order with disregard for the legal issues depriving him of jurisdiction to do so. Did Judge Larimer intend for Dr. Cordero to file his brief without the benefit of the transcript? Did the Judge know that if Dr. Cordero insisted on obtaining the transcript, he would be given some sort of such thing whose reliability would be so compromised that Reporter Dianetti would not certify it?

45. These questions are justified because the instant event is an exact repetition of the way Judge Larimer proceeded when Dr. Cordero requested the first transcript: After his colleague Judge Ninfo summarily dismissed Dr. Cordero’s cross-claims against Trustee Gordon at the hearing on December 18, 2002 (¶21 above), Dr. Cordero phoned Reporter Dianetti on January 8, to request the transcript. He then sent his notice of appeal, whose receipt was acknowledged by Bankruptcy Case Manager Karen Tacy by letter of January 14 (E:191), where she informed him that the due date for his designation of items was January 27. Yet, already on January 16, 2003, Judge Larimer had an order filed scheduling Dr. Cordero’s brief for 20 days hence (E:192) although the Bankruptcy Clerk had transmitted to the District Court a record so unquestionably incomplete that it consisted of merely the notice of appeal! Then Reporter Dianetti tried to avoid submitting that transcript to Dr. Cordero and mishandled its delivery after completing it so that it was sent to him only more than two and a half months later, after Judge Ninfo had found out what Dr. Cordero had to say at the hearing on March 26, 2003 (¶26 above).

46. These facts support the conclusion that just as in the instant case, on that occasion Judge Larimer tried to deprive Dr. Cordero of the transcript by scheduling his brief for a date before he would receive it and be able to take it into account. What a flagrant violation by administrative

and judicial officers of FRBkrP 8006 and 8007 as well as coordinated manipulation of filing dates (cf. E:157F; 73§2) and abusive impairment of the right to appeal! (cf. E:123§III) Was Judge Larimer protecting Colleague Ninfo or Trustee Gordon or both? From what and what for?

47. In light of these precedents, what conceivable reason can Dr. Cordero have to believe that when a complete record is properly before Judge Larimer, the latter will decide the appeal in accordance with the law, the rules, and the facts? Once more, this question is particularly pertinent because in the past Judge Larimer disregarded the law, the rules, and the facts in deciding Dr. Cordero's two appeals from *Pfuntner*: Dr. Cordero's opposition to Trustee Gordon's motion to dismiss the appeal, docket no. 03cv6021 (E:237¶50b)); and his application for default judgment against David Palmer, docket no. 03mbk6001 (E:142§C; 235B-237¶50a)).

IV. Reporter Dianetti's refusal to certify the transcript's reliability is another manifestation of court officers who disregard the law, the rules, and the facts in support of a bankruptcy fraud scheme

48. One must assume that all these officers know that 'the transcript is of critical importance to meaningful appellate review', *U.S. v Workcuff* 137 App DC 263, 422 F2d 700 (1970), because, among other things, under FRCivP 80(c) 'the stenographically recorded testimony of a witness at a hearing can be used to prove that testimony at a later trial'; for its part, FRAP 10(a) provides that "...the transcript of proceedings, if any,...shall constitute [part of] the record on appeal in all cases" (emphasis added). Hence, 'foreclosing examination of a complete transcript renders illusory appellant's right to appeal', *U.S. v Selva*, 546 F2d 1173 (CA5 Fl, 1977).

49. Harmful assumptions are also made by court officers and parties upon seeing judges and supervisors exhibit lack of commitment to the rule of law and tendency to disregard the high ethical standards that should guide the administration of justice. (cf. E:239C) Their insidious example fosters a permissive environment that is self-reinforcing since 'we can do anything like the bosses do too...and they'd better cover our backs 'cause if we go down they come together with us'. Such everything goes, extortionist mentality ever more profoundly undermines the performance of administrative tasks, indispensable for the judicial process to follow its proper course. This breeds lack of candor, bias, and arbitrariness, which are attitudes inimical to due process; cf. *William Bracy, Petitioner v. Richard B. Gramley, Warden* 520 U.S. 899; 117 S. Ct. 1793; 138 L. Ed. 2d 97 (1997).

50. In such environment, one can conceive of court officers engaging or allowing others to engage in

conduct that can deprive or is intended to deprive Dr. Cordero of transcripts. In conceiving such conduct, a cautious and objective reader would ask what motive they could have to engage in it. To find the answer, he or she should know who the DeLanos are and what they have done (E:19§I): Among other things, they filed a bankruptcy petition in January 2004, wherein they named Dr. Cordero among their creditors because of his claim against Mr. DeLano pending since November 2002 in *Pfuntner* (E:23 fn.1). Their petition is facially implausible because Mr. DeLano is a 32-year veteran of the banking industry still employed by Manufacturers & Traders Trust Bank (M&T) as an executive handling, of all matters, bankruptcies, but he and his wife pretend to have gone bankrupt with merely \$535 in cash and accounts while refusing to provide documents concerning the whereabouts of \$291,470 that they earned in just the 2001-03 fiscal years! Yet, to keep those documents from Dr. Cordero they are willing to run up, and their attorney knows they can afford, a legal bill of \$16,654. (E:219) A rational man, and a banker at that, would only incur such cost if after doing calculations he had determined that he had more to lose by producing the requested financial documents. Do you too now want to see those documents?

51. Dr. Cordero did and requested Chapter 13 Trustee George Reiber under 11 U.S.C. §1302(b)(1) and §704(4) to “investigate the financial affairs of the debtor”, and under §704(7) to “furnish such information concerning the estate and the estate’s administration as is requested by a party in interest”. The reaction of the Trustee’s attorney, James Weidman, Esq., illegally conducting the meeting of creditors on March 8, 2004 (C.F.R. §58.6(a)(10)), was to ask Dr. Cordero what he knew about the DeLanos having committed fraud, and when he would not answer, the Attorney terminated the meeting to prevent Dr. Cordero from examining them. (E:62A) Such termination violated the meeting’s purpose under §341, §343, and FRBkrP 2004(b); yet the Trustee ratified it. Judge Ninfo condoned it (E:21§II) as “local practice” (E:23§III; 66§2), thus disregarding his duty under §1325(a)(3) to ascertain whether the petition was “in good faith [or] forbidden by law” and protecting the local parties again (E:116B-C).

52. Indeed, Trustee Reiber had, according to PACER, 3,907 *open cases* before Judge Ninfo! (cf. ¶22 above) He would not request the DeLanos to produce checking and savings account statements. Only at Dr. Cordero’s repeated request did he pro forma ask them for other documents...only to allow them to stall producing even the very few that he had asked for. (E:24¶¶14-19) Nevertheless, Trustee Reiber’s supervisors, Assistant U.S. Trustee Kathleen Dunivin Schmitt and U.S. Trustee for Region 2 Deirdre Martini, would not require him to investigate the DeLanos (E:20¶g;

36§V) or replace him with a trustee willing and able to do so (E:14§II).

53. On July 9, 2004, Dr. Cordero presented evidence that the DeLanos were engaged in bankruptcy fraud, particularly concealment of assets. He moved for an order to produce documents that could prove it, such as bank accounts. (E:90§I) To eliminate him before he could obtain them, the DeLanos filed on July 22 a motion to disallow his claim. Judge Ninfo supported it, although it was barred by laches and untimely (E:74¶¶46-54) and did not order any production (E:68B; 107). Only at Dr. Cordero's instigation did he issue a watered-down order that he allowed the DeLanos to violate (E:32§3) -just as he has allowed *Pfuntner* parties to do (E:145D)- Then he stopped all other proceedings in *DeLano*, thus forestalling a renewed opposition under §§1325(b) and 102(4) by Dr. Cordero to their repayment plan, and forced him to take discovery of Mr. DeLano to prove his claim against him in *Pfuntner* (E:195§§I-II). The result of his discovery would be presented at an evidentiary hearing on March 1, 2005. But Mr. DeLano and the Judge denied him *every document* that he requested. (E:77§§1-2) Yet, in his decision on appeal of April 4, the Judge disallowed the claim because 'Dr. Cordero did not introduce any document to prove it!' What a set up! (E:33B)

54. However, Dr. Cordero could still introduce on appeal one threatening document: **the transcript**. Indeed, at the March 1 evidentiary hearing he elicited from Mr. DeLano admissions corroborating all the elements of his claim and even new information strengthening it. Judge Ninfo dealt with that testimony in his April 4 decision by dismissing it on the allegation that Mr. DeLano had been "confused" by Dr. Cordero. The ludicrousness of such pretense of a reason for dismissing damaging testimony is all the more obvious because Mr. DeLano was testifying about his own actions as an expert handling the bankruptcy in *Pfuntner*. (E:23 fn.1) Also, he was assisted by two seasoned attorneys, Christopher Werner, Esq., who according to his own statement 'has been in this business for 29 years' now and, as shown in PACER, had already at the time appeared before Judge Ninfo in 525 cases; and Michael Beyma, Esq., who is the attorney for Mr. DeLano and M&T in *Pfuntner* and a partner in the firm of Underberg & Kessler, of which the Judge was also a partner before being appointed to the bench in 1992. The transcript will also allow Judge Ninfo's peers to hear from his own mouth his bias and contempt for due process. (E:209C-E)

55. Mr. DeLano's self-incriminating testimony and Judge Ninfo's performance as his on-the-bench advocate, if it were completely and accurately reflected in the transcript (E:216F), can have devastating consequences: It will show that the untimely motion to disallow and the abuse-of-

process evidentiary hearing constituted a two-punch sham (E:33B) to justify stripping Dr. Cordero of standing as a creditor of the DeLanos so as to prevent him from obtaining the documents that can prove the bankruptcy fraud (cf. E:47§II) of well-connected Veteran Banker DeLano. In his 32-year banking career, he must have come to know too much to be left unprotected from his creditors or, worse, liable to criminal charges and, thus, tempted by a plea bargain to trade in his we-are-all-in-the-same-boat incrimination. (E:83§3)

56. Precisely, Mr. DeLano's admissions can open the way to proving that the long series of acts beginning in *Pfuntner* (E:134§I) of disregard for the law, the rules, and the facts by court officers, all consistently to the detriment of non-local pro se Dr. Cordero and the benefit of local parties (E:117C-E), form a pattern of non-coincidental, intentional, and coordinated wrongdoing in bankruptcy. Therein cases approved generate a commission of all payments by debtors to creditors as well as debt relief that spares concealed assets. That relief alone can save the DeLanos more than \$144,000 in debt plus delinquent interest at over 25% per year. (E:248¶75) Money, lots of money, "the source of all evil", and a web of local relations giving rise to what is at stake here: a bankruptcy fraud scheme and its cover-up. (E:234D)

57. Indeed, when so many officers who meet daily in a small building to work as a formal unit of colleagues and appointers-appointees (28 U.S.C. §751(a), (b); §753(a)) disregard their duty and legality as they engage in 'diversity of city' discrimination against a far away litigant, one can infer that they are not simply performing their functions incompetently with a series of accidentally coinciding results. Instead, the law allows the application of common sense to circumstantial evidence to draw the inference of intentionality and coordination from the acts of reasonable persons operating as a team to attain the shared objective of a scheme. On such basis, juries of lay persons are asked every day to make inferences that can lead to a finding of guilt beyond reasonable doubt, which will deprive the accused of his property, his liberty, and even his life. That is what the schemers stand to lose, who can be exposed as such by the transcript of one of their reporters.

V. Conclusion and Requested Action

58. The court officers and local parties are determined not to allow Dr. Cordero to use the *Pfuntner-DeLano* cases as a wedge to crack the bankruptcy fraud scheme. (E:51§IV) But they cannot prevent the Court of Appeals or the Judicial Council from conducting a conscientious and

comprehensive investigation of Judge Ninfo's performance as part of the reappointment process. To that end, the Court and the Council can use Reporter Dianetti's refusal to certify the reliability of her transcript as a starting point to find out and evaluate Judge Ninfo's performance and the motives driving it during and leading up to the March 1 evidentiary hearing. Indeed, a complete and accurate transcript would show how Judge Ninfo used the tandem of the motion to disallow the claim and its hearing to oust Dr. Cordero from *DeLano* before he could obtain the documents from the DeLanos that can prove their bankruptcy fraud, particularly concealment of assets. The Judge's participation in that abuse of process and his performance from the bench at the hearing as an advocate for Mr. DeLano and the scheme would demonstrate his contempt for his duty to be an impartial administrator of justice in accordance to law and, as a result, his unfitness for reappointment to a new term in office. In addition to, and even more important than, determining the issue of Judge Ninfo's reappointment, an investigation from the handling of the transcript request can lead the Court and the Council from a recent wrongful act legally significant in itself through a series of similar acts in a pattern of disregard for duty and legality all the way to the source of wrongdoing infecting the core of judicial integrity in a court under their supervision.

59. It is for each member of the Court or the Council to determine how he or she will handle the people referred to in this supplement and the original March 17 comments. Will each discharge his or her own duty to apply the law even to colleagues and appointees who have broken it for their own advantage, even by denying due process to a non-local person on whom they have inflicted enormous material and emotional injury for years? Failure to do so will only condone and thereby encourage those officers and parties to commit ever bolder acts, which will accumulate until attaining a critical mass threatening to explode and expose them, which will induce them into a cover up requiring ever more egregious, even criminal acts. (E:243D) It is a vicious circle that can only end up in disaster and shame for its active participants as well as those who had the duty to stop them but who instead aided and abetted them through their passivity in dereliction of duty. The choice is between protecting behind a black robe screen unworthy members of the same class and keeping the oath "to administer justice without respect to person...under the Constitution and the laws", 28 U.S.C. §453. (E:253E) Where do your loyalties lie?
60. Sooner or later what drives Judge Ninfo, the other court officers, and the local parties to disregard their duty and legality will be exposed, whether by the Court of Appeals, the Judicial Council, the FBI, the Congressional committees on the judiciary, or investigative journalists.

Those who vote to reappoint Judge Ninfo (cf. E:202) despite all the evidence of the wrongdoing that he has engaged in or condoned collected during the past three years (E:115§II) and presented to each of the members of the Court and the Council (E:239C; 201) by Dr. Cordero will end up embarrassed and having to explain themselves.

61. Therefore, Dr. Cordero respectfully requests that the Second Circuit Court of Appeals and the Judicial Council:

- a. do not reappoint Judge Ninfo to a new term of office as bankruptcy judge;
- b. investigate whether Judge Ninfo influenced directly or indirectly Court Reporter Mary Dianetti with regard to:
 - 1) her recording of the evidentiary hearing in *DeLano* on March 1, 2005, or her transcription thereof and thereby gave the Reporter cause to refuse to certify that such transcript would be complete and accurate, not distributed to anybody other than the clerk and Dr. Cordero, and free of tampering influence; and
 - 2) her mishandling of the transcript in *Pfuntner*;
- c. investigate the broader context of the pattern of non-coincidental, intentional, and coordinated acts of bias and disregard for the law, the rules, and the facts engaged in by court officers and parties in the Bankruptcy Court, WBNY, and District Court, WDNY
- d. designate an experienced court reporter, unrelated to either Reporter Dianetti or any court officers, whether judicial or administrative, of either of those Courts, to prepare the transcript based on all the stenographic packs and folds used by her to record the March 1 evidentiary hearing, having due regard for the chain of custody and condition of such packs and folds; and review such transcript; and
- e. refer the *DeLano* and *Pfuntner* cases for investigation under 18 U.S.C. §3057(a) to U.S. Attorney General Alberto Gonzales, with the recommendation that they be investigated by U.S. attorneys and FBI agents, such as those from the Department of Justice and FBI offices in Washington, D.C., or Chicago, who are unfamiliar with either case, and unrelated and unacquainted with any of the parties or officers that may be investigated, and that no staff from such offices in either Rochester or Buffalo participate in any way in such investigation.

Dated: August 3, 2005
59 Crescent Street
Brooklyn, NY 11208

Dr. Richard Cordero

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

Table of Exhibits
in support of
the Supplementation of Comments
against the reappointment of
Bankruptcy Judge John C. Ninfo, II, WBNY
submitted to
the Court of Appeals
for the Second Circuit
and
the Judicial Council of the Second Circuit
on August 3, 2005
by
Dr. Richard Cordero

Exhibit page num. =E:#

1. Letters exchanged between Dr. Richard Cordero and Court Reporter Mary Dianetti:

	Dr. Cordero	Reporter Dianetti	
a.	April 18, 2005.....		1
b.		May 3.....	2
c.	May 10		3
e.		May 19.....	4
f.	May 26		6
g.		June 13.....	7
h.	June 25		9
i.		July 1	11

2. Dr. Cordero’s motion of July 13, 2005, to stay confirmation hearing and order, withdraw case pending appeal, remove trustee and give notice of addition to appeal.....13
- a. Dr. Cordero’s **Affidavit of July 11, 2005**, in Support of his Motion to Stay Confirmation Hearing and Order, Withdraw Case Pending Appeal, Remove Trustee and Give Notice of Addition to Appeal.....18
3. Dr. Cordero’s motion of June 20, 2005, to stay Pfuntner and join the parties in that case to the DeLano appeal and its43
- a. Dr. Cordero’s statement of June 18, 2005, to the Pfuntner parties on Judge Ninfo’s linkage of the Pfuntner and DeLano cases45

4. Dr. Cordero’s motion of February 17, 2005, to request that Judge Ninfo recuse himself under 28 U.S.C. §455(a) due to lack of impartiality	59
5. Dr. Cordero’s motion of August 14, 2004, for docketing and issue, removal, referral, examination, and other relief, noticed for August 23 and 25, 2004	89
6. Dr. Cordero’s motion of November 3, 2003, to the Court of Appeals for the Second Circuit for leave to file updating supplement of evidence of bias in Judge Ninfo’s denial of Dr. Cordero’s request for a trial by jury	107
7. Dr. Cordero’s motion of August 8, 2003, for Judge Ninfo to remove the Pfuntner case and recuse himself	127
8. Bankruptcy Court’s notice of April 11, 2005, to Dr. Cordero to request that pursuant to Bankruptcy Rule 8006 he perfect the record on appeal by submitting by April 21 his designation of items in the record	165
9. District Judge David G. Larimer’s order of April 22, 2005, scheduling Dr. Cordero’s appellate brief for submission by 20 days hence, issued with disregard for FRBkrP 8007(b) a day after Dr. Cordero’s designation of items was filed and before the transcript had even been started	167
10. Dr. Cordero’s Objection of May 2, 2005, to Judge Larimer’s scheduling order and request for its urgent rescission	169
11. Judge Larimer’s order of May 3, 2005, scheduling another date for Dr. Cordero to file his appellate brief and issued with disregard for the objection that the transmittal of the record was premature since it was still incomplete	171
12. Dr. Cordero’s motion of May 16, 2005, for compliance with FRBkrP 8007 in the scheduling of his appellate brief and the urgent rescission of the scheduling order because the transcript was not yet in, the record was still incomplete, and the Judge had no jurisdiction over the case	172
13. Judge Larimer’s order of May 17, 2005, rescheduling the appellate brief of Dr. Cordero for submission by 20 days after the filing of the transcript, as if he had only requested additional time	175
14. Docket for <i>In re David DeLano and Mary Ann DeLano</i> , no. 04-20280, WBNY, as of July 26, 2005	176
15. Bankruptcy Court’s letter of January 14, 2003, to Dr. Cordero setting January 27 as the due date for his designation of items in his appeal from Judge Ninfo’s dismissal of his cross-claims against Trustee Kenneth Gordon	191
16. Judge Larimer’s scheduling order of January 16, 2003, setting a deadline 20 days hence for Dr. Cordero’s appellate brief and, thus, issuing as the	

period had barely begun to run for his designation of items in <i>Cordero v. Gordon</i> , docket no. 03cv6021, WDNY, to be submitted.....	192
17. [excerpts from] Dr. Cordero’s motion of September 9, 2004, in the Court of Appeals for the Second Circuit to quash Judge Ninfo’s order of August 30, 2004, which severs a claim from the <i>Premier</i> case, no. 03-5023, on appeal in that Court, to try it in the <i>DeLano</i> case before Judge Ninfo	194
18. Dr. Cordero’s letter of March 18, 2005, sent to each of the members of the Judicial Council of the Second Circuit, such as Circuit Judge Dennis Jacobs, in response to the request by the Court of Appeals for the Second Circuit for public comments on the reappointment of Judge Ninfo to a new term of office as bankruptcy judge.....	201
19. Dr. Cordero’s letter of March 17, 2005, to Circuit Executive Karen Greve Milton in response to the request by the Court of Appeals for the Second Circuit for public comments on the reappointment of Judge Ninfo to a new term of office as bankruptcy judge.....	202
a. Statement by Bankruptcy Court Reporter Mary Dianetti of the number of stenographic packs and folds comprising her recording of the evidentiary hearing in the <i>DeLano</i> case held on March 1, 2005, at the Bankruptcy Court, WBNY, before Judge Ninfo	203
b. Supporting Statement: Judge Ninfo’s bias and disregard for legality can be heard from his own mouth through the transcript of the evidentiary hearing held on March 1, 2005, and can be read about in a caveat on ascertaining its authenticity that illustrates his tolerance for wrongdoing	204
20. Application of July 7, 2005, by Christopher Werner, Esq., attorney for the DeLanos, for \$16,654 in legal fees.....	219
21. List of Hearings and Decisions presided over or written by Judge Ninfo, in <i>Pfuntner</i> and <i>DeLano</i> , as of July 27, 2005, and involving Dr. Cordero.....	225
22. Docket for <i>Cordero v. DeLano</i> , no. 05-cv-6190 DGL, WDNY, as of July 26, 2005.....	228
23. [excerpts from] Dr. Cordero’s petition of January 20, 2005, to the Supreme Court of the United States in <i>Cordero v. Premier Van Lines, Inc., et al.</i> , docket no. 04-8371, for a writ of certiorari to the Court of Appeals for the Second Circuit in <i>Premier Van Lines, Inc.</i> , docket no. 03-5023, CA2.....	231
24. Dr. Cordero’s letter of March 17, 2005, to Circuit Executive Karen Greve Milton in response to the request for public comment on the reappointment by the Court of Appeals of Bankruptcy Judge John C. Ninfo, II, to a new term of office	257

Dr. Richard Cordero

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tel. (718) 827-9521; CorderoRic@yahoo.com

COPY for docket 05cv6190L, WDNY

April 18, 2005

Ms. Mary Dianetti
612 South Lincoln Road
East Rochester, NY 14445

Dear Ms. Dianetti,

I would like to know the cost of the transcript of your stenographic recording of the evidentiary hearing held on March 1, 2005, in the U.S. Bankruptcy Court in Rochester in the case of David and Mary Ann DeLano, docket no. 04-20280.

Kindly let me know also the number of stenographic packs and the number of folds in each pack that you used to record that hearing and that you will be using to prepare the transcript.

Please indicate whether the transcript can be made available in electronic form, such as a floppy disk or a compact disk and, if so, how much it would cost to have the transcript made:

1. only in electronic form
2. only printed on paper
3. both in electronic form and on paper.

State also the arrangements that can be made so that after the transcript has been completed, I can make a copy of the stenographic packs and folds that you used for your transcription and for a government agency to inspect the original packs and folds that you used.

yours sincerely,

Dr. Richard Cordero

612 S. Lincoln Road
East Rochester, N.Y. 14445
May 3, 2005

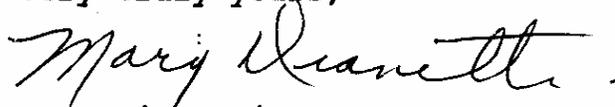
Dr. Richard Cordero
59 Crescent Street
Brooklyn, N. Y. 11208-1515

Dear Dr. Cordero:

In response to your letter dated April 18, 2005, please be informed that the estimated cost of the transcript of the proceedings held on March 1, 2005, in the matter of David and Mary Ann DeLano, docket No. 04-20280 is \$600.00 to \$650.00. Please understand this is an estimate only.

The information you requested regarding how many packs of paper and the number of folds was given to you after the hearing was completed. Also, the transcript can be provided on a disk and printed paper.

Very truly yours,


Mary Dianetti

Bankruptcy Court Reporter

Dr. Richard Cordero

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COPY for docket 05cv6190L, WDNY

May 10, 2005

Ms. Mary Dianetti
612 South Lincoln Road
East Rochester, NY 14445

Dear Ms. Dianetti,

Thank you for your letter of May 3, indicating that you estimate at between \$600 and \$650 the cost of the transcript of your stenographic recording of the evidentiary hearing held on March 1, 2005, in the U.S. Bankruptcy Court in Rochester in the case of David and Mary Ann DeLano, docket no. 04-20280.

You added the caveat "Please understand this is an estimate only". Since you already stated that it can fluctuate between \$600 and \$650, I would appreciate your letting me know by how much more your estimate can fluctuate.

This makes it all the more necessary that you state how many packs of stenographic paper and how many folds in each pack constitute the whole of your recording. I trust you will have no problem in providing me with this information this time.

Please let me know also on what type of disk, i.e. floppy disk or CD, the transcript can be provided (in addition to the paper copy) and whether it can be provided in Microsoft Word, Adobe PDF Acrobat, or both.

yours sincerely,

Dr. Richard Cordero

612 South Lincoln Road
East Rochester, N. Y. 14445

May 19, 2005

Dr. Richard Cordero
59 Crescent Street
Brooklyn, N.Y. 11208-1515

Dear Dr. Cordero:

In response to your letter dated May 10, 2005, this is to inform you I am unable to state how much my estimate can fluctuate, if it fluctuates at all, unless I prepare the entire transcript prior to your ordering it.

Also, as I mentioned in my previous letter, the transcript can be provided to you in paper form and/or floppy disk in PDF form.

As I previously stated, you were provided with the number of packs of stenographic paper and number of folds used for the hearing following the conclusion of that hearing on March 1, 2005, therefore, I trust you already have that information.

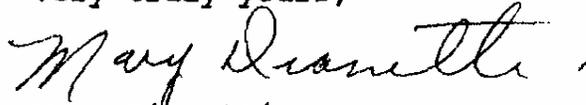
continued

I have not as yet received a formal request from you indicating that you would like me to prepare the transcript and the terms of payment for such. Should you make a formal request for a transcript, I will transmit the endorsed request to the clerk of the court with a copy to you in accordance with the federal Rules of Bankruptcy Procedure.

By copy of this letter I am notifying the Court of my correspondence to you regarding this matter.

Please advise me if you would like me to prepare the transcript. Awaiting your response, I remain

Very truly yours,

A handwritten signature in cursive script that reads "Mary Dianetti".

Mary Dianetti

Bankruptcy Court Reporter

CC: Clerk, U.S. Bankruptcy Court
Western District of New York

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
D.E.A., La Sorbonne, Paris

59 Crescent Street
Brooklyn, NY 11208-1515
tel. (718) 827-9521; CorderoRic@yahoo.com

COPY for docket 05cv6190L, WDNY

May 26, 2005

Ms. Mary Dianetti
612 South Lincoln Road
East Rochester, NY 14445

Re: transcript of the evidentiary hearing held on March 1, 2005, in the U.S. Bankruptcy Court in Rochester in the case of David and Mary Ann DeLano, docket no. 04-20280

Dear Ms. Dianetti,

I am in receipt of your letter of 19 instant. Therein you indicate that:

I am unable to state how much my estimate can fluctuate, if it fluctuates at all, unless I prepare the entire transcript prior to your ordering it.

A single digit estimate is a price quotation that alerts the client to the risk that the final price may go up from the quoted dollar amount and to the enticing possibility that it may go down, but it does not indicate how much that amount can move in either direction. The purpose of a fork estimate is to eliminate this uncertainty by setting upper and lower limits on the amount to be billed for. The spread between the forks limits "how much [your] estimate can fluctuate".

Your letter of May 3 provided such fork by stating that the price for the above-captioned transcript would be between \$600 and \$650. However, it reintroduced that uncertainty by stating "Please understand that this is an estimate only", meaning that your estimate could fluctuate beyond the limits of the fork. My letter of May 10 only tried to ascertain by how much those limits can be exceeded. Given your professional experience as a court reporter and the fact that you are in possession of the stenographic packs and had to count their folds to arrive at the estimate, you are in a better position than I am to state by how much your estimate can go lower than \$600 or higher than \$650. If you cannot state those limits, the final amount can be anywhere above or below that fork. In practical terms this means that there is no estimate at all. Consequently, I am left to assume all the risk and be liable for whatever final price you bill me for. I hope you will agree that does not sound either fair to me or an acceptable business arrangement.

My concern is only heightened by the fact that although you necessarily had to count the number of stenographic packs and their folds to calculate the number of transcript pages and estimate the cost of the transcript, you have not seen fit to provide me with that count in response to the request in both my letters of April 18 and May 10 that you state such count. The fact that you provided a pack and fold count on March 1 is not a convincing, let alone reassuring, reason for your not providing it now in the context of my ordering the transcript and making a commitment to paying hundreds and hundreds of dollars for it.

Therefore, I respectfully request that you:

1. provide a reliable upper limit for the estimated cost or agree that it will not exceed \$650; and
2. state the number of stenographic packs and the number of folds in each that comprise the whole recording of the evidentiary hearing and that will be translated into the transcript.

Sincerely,

Dr. Richard Cordero

612 South Lincoln Road
East Rochester, New York 14445

June 13, 2005

Dr. Richard Cordero
59 Crescent Street
Brooklyn, N.Y. 11208-1515

Dear Dr. Cordero:

In response to your letter dated May 26, 2005, in which you request that I provide a reliable upper limit for the estimated cost or agree the transcript will not exceed \$650.00, please be advised that I agree it will not exceed that amount.

Also, I am listing the number of stenographic packs and the number of folds in each pack and this is the same information that was given to you on the afternoon of the hearing as I had marked each pack with the number of folds within your view and am just giving you those exact numbers at this time.

continued

1st pack - folds numbered 6 - 158 1/2

2nd pack - folds numbered 3 - 181

3rd pack - folds 188 1/2 - folds not numbered

4th pack - folds 99 1/2 - folds not numbered

I trust this is the information you were desirous of having. I might add that the cost of the transcript per page is \$3.30 which may be helpful to you.

Please advise me if you want me to begin the transcript.

Very truly yours,



Mary Dianetti

Bankruptcy Court Reporter

CC: Clerk, U.S. Bankruptcy Court
Western District of New York

Dr. Richard Cordero

Ph.D., University of Cambridge, England
M.B.A., University of Michigan Business School
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59 Crescent Street
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June 25, 2005

Ms. Mary Dianetti
612 South Lincoln Road
East Rochester, NY 14445

Re: transcript of the evidentiary hearing held on March 1, 2005, in the U.S. Bankruptcy Court in Rochester in the case of David and Mary Ann DeLano, docket no. 04-20280

Dear Ms. Dianetti,

Thank you for your letter of June 13, whose envelope was postmarked June 15 by the Federal Station in Rochester, the one situated in the Federal Building where the Bankruptcy Court is.

I appreciate your stating the number of stenographic packs and folds in the recording of the above-captioned DeLano evidentiary hearing. I note that you stated that:

Also, I am listing the number of stenographic packs and the number of folds in each pack and this is the same information that was give to you on the afternoon of the hearing as I had marked each pack with the number of folds within your view and am just giving you those exact numbers at this time.

I assume that this does not mean that you are merely copying the information that you gave me on March 1 at the end of the hearing. Instead, I made what I meant you to state quite clear in my latest letter to you of May 26:

[since] you necessarily had to count the number of stenographic packs and their folds to calculate the number of transcript pages and estimate the cost of the transcript...provide me with that count...Therefore...

2. state the number of stenographic packs and the number of folds in each that comprise the whole recording of the evidentiary hearing and that will be translated into the transcript.

I hope that you will realize that the way you have formulated your answer raises concerns, coming as it does after your refusal to provide the requested information in your letters to me of May 3 and 19 despite my express requests in my letters to you of April 18 and May 10 and 26. Yet, your answer makes providing that information appear as easy to do as simply copying it from your records, which conversely makes your refusal to provide it so difficult to understand.

Consequently, to eliminate any margin whatsoever for divergence between my request for information and your answer, I take the latter to mean the following:

1. Upon my initial and subsequent requests for you to state the cost of the transcript based on a count of the stenographic packs and folds of the whole recording of the DeLano evidentiary hearing,
2. you actually counted them a second time; found the number of such packs and folds to coincide exactly with the number of packs and folds that you stated in writing for me at the end of such hearing; and
3. based on that second count you calculated the cost of the transcript at the official and customarily charged rate of \$3.30 per page; arrived at an estimate of between \$600 and \$650; have agreed with me that the final cost will not exceed \$650; and will include in the transcript everything and only that which is contained in those packs and folds.

If my understanding of your answer diverges from either your intended answer or all the facts in any way that you consider to be significant or even insignificant, I formally request that you state such divergence. If you do not do so, I will assume your silence to confirm that my understanding as above stated coincides totally with both your intended answer and with all the facts. This statement of my understanding is as simple as the formulation that you have heard perhaps hundreds of times and that courts all over the nation assume every lay person understands and is in a position to affirm: your confirmation, whether in writing or by silence, is the truth, the whole truth, and nothing but the truth.

Hence, I hereby make your confirmation of my understanding part of the essence of this contract for service between you and me. Similarly, the following conditions are of the essence of this contract and constitute conditions precedent to my obligation to pay you:

3. You will provide a transcript that is an accurate and complete written representation, with neither additions, deletions, omissions, nor other modifications, of the oral exchanges among the litigants, the witness, the judicial officers, and any other third parties that spoke at the DeLano evidentiary hearing. At my discretion and for the purpose, inter alia, of ascertaining such accuracy and completeness, you will make available, upon my designation, to a government agency or a private entity, all the packs and folds that you used to record the hearing and, if different, also those that you used to prepare the transcript.
4. Upon completion of the transcript, you will simultaneously file one paper copy with the clerk of the bankruptcy court and mail to me by priority mail a paper copy together with an electronic copy on a floppy disk in PDF format and in Microsoft Word, or otherwise in Word Perfect; and you will not make available any copy in any format to any other party, whether a court officer –whether a judicial or clerical officer-, litigant, or any other person, but if you do make a copy available to any of them either before or after filing or mailing it to me, you will let me know immediately and will exempt me from payment and reimburse me any payment already made.
5. You will truthfully state in your certificate accompanying the transcript that up to the time of your receipt of this letter and from then until the moment that the copies of the transcript are filed and mailed to me, you have not discussed with any other party (aside from me), whether a court officer, litigant, or any other person, and none of them has attempted to discuss with you, the content that should form part or that did form part of your stenographic recording of the DeLano evidentiary hearing or of the transcript; but if you have discussed such content or any of them has attempted to discuss it with you, then you will state their names, the circumstances and content of such discussions or attempt at such discussions, and their impact on the preparation of the transcript.

In consideration for your promise to perform, and your actual performance of, your transcription service as described above and in accordance with applicable law and rules, I promise to pay you upon confirmation thereof up to \$650, by credit card if acceptable to you, and in any event by check.

I trust you realize that what we are trying to do here is exceedingly easy to understand and basic to any contractual agreement: **You give me a good transcript and I pay you good money.**

Sincerely,

Dr. Richard Cordero

612 South Lincoln Road
East Rochester, New York 14445
July 1, 2005

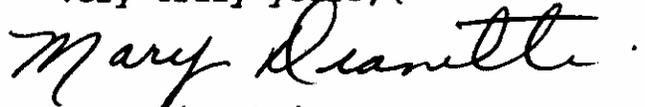
Dr. Richard Cordero
24 Crescent Street
Brooklyn, New York 11208-1515

Dear Dr. Cordero:

I am in receipt of your letter of June 25, 2005. Please be advised that I will provide you with (1) a paper copy of the transcript of the hearing held on March 1, 2005, and (2) a PDF copy of that transcript on a CD-ROM, to be sent to you by first-class mail, upon receipt of a money order or certified check in the amount of \$650.00 payable to "Mary Dianetti." The balance of your letter of June 25, 2005 is rejected.

I am providing a copy of this letter, together with yours of June 25, to the U.S. Bankruptcy Court and U.S. District Court so that their file may be complete.

Very truly yours, ,



Mary Dianetti
Bankruptcy Court Reporter

cc: Clerk, U.S. Bankruptcy Court
cc: U.S. District Court