

Dr. Richard Cordero

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June 11, 2004

The Hon. Orrin G. Hatch
Chairman
U.S. Senate, Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Hatch,

I hereby submit to you and your Committee evidence of judicial misconduct and bankruptcy fraud. Evidence of the former initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them on August 11, 2003, with the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (pgs. 1, 6, *infra*), only to be shocked by his disregard for the law and even refusal to accept additional evidence (7, 9). Indeed, despite the law of Congress at 28 U.S.C. §351 *et seq.* requiring “prompt” and “expeditious” handling of such complaints, Chief Judge Walker has neither dismissed nor investigated mine in 10 months! So on March 19, I complained about him (10, 15, 16). But in disregard also of the Circuit’s Rules Governing §351 complaints, requiring certain steps to be taken “promptly” and “expeditiously”, none has been taken. This justifies asking how the Chief Judge got on the panel that heard my appeal (dkt no. 03-5023) and dismissed it without even discussing how misconduct tainted the appealed orders.

Now evidence has emerged of the operation of the most powerful driver of misconduct: a lot of money! This is the result of the concentration of *thousands* of bankruptcy cases on each of a handful of private trustees (19). They have every financial interest in rubberstamping as many bankruptcy petitions as possible since they are paid percentage fees from each one confirmed by the court (*cf.* 27). In turn, the more people learn that bankruptcy petitions can be rubberstamped, the stronger the incentive to binge on their credit, knowing that there is no repayment day, just a petition to be filed after making the demanded payments. So is generated money to pay those with power to stop or promote this self-reinforcing scheme. Its evidence is in a test case.

It is petition 04-20280 (28). Without asking for any supporting documents despite its being patently suspicious (25.IV), the trustee readied it for confirmation on March 8 by Judge Ninfo. At my relentless instigation, the trustee asked for documents on April 20 (61, 63). To date the debtors have provided none. All this is condoned by the U.S. assistant and Region 2 trustees, who refuse to replace or investigate the trustee, though he prevented any examination at the meeting of creditors (11-12) and may be proceeding just as unlawfully in his other thousands of cases. Thus the scheme is protected while it claims more victims: the creditors, whose interests are ignored by their representatives, the trustees. In turn, the judges are protected by useless §351 complaints, for how else do you explain that in a society as litigious as ours, there can be years in which not one complaint is pending before the Judicial Conference (64-70)? That law needs to be revised, but before that, you can take action to find out who is in this scheme. How big is it!?

Therefore, I respectfully request that you cause the Committee to investigate this matter (71). While I have written to all your colleagues, I hope that when I bring this to the media (72) you appear as the one who first recognized and did your most to stamp out a scheme of bankruptcy fraud and judicial misconduct. Meantime, I look forward to hearing from you.

Sincerely,
Dr. Richard Cordero, Esq.

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June 11, 2004

The Hon. F. James Sensenbrenner, Jr.
Chairman
U.S. House of Representatives, Judiciary Com.
2138 Rayburn, House Office Building
Washington, DC 20515

Dear Representative Sensenbrenner,

I hereby submit to you and your Committee evidence of judicial misconduct and bankruptcy fraud. Evidence of the former initially involved the Chief Judge of the Bankruptcy Court for the Western District of New York, the Hon. John C. Ninfo, II, and then implicated the Chief Judge of the District Court for that District, the Hon. David G. Larimer. I filed a complaint about them on August 11, 2003, with the Chief Judge of the Court of Appeals for the Second Circuit, the Hon. John M. Walker, Jr., (pgs. 1, 6, *infra*), only to be shocked by his disregard for the law and even refusal to accept additional evidence (7, 9). Indeed, despite the law of Congress at 28 U.S.C. §351 *et seq.* requiring “prompt” and “expeditious” handling of such complaints, Chief Judge Walker has neither dismissed nor investigated mine in 10 months! So on March 19, I complained about him (10, 15, 16). But in disregard also of the Circuit’s Rules Governing §351 complaints, requiring certain steps to be taken “promptly” and “expeditiously”, none has been taken. This justifies asking how the Chief Judge got on the panel that heard my appeal (dkt no. 03-5023) and dismissed it without even discussing how misconduct tainted the appealed orders.

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August 11, 2003

STATEMENT OF FACTS

in support of a complaint under 28 U.S.C. §351 submitted to the Court of Appeals for the Second Circuit concerning the Hon. John C. Ninfo, II, U.S. Bankruptcy Judge and other court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York

I. The court's failure to move the case along its procedural stages

The conduct of the Hon. John C. Ninfo, II, is the subject of this complaint because it has been prejudicial to the effective and expeditious administration of the court's business. This is the result of his mismanagement of an adversary proceeding, namely, Pfuntner v. Trustee Kenneth Gordon, et al., dkt. no. 02-2230 [www.nywb.uscourts.gov], which derived from bankruptcy case In re Premier Van Lines, Inc., dkt. no. 01-20692; the complainant, Dr. Richard Cordero, is a defendant pro se and the only non-local party in the former. The facts speak for themselves, for although the adversary proceeding was filed in September 2002, that is, 11 months ago, Judge Ninfo has:

1. failed to require even initial disclosure under Rule 26(a) F.R.Civ.P.;
2. failed to order the parties to hold a Rule 26(f) conference;
3. failed to demand a Rule 26(f) report;
4. failed to hold a Rule 16(b) F.R.Civ.P. scheduling conference;
5. failed to issue a Rule 16(b) scheduling order;
6. failed to demand compliance with his first discovery order of January 10, 2003, from Plaintiff Pfuntner and his attorney, David MacKnight, Esq.; thereafter, the Judge allowed the ordered inspection of property to be delayed for months; (E-29¹)and
7. failed to ensure execution by the Plaintiff and his attorney of his second and last discovery order issued orally at a hearing last April 23 and concerning the same inspection, while Dr. Cordero was required to travel and did travel to Rochester and then to Avon on May 19 to conduct that inspection. (E-33)

Nor will this case make any progress for a very long time given that a trial date is nowhere in sight. On the contrary, at a hearing on June 25, Judge Ninfo announced that Dr. Cordero will have to travel to Rochester (E-42) in October and again in November to attend hearings with the local parties. At the first hearing they will deal with the motions that Dr. Cordero has filed -including an application that he made as far back as last December 26 and that at Judge Ninfo's instigation Dr. Cordero resubmitted on June 16 (A-472)- but that the Judge failed to decide at the hearings on May 21, June 25, and July 2. At those hearings Dr. Cordero

¹ This Statement is supported by documents in two separate volumes, namely, one titled Items in the Record, referred to as A-#, where # stands for the page number, and another titled Exhibits accompanying the Statement of Facts, referred to as E-#.

will be required to prove his evidence beyond a reasonable doubt. Thereafter he will be required to travel to Rochester for further monthly hearings for seven to eight months! (E-37)

The confirmation that this case has gone nowhere since it was filed in September 2002 comes from the Judge himself. In his order of July 15 he states that at next October's first "discrete hearing" –a designation that Dr. Cordero cannot find in the F.R.Bkr.P. or F.R.Civ.P.- the Judge will begin by examining the plaintiff's complaint, thereby acknowledging that he will not have moved the case beyond the first pleading by the time it will be in its 13th month! (E-60)

Nor will those "discrete hearings" achieve much, for the Judge has not scheduled any discovery or meeting of the parties whatsoever between now and the October "discrete hearing". He has left that up to the parties. However, Judge Ninfo knows that the parties cannot meet or conduct discovery on their own without the court's intervention. The proof of this statement is implicit in the above list, items 6 and 7, which shows that even when Judge Ninfo issued not one, but two discovery orders, the plaintiff disregarded them. Not only that, but the Judge has also spared Plaintiff Pfuntner and Mr. MacKnight any sanctions, even after Dr. Cordero had complied with the Judge's orders to his detriment by spending time, money, and effort, and requested those sanctions and even when Judge Ninfo himself requested that Dr. Cordero write a separate motion for sanctions and submit it to him (E-34).

Nor has Judge Ninfo imposed any adverse consequences on a party defaulted by his own Clerk of Court (E-17) or on the Trustee for submitting false statements to him (E-9). Hence, the Judge has let the local parties know that they have nothing to fear from him if they fail to comply with a discovery request, particularly one made by Dr. Cordero. By contrast, Judge Ninfo has let everybody know, particularly Dr. Cordero, that he would impose dire sanctions on him if he failed to comply (E-33). Thus, at the April 23 hearing, when Plaintiff Pfuntner wanted to get the inspection at his warehouse over with to be able to clear his warehouse to sell it and remain in sunny Florida care free, the Judge ordered Dr. Cordero to travel to Rochester to conduct the inspection within the following four weeks or he would order the property said to belong to Dr. Cordero removed at his expense to any other warehouse in Ontario, that is, whether in another county or another country, the Judge could not care less where.

By now it may have become evident that Judge Ninfo is neither fair nor impartial. Indeed, underlying the Judge's inaction is the graver problem of his bias and prejudice against Dr. Cordero. Not only he, but also court officers in both the bankruptcy and the district court have revealed their partiality by participating in a series of acts of disregard of facts, rules, and the law aimed at one clear objective: to derail Dr. Cordero's appeals from decisions that the Judge has taken for the protection of local parties and to the detriment of Dr. Cordero's legal rights. There are too many of those acts and they are too precisely targeted on Dr. Cordero alone for them to be coincidental. Rather, they form a pattern of intentional and coordinated wrongful activity. (E-9) The relationship between Judge Ninfo's prejudicial and dilatory management of the case and his bias and prejudice toward Dr. Cordero is so close that a detailed description of the latter is necessary for a fuller understanding of the motives for the former.

II. Judge Ninfo's bias and prejudice toward Dr. Cordero explain his prejudicial management of the case

A. Judge Ninfo's summary dismissal of Dr. Cordero's cross-claims against Trustee Gordon

In March 2001, Judge Ninfo was assigned the bankruptcy case of Premier Van Lines, a

moving and storage company owned by Mr. David Palmer. In December 2001, Trustee Kenneth Gordon was appointed to liquidate Premier. His performance was so negligent and reckless that he failed to realize from the docket that Mr. James Pfuntner owned a warehouse in which Premier had stored property of his clients, such as Dr. Cordero. Nor did he examine Premier's business records, to which he had a key and access. (A-48, 49; 109, fnnts-5-8; 352) As a result, he failed to discover the income-producing storage contracts that belonged to the estate; consequently, he also failed to notify Dr. Cordero of his liquidation of Premier. Meantime, Dr. Cordero was looking for his property for unrelated reasons, but he could not find it. Finally, he learned that Premier was in liquidation and that his property might have been left behind by Premier at Mr. James Pfuntner's warehouse. He was referred to the Trustee to find out how to retrieve it. But the Trustee would not give Dr. Cordero any information at all and even enjoined him not to contact his office any more. (A-16, 17, 1, 2)

Dr. Cordero found out that Judge Ninfo was supervising the liquidation and requested that he review Trustee Gordon's performance and fitness to serve as trustee. (A-7, 8) The Judge, however, took no action other than pass the complaint on to the Trustee's supervisor at the U.S. Trustee local office, located in the same federal building as the court. (A-29) The supervisor conducted a pro-forma check on Supervisee Gordon that was as superficial as it was severely flawed. (A-53, 107) Nor did Judge Ninfo take action when the Trustee submitted to him false statements and statements defamatory of Dr. Cordero to persuade him not to undertake the review of his performance requested by Dr. Cordero. (A-19, 38)

Then Mr. Pfuntner brought his adversary proceeding against the Trustee, Dr. Cordero, and others. (A-21) Dr. Cordero cross-claimed against the Trustee (A-70, 83, 88), who countered with a Rule 12(b)(6) motion to dismiss (A-135, 143). The hearing of the motion took place on December 18, almost three months after the adversary proceeding was brought. Without having held any meeting of the parties or required any disclosure, let alone any discovery, Judge Ninfo summarily dismissed Dr. Cordero's cross-claims with no regard to the legitimate questions of material fact regarding the Trustee's negligence and recklessness in liquidating Premier (E-11). Indeed, Judge Ninfo even excused Trustee Gordon's defamatory and false statements as merely "part of the Trustee just trying to resolve these issues", (A-275, E-12) thus condoning the Trustee's use of falsehood and showing gross indifference to its injurious effect on Dr. Cordero.

That dismissal constituted the first of a long series of similar events of disregard of facts, law, and rules in which Judge Ninfo as well as other court officers at both the bankruptcy and the district court have participated, all to the detriment of Dr. Cordero and aimed at one objective: to prevent his appeal, for if the dismissal were reversed and the cross-claims reinstated, discovery could establish how Judge Ninfo had failed to realize or had knowingly tolerated Trustee Gordon's negligent and reckless liquidation of Premier. (E-11) From then on, Judge Ninfo and the other court officers have manifested bias and prejudice in dealing with Dr. Cordero. (E-13)

B. The Court Reporter tries to avoid submitting the transcript of the hearing

As part of his appeal of the court's dismissal of his cross-claims against the Trustee, Dr. Cordero contacted the court reporter, Mary Dianetti, on January 8, 2003, to request that she make a transcript of the December 18 hearing of dismissal. Rather than submit it within the 10 days that she said she would, Court Reporter Dianetti tried to avoid submitting the transcript and submitted it only over two and half months later, on March 26, and only after Dr. Cordero repeatedly requested her to do so. (E-14, A-261)

C. The Clerk of Court and the Case Administrator disregarded their obligations in handling Dr. Cordero's application for default judgment against the Debtor's Owner

Dr. Cordero timely submitted on December 26, 2002, an application to enter default judgment against third-party defendant David Palmer. (A-290) Case Administrator Karen Tacy, failed to enter the application in the docket; for his part, Bankruptcy Clerk of Court Paul Warren, failed to certify the default of the defendant. (E-18) When a month passed by without Dr. Cordero hearing anything from the court on his application, he called to find out. Case Administrator Tacy told him that his application was being held by Judge Ninfo in chambers. Dr. had to write to him to request that he either enter default judgment or explain why he refused to do so. (A-302) Only on the day the Judge wrote his Recommendation on the application to the district court, that is February 4, 2003, did both court officers carry out their obligations, belatedly certifying default (A-303) and entering the application in the docket (A-450, entry 51).

The tenor of Judge Ninfo's February 4 Recommendation was for the district court to deny entry of default judgment. (A-306) The Judge disregarded the plain language of the applicable legal provision, that is, Rule 55 F.R.Civ.P., (A-318) whose requirements Dr. Cordero had met, for the defendant had been by then defaulted by Clerk of Court Warren (A-303) and the application was for a sum certain (A-294). Instead, Judge Ninfo boldly prejudged the condition in which Dr. Cordero would eventually find his property after an inspection that was sine die. To indulge in his prejudgment, he disregarded the available evidence submitted by the owner himself of the warehouse where the property was which pointed to the property's likely loss or theft. (E-20) When months later the property was finally inspected, it had to be concluded that some was damaged and other had been lost. To further protect Mr. Palmer, the one with dirty hands for having failed to appear, Judge Ninfo prejudged issues of liability before he had allowed any discovery whatsoever or even any discussion of the applicable legal standards or the facts necessary to determine who was liable to whom for what. (E-21) To protect itself, the court alleged in its Recommendation that it had suggested to Dr. Cordero to delay the application until the inspection took place, but that is a pretense factually incorrect and utterly implausible. (E-22)

D. District Court David Larimer accepted the Recommendation by disregarding the applicable legal standard, misstating an outcome-determinative fact, and imposing an obligation contrary to law

The Hon. David G. Larimer, U.S. District Judge, received the Recommendation from his colleague Judge Ninfo, located downstairs in the same building, and accepted it. To do so, he repeatedly disregarded the outcome-determinative fact under Rule 55 that the application was for a sum certain (E-23), to the point of writing that "the matter does not involve a sum certain". (A-339) Then he imposed on Dr. Cordero the obligation to prove damages at an "inquest", whereby he totally disregarded the fact that damages have nothing to do with a Rule 55 application for default judgment, where liability is predicated on defendant's failure to appear. Likewise, Judge Larimer dispensed with sound judgment by characterizing the bankruptcy court as the "proper forum" to conduct the "inquest", despite Colleague Ninfo's prejudgment and bias. (E-25)

After the inspection showed that Dr. Cordero's property was damaged or lost, Judge Ninfo took the initiative to ask Dr. Cordero to resubmit his default judgment application. He submitted the same application and the Judge again denied it! The Judge alleged that Dr. Cordero had not proved how he had arrived at the amount claimed, an issue known to the Judge for six months but that he did not raise when asking to resubmit; and that Dr. Cordero had not served

Mr. Palmer properly, an issue that Judge Ninfo had no basis in law or fact to raise since the Court of Clerk had certified Mr. Palmer's default and Dr. Cordero had served Mr. Palmer's attorney of record. (E-26) Judge Ninfo had never intended to grant the application. (E-28)

E. Judge Ninfo has allowed Mr. Pfunter and Mr. MacKnight to violate his two discovery orders while forcing Dr. Cordero to comply or face severe and costly consequences

Judge Ninfo has allowed Mr. Pfunter and Mr. MacKnight to violate two discovery orders and submit disingenuous and false statements while charging Dr. Cordero with burdensome obligations. (E-29) Thus, after issuing the first order and Dr. Cordero complying with it to his detriment, the Judge allowed Mr. Pfunter and Mr. MacKnight to ignore it for months. However, when Mr. Pfunter needed the inspection, Mr. MacKnight approached ex parte the Judge, who changed the terms of the first order without giving Dr. Cordero notice or opportunity to be heard. (E-30) Instead, Judge Ninfo required that Dr. Cordero travel to Rochester to discuss measures on how to travel to Rochester. (E-30) In the same vein, the Judge showed no concern for Mr. MacKnight's disingenuous motion and ignored Dr. Cordero's complaint about it (E-31), thus failing to safeguard the integrity of the judicial process.

F. Court officers have disregarded even their obligations toward the Court of Appeals

Court officers at both the bankruptcy and the district court have not hesitated to disregard rules and law to the detriment of Dr. Cordero even in the face of their obligations to the Court of Appeals for the Second Circuit. Thus, although Dr. Cordero had sent to each of the clerks of those courts originals of his Redesignation of Items on the Record and Statement of Issues on Appeal neither docketed nor forwarded this paper to the Court of Appeals. (E-49) Thereby they created the risk of the appeal being thrown out for non-compliance with an appeal requirement that in all likelihood would be imputed to Dr. Cordero. Similarly, they failed to docket or forward the March 27 orders, which are the main ones appealed from, thus putting at risk the determination of timeliness of Dr. Cordero's appeal to the Court of Appeals. (E-52)

III. The issues presented

There can be no doubt that Judge Ninfo's conduct, which has failed to make any progress other than in harassing Dr. Cordero with bias and prejudice, constitutes "conduct prejudicial to the effective and expeditious administration of the business of the courts". Actually, his conduct raises even graver issues that should also be submitted to a special committee to investigate:

Whether Judge Ninfo summarily dismissed Dr. Cordero's cross-claims against the Trustee and subsequently prevented the adversary proceeding from making any progress to prevent discovery that would have revealed how he failed to oversee the Trustee or tolerated his negligent and reckless liquidation of Premier and the disappearance of Debtor's Owner Palmer;

Whether Judge Ninfo affirmatively recruited, or created the atmosphere of disregard of law and fact that led, other court officers to engage in a series of acts forming a pattern of non-coincidental, intentional, and coordinated conduct aimed at achieving an unlawful objective for their benefit and that of third parties and to the detriment of non-local pro se party Dr. Cordero.

Respectfully submitted, under penalty of perjury, on
August 11, 2003, and, after being reformatted, on August 27, 2003

Dr. Richard Cordero

Sept 10, 2003

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 Centre Street
New York, N.Y. 10007

John M. Walker, Jr.
Chief Judge

Roseann B. MacKechnie
Clerk of Court

September 2, 2003

Richard Cordero, Ph.D.
59 Crescent Street
Brooklyn, NY 11208-1515

Re: Judicial Conduct Complaint, 03-8547

Dear Dr. Cordero:

We hereby acknowledge receipt of your complaint, dated August 27, 2003, received in this office on August 28, 2003.

The complaint has been filed under the above-captioned number and will be processed pursuant to the *Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 USC § 351*.

You will be notified by letter once a decision has been filed.

Sincerely,

Roseann B. MacKechnie, Clerk

By: 
Patricia Chin-Allen, Deputy Clerk

Dr. Richard Cordero

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

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

February 2, 2004

Hon. John M. Walker, Jr.
Chief Judge
United States Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square, Room 1802
New York, NY 10007

Re: Judicial conduct complaint 03-8547

Dear Chief Judge,

In August 2003, I filed a judicial conduct complaint under 28 U.S.C. §§372 and 351 concerning the Hon. John C. Ninfo, II, U.S. Bankruptcy Judge and other court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York. Your Clerk of Court, Ms. Roseann B. MacKechnie, through her Deputy, Ms. Patricia Chin-Allen, acknowledged the filing of it by letter of September 2, 2003. To date I have not been notified of any decision that you may have taken in this matter.

I respectfully point out that Rule 3(a) of the Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers 28 U.S.C. §351 et seq., provides, among other things, that “The clerk will **promptly** send copies of the complaint to the chief judge of the circuit...” (emphasis added). Likewise, Rule 4(e) provides that “If the complaint is not dismissed or concluded, the chief judge will **promptly** appoint a special committee” (emphasis added). For its part, Rule 7(a) requires that “The clerk will **promptly** cause to be sent to each member of the judicial council” (emphasis added) copies of certain documents for deciding the complainant’s petition for review. The tenor of the Rules is that action will be taken expeditiously.

Indeed, this follows from the provisions of the law itself. Thus, 28 U.S.C. 372(c)(1) provides that “In the interests of the effective and **expeditious** administration of the business of the courts...the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this subsection and thereby dispense with filing of a written complaint” (emphasis added). In the same vein, (c)(2) states that “Upon receipt of a complaint filed under paragraph (1) of this subsection, the clerk shall **promptly** transmit such complaint to the chief judge of the circuit...” (emphasis added). More to the point, (c)(3) provides that “After **expeditiously** reviewing a complaint, the chief judge, by written order stating his reasons, may- (A) dismiss the complaint...(B) conclude the proceedings...The chief judge shall transmit copies of his written order to the complainant.” (emphasis added). What is more, (c)(3) requires that “If the chief judge does not enter an order under paragraph (3) of this subsection, such judge shall **promptly**- (A) appoint...a special committee to investigate...(B) certify the complaint and any other documents pertaining thereto to each member of such committee; and (C) provide written notice to the complainant and the judge...of the action taken under this paragraph” (emphasis added).

Despite these provisions in law and rules requiring prompt and expeditious action, this is the seventh month since the filing of my complaint but no notice of any action taken has been given to me or perhaps not action has been taken at all. Therefore, with all due respect I request that you let me know whether any action has been taken concerning my complaint and, if so, which, in order that I may proceed according to the pertinent legal provisions.

In the context of the misconduct complained about, I hereby update the evidence thereof through incorporation by reference of my brief of November 3, 2003, case 03-5023 [www.ca2.uscourts.gov], supplementing the evidence of bias against me on the part of Judge Ninfo. This Court granted leave to file this brief by order of November 13, 2004.

Similarly, in that complaint I submitted that the special committee should investigate whether Judge Ninfo affirmatively recruited, or created the atmosphere of disregard of law and fact that led, other court officers to engage in a series of acts forming a pattern of non-coincidental, intentional, and coordinated conduct aimed at achieving an unlawful objective for their benefit and that of third parties and to my detriment, the only non-local pro se party. To buttress the need for that investigation, I point out that since December 10, 2003, I have requested from the clerk's office of Judge Ninfo's court copies of key financial and payment documents relating Premier Van Lines, which must exist since they concern the accounts of the debtor and the payment of fees out of estate funds and are mentioned in entries of docket no. 01-20692. Yet, till this day the clerk has not found them and has certainly not made them available to me.

1. The court order authorizing payment of fees to Trustee Kenneth 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., accountants, 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 assets of Premier's estate 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 to be filed in entry no. 62.

A court that cannot account for the way it handles money to compensate its appointees and make key decisions concerning the estate calls for an investigation guided by the principle of "follow the money" in order to determine whether it "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts".

Sincerely,

Dr. Richard Cordero

Cc: Letter of acknowledgment from Clerks MacKechnie and Chin-Allen; and order granting the motion to update evidence of bias.

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
THURGOOD MARSHALL UNITED STATES COURTHOUSE
40 CENTRE STREET
New York, New York 10007
212-857-8500

JOHN M. WALKER, JR.
CHIEF JUDGE

ROSEANN B. MACKECHNIE
CLERK OF COURT

February 4, 2004

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

Re: Judicial Conduct Complaint, 03-8547

Dear Dr. Cordero:

This letter is to acknowledge receipt of your letter, with attachments, dated February 2, 2004, addressed to Chief Judge John M. Walker, Jr.

I am returning your documents to you. A decision has not been made in the above-reference matter. You will be notified by letter when a decision has been made.

Sincerely,
Roseann B. MacKechnie, Clerk

By: 
Patricia C. Allen, Deputy Clerk

Enclosures

March 19, 2004

STATEMENT OF FACTS

Setting forth a COMPLAINT UNDER 28 U.S.C. §351 ABOUT

The Hon. John M. Walker, Jr., Chief Judge

of the Court of Appeals for the Second Circuit

addressed under Rule 18(e) of the Rules of the Judicial Council
of the Second Circuit Governing Complaints against Judicial Officers

to the Circuit Judge eligible to become the next chief judge of the circuit

On August 11, 2003, Dr. Richard Cordero filed a complaint about the Hon. John C. Ninfo, II, U.S. Bankruptcy Judge, who together with court officers at the U.S. Bankruptcy Court and the U.S. District Court for the Western District of New York has disregarded the law, rules, and facts so repeatedly and consistently to the detriment of Dr. Cordero, the sole non-local party, who resides in New York City, and to the benefit of the local parties in Rochester as to form a pattern of non-coincidental, intentional, and coordinated acts of wrongdoing and of bias against him. The wrongful and biased acts included Judge Ninfo's and other court officers' failure to move the case along its procedural stages. The instances of failure were specifically identified with cites to the FRCivP. They have not been cured and the bias has not abated yet (5, *infra*)¹.

Far from it, those failures have been compounded by the failure of the Hon. John M. Walker, Jr., Chief Judge of the Court of Appeals for the Second Circuit, to take action upon the complaint. Indeed, six months after the submission of the complaint, which as requested (11, *infra*) was reformatted and resubmitted on August 27, 2003 (6, 3, *infra*), the Chief Judge had still failed to discharge his statutory duty under §351(c)(3) to "**expeditiously**" review the complaint and notify the complainant, Dr. Cordero, "by written order stating his reasons" why he was dismissing it. He had also failed to comply with §351(c)(4), which provides that, in the absence of dismissal, the chief judge "shall **promptly**...(C) provide written notice to the complainant and the judge or magistrate whose conduct is the subject of the complaint of the action taken under the paragraph". (emphasis added)

Consequently, on February 2, 2004, Dr. Cordero wrote to Chief Judge Walker to ask about the status of the complaint (1, *infra*). To Dr. Cordero's astonishment, his letter of inquiry and its four accompanying copies were returned to him immediately on February 4 (4, *infra*). One can hardly fathom why the Chief Judge, who not only is dutybound to apply the law, but must also be seen applying it, would not even accept possession of a letter inquiring what action he had taken to comply with such duty.

To make matters worse, there are facts from which one can reasonably deduce that Chief Judge Walker has not even notified Judge Ninfo of any judicial misconduct complaint filed against him. The evidence thereof came to light last March 8. It relates directly to the case in which Dr. Cordero was named a defendant, that is, *Pfuntner v. Gordon et al*, docket no. 02-2230, which was brought and is pending before Judge Ninfo. The facts underlying this

¹ The separate volume of evidentiary documents is not included here.

evidence are worth describing in detail, for they support in their own right the initial complaint and its call for an investigation of the suspicious relation between Judge Ninfo and the trustees.

After being sued by Mr. Pfuntner, Dr. Cordero impleaded Mr. David DeLano. On January 27, 2004, Mr. DeLano filed for bankruptcy under Chapter 13 of the Bankruptcy Code –docket no. 04-20280- a most amazing event, for Mr. DeLano has been a bank loan officer for 15 years! As such, he must be held an expert in how to retain creditworthiness and ability to repay loans. Yet, he and his wife owe \$98,092 to 18 credit card issuers and a mortgage of \$77,084, but despite all that borrowed money their equity in their house is only \$21,415 and the value of their declared tangible personal property is only \$9,945, although their household income in 2002 was \$91,655 and in 2003 \$108,586. What is more, Mr. DeLano is still a loan officer of Manufacturers & Traders Trust Bank, another party that Dr. Cordero cross-claimed.

Dr. Cordero received notice of the meeting of creditors required under 11 U.S.C. §341 (12, *infra*). The business of the meeting includes “the examination of the debtor under oath...”, pursuant to Rule 2003(b)(1) FRBkrP. After oral and video presentations to those in the room, the Standing Chapter 13 Trustee, George Reiber, took with him the majority of the attendees and left there his attorney, James Weidman, Esq., with 11 people, including Dr. Cordero, who were parties in some three cases. The first case that Mr. Weidman called involved a couple of debtors with their attorney and no creditors; he finished with them in some 12 minutes.

Then Mr. Weidman called and dealt at his table with Mr. DeLano, his wife, and their attorney, Christopher Werner, Esq. Mr. Michael Beyma, attorney for both Mr. DeLano and M&T Bank in the Pfuntner v. Gordon case, remained in the audience. For some eight minutes Mr. Weidman asked questions of the DeLanos. Then he asked whether there was any creditor. Dr. Cordero identified himself and stated his desire to examine the debtors. Mr. Weidman asked Dr. Cordero to fill out an appearance form and to state what he objected to. Dr. Cordero submitted the form as well as his written objections to the plan of debt repayment (14, *infra*). No sooner had Dr. Cordero asked Mr. DeLano to state his occupation than Mr. Weidman asked Dr. Cordero whether he had any evidence that the DeLanos had committed fraud. Dr. Cordero indicated that he was not raising any accusation of fraud, his interest was to establish the good faith of a bankruptcy application by a bank loan officer. Dr. Cordero asked Mr. DeLano how long he had worked in that capacity. He said 15 years.

In rapid succession, Mr. Weidman asked some three times Dr. Cordero to state his evidence of fraud. Dr. Cordero had to insist that Mr. Weidman take notice that he was not alleging fraud. Mr. Weidman asked Dr. Cordero to indicate where he was heading with his line of questioning. Dr. Cordero answered that he deemed it warranted to subject to strict scrutiny a bankruptcy application by a bank loan expert, particularly since the figures that the DeLanos had provided in their schedules did not match up. Mr. Weidman claimed that there was no time for such questions and put an end to the examination! It was just 1:59 p.m. or so and the next meeting, the hearing before Judge Ninfo for confirmation of Chapter 13 plans, was not scheduled to begin until 3:30. To no avail Dr. Cordero objected that he had a statutory right to examine the DeLanos. After the five participants in the DeLano case left, only Mr. Weidman and three other persons, including an attorney, remained in the room.

Dr. Cordero went to the courtroom. Mr. Reiber, the Chapter 13 trustee, was there with the other group of debtors. When he finished, Dr. Cordero tried to tell him what had happened. But he said that he had just been informed that a TV had fallen to the floor and that, although no person had been hurt, he had to take care of that emergency. Dr. Cordero managed to give

him a copy of his written objections.

Judge Ninfo arrived in the courtroom late. He apologized and then started the confirmation hearing. Mr. Reiber and his attorney, Mr. Weidman, were at their table. When the DeLano case came up, Mr. Reiber indicated that an objection had been filed so that the plan could not be confirmed and the meeting of creditors had been adjourned to April 26. Judge Ninfo took notice of that and was about to move on to the next case when Dr. Cordero stood up in the gallery and asked to be heard as creditor of the DeLanos. He brought to the Judge's attention that Mr. Weidman had prevented him from examining the Debtors by cutting him off after only his second question upon the allegation that there was no time even though aside from those in the DeLano case, only an attorney and two other persons remained in the room.

Judge Ninfo opened his response by saying that Dr. Cordero would not like what he had to say; that he had read Dr. Cordero's objections; that Dr. Cordero interpreted the law very strictly, as he had the right to do, but he had again missed the local practice; that he should have called 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 until 8 in the evening, particularly when he had a room full of people.

Dr. Cordero protested because he had the right to rely on the law and the notice of the meeting of creditors stating that the meeting's purpose was for the creditors to examine the debtors. He also protested to the Judge not keeping his comments in proportion with the facts since Dr. Cordero had not asked questions for hours, but had been cut off by Mr. Weidman after two questions in a room with only two other persons.

Judge Ninfo said that Dr. Cordero should have done Mr. Weidman the courtesy of giving him his written objections in advance so that Mr. Weidman could determine how long he would need. Dr. Cordero protested because he was not legally required to do so, but instead had the right to file his objections at any time before confirmation of the plan and could not be expected to disclose his objections beforehand so as to allow the debtors to prepare their answers with their attorney. He added that Mr. Weidman's conduct raised questions because he kept asking Dr. Cordero what evidence he had that the DeLanos had committed fraud despite Dr. Cordero having answered the first time that he was not accusing the DeLanos of fraud, whereby Mr. Weidman showed an interest in finding out how much Dr. Cordero already knew about fraud committed by the DeLanos before he, Mr. Weidman, would let them answer any further questions. Dr. Cordero said that Mr. Weidman had put him under examination although he was certainly not the one to be examined at the meeting, but rather the DeLanos were; and added that Mr. Weidman had caused him irreparable damage by depriving him of his right to examine the Debtors before they knew his objections and could rehearse their answers.

Yet, Judge Ninfo came to the defense of Mr. Weidman and once more said that Dr. Cordero applied the law too strictly and ignored the local practice...

That's precisely the 'practice' of Judge Ninfo together with other court officers that Dr. Cordero has complained about!: Judge Ninfo disregards the law, rules, and facts systematically to Dr. Cordero's detriment and to the benefit of local parties and instead applies the law of the locals, which is based on personal relationships and the fear on the part of the parties to antagonize the judge who distributes favorable and unfavorable decisions as he sees fit without regard for legal rights and factual evidence (20.IV, *infra*). By so doing, Judge Ninfo and his colleague on the floor above in the same federal building, District Judge David Larimer, have become the lords of the judicial fiefdom of Rochester, which they have carved out of the

territory of the Second Circuit and which they defend by engaging in non-coincidental, intentional, and coordinated acts of wrongfully disregarding the law of Congress in order to apply their own law: the law of the locals. (A-776.C, A-780.E; A-804.IV)

By applying it, Judge Ninfo renders his court a non-level field for a non-local who appears before him. Indeed, it is ludicrous to think that a non-local can call somebody there—who would that be?—to find out what “the local practice” is and such person would have the time, self-less motivation, and capacity to explain accurately and comprehensively the details of “the local practice” so as to place the non-local at arms length with his local adversaries, let alone with the judges and other court officers. Judge Ninfo should know better than to say in open court, where a stenographer is supposed to be keeping a record of his every word, that he gives precedence to local practice over both the written and published laws of Congress and an official notice of meeting of creditors on which a non-local party has reasonably relied, and not any party, but rather one, Dr. Cordero, who has filed a judicial misconduct against him for engaging precisely in that wrongful and biased practice.

But Judge Ninfo does not know better and has no cause for being cautious about making complaint-corroborating statements in his complainant’s presence. From his conduct it can reasonably be deduced that Chief Judge Walker has not complied with the requirement of §351(c)(4), that he “shall **promptly**...(C) provide written notice to...**the judge** or magistrate whose conduct is the subject of the complaint of the action taken”. (emphasis added) Nor has he complied with Rule 4(e) of the Rules Governing Complaints requiring that “the chief judge will **promptly** appoint a special committee...to investigate the complaint and make recommendations to the judicial council”. (emphasis added) The latter can be deduced from the fact that on February 11 and 13 Dr. Cordero wrote to the members of the judicial council concerning this matter (25, infra). The replies of those members that have been kind enough to write back show that they did not know anything about this complaint, let alone that a special committee had been appointed by the Chief Judge and had made recommendations to them.

If these deductions pointing to the Chief Judge’s failure to act were proved correct, it would establish that he “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” Not only would he have failed to discharge his statutory and regulatory duty to proceed promptly in handling a judicial misconduct complaint, but by failing to do so he has allowed a biased judge, who contemptuously disregards the rule of law (A-679.I), to continue disrupting the business of a federal court by denying parties, including Dr. Cordero, fair and just process, while maintaining a questionable, protective relationship with others, including Trustees Gordon (A-681.2) and Reiber and Mr. Weidman.

If the mere appearance of partiality is enough to disqualify a judge from a case (A-705.II), then it must a fortiori be sufficient to call for an investigation of his partiality. If nobody is above the law, then the chief judge of a circuit, invested with the highest circuit office for ensuring respect for the law, must set the most visible example of abiding by the law. He must not only be seen doing justice, but in this case he has a legal duty to take specific action to be seen doing justice to a complainant and to insure that a complained-about judge does justice too.

Hence, Chief Judge Walker must now be investigated to find out what action he has taken, if any, in the seven months since the submission of the complaint; otherwise, what reason he had not to take any, not even take possession of Dr. Cordero’s February 2 status inquiry letter.

Just as importantly, it must be determined what motive the Chief Judge could possibly have had to allow Judge Ninfo to continue abusing Dr. Cordero by causing him an enormous

waste of effort², time³, and money⁴, and inflicting upon him tremendous emotional distress⁵ for a year and a half. In this respect, Chief Judge Walker bears a particularly heavy responsibility because he is a member of the panel of this Court that heard Dr. Cordero's appeal from the decisions taken by Judge Ninfo and his colleague, Judge Larimer. In that capacity, he has had access from well before the submission of the judicial misconduct complaint in August 2003 and since then to all the briefs, motions, and mandamus petition that Dr. Cordero has filed, which contain very detailed legal arguments and statements of facts showing how those judges disregard legality⁶ and dismiss the facts⁷ in order to protect the locals and advance their self-interests. Thus, he has had ample knowledge of the solid legal and factual foundation from which emerges the reasonable appearance of something wrong going on among Judge Ninfo⁸, Judge Larimer⁹, court personnel¹⁰, trustees¹¹, and local attorneys and their clients¹², an appearance that is legally sufficient to trigger disqualifying, and at the very least investigative, action. Yet, the evidence shows that the Chief Judge has failed to take any action, not only under the spur of §351 on behalf of Dr. Cordero, but also as this circuit's chief steward of the integrity of the judicial process for the benefit of the public at large (A-813.I).

The Chief Judge cannot cure his failure to take 'prompt and expeditious action' by taking action belatedly. His failure is a consummated wrong and his 'prejudicial conduct' has already done substantial and irreparable harm to Dr. Cordero (A-827.III). Now there is nothing else for the Chief Judge to do but to subject himself to an investigation under §351.

The investigators can ascertain these statements by asking for the audio tape, from the U.S. Trustee at (585)263-5706, that recorded the March 8 meeting of creditors presided by Mr. Weidman; and the stenographic tape itself, from the Court, of the confirmation hearing before Judge Ninfo –not a transcript thereof, so as to avoid Dr. Cordero's experience of unlawful delay and suspicious handling of the transcript that he requested (E-14; A-682). Then they can call on the FBI's interviewing and forensic accounting resources to conduct an investigation guided by the principle *follow the money!* from debtors and estates to anywhere and anybody (21.V, *infra*).

Dr. Cordero respectfully submits this complaint under penalty of perjury and requests that expeditious action be taken as required under the law of Congress and the Governing Rules of this Circuit, and that he be promptly notified thereof.

March 19, 2004

59 Crescent Street
Brooklyn, NY 11208

Dr. Richard Cordero

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

² **effort**: Mandamus Brief=MandBr-55.2; ■59.5; ■ =documents separator-E-26.2, ■33.5; ■ A-694.6.

³ **time**: MandBr-60.6; ■ 68.6; ■ E-29.1, ■ =page numbers separator-34.6, ■47.6; ■ A-695.E.

⁴ **money**: MandBr-8.C; ■ E-37.E; ■ A-695.E.

⁵ **emotional distress**: MandBr-56.3; ■61.E; ■ E-28.3, ■36.7; ■ A-690.3, ■695.7.

⁶ **disregard for legality**: Opening Brief=OpBr-9.2; ■21.9 MandBr-7.B; ■25.A; MandBr-12.E; ■17.G-23.J; ■ E-17.B, ■25.1; ■ E-30.2, ■41.2; ■ A-684.B, ■775.B; ■ 6.I.

⁷ **disregard for facts**: OpBr-10.2; ■13.5; MandBr-51.2; ■53.4; ■65.4; ■ E-13.3, ■20.2, ■22.4.

⁸ **J. Ninfo**: OpBr-11.3; ■ A-771.I, ■786.III.

⁹ **J. Larimer**: OpBr-16.7; Reply Brief-19.1; MandBr-10.D; ■53.D; ■ E-23.C; ■ A-687.C.

¹⁰ **court personnel**: OpBr-11.4; ■15.6; ■54.D; MandBr-14.1; ■25.K-26.L; ■69.F; ■ E-14.4, ■18.1, ■49.F; ■ A-703.F.

¹¹ **trustees**: OpBr-9.1; ■38.B; ■ E-9; ■ A-679.A

¹² **local attorneys and clients**: OpBr-18.8; ■48.C; MandBr-53.3; ■57.D; ■65.3; ■ E-21.3, ■29.D, ■31.4, ■42.3; ■ A-691.D.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
THURGOOD MARSHALL UNITED STATES COURTHOUSE
40 CENTRE STREET
New York, New York 10007
212-857-8500

JOHN M. WALKER, JR.
CHIEF JUDGE

ROSEANN B. MACKECHNIE
CLERK OF COURT

March 30, 2004

Mr. Richard Cordero
59 Crescent Street
Brooklyn, NY 11208-1515

Re: *Judicial Conduct Complaint*, 04-8510

Dear Mr. Cordero:

We hereby acknowledge receipt of your complaint, received and filed in this office on March 29, 2004.

The complaint has been filed under the above-captioned number and will be processed pursuant to the *Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 USC § 351*.

You will be notified by letter once a decision has been filed.

Very truly yours,
Roseann B. MacKechnie, Clerk of Court

By: 
Patricia Chin-Allen, Deputy Clerk

Dr. Richard Cordero

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

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March 24, 2004

Judge Dennis Jacobs
Circuit Judge at the U.S. Court of Appeals, 2d Circuit
Thurgood Marshall United States Courthouse
40 Foley Square, Room 1802
New York, NY 10007

Dear Judge Jacobs,

Last Monday, March 22, I submitted a judicial misconduct complaint “addressed...to the Circuit Judge eligible to become the next chief judge of the circuit”, who is the one to whom it should be transmitted when the judicial officer complained-about is the Chief Judge, as provided by this Circuit’s Rules Governing Complaints under 28 U.S.C. §351. What happened thereafter is worth bringing to your attention, for this incident should be taken into account in deciding how to deal with that complaint and in determining whether the incident and all the similar ones that have occurred in *this* Court are only a reflection of the degree of care and capacity of the clerks or rather part of a pattern of wrongful acts.

Indeed, at the In-Take Room 1803, I showed the deputy clerk behind the counter four copies of a complaint like the one following this page as well as a separate volume of “Evidentiary Documents”. I asked to speak with Ms. Patricia C. Allen, who is the only deputy clerk in the whole of this Court to handle such a filing. So if she is on vacation –as she was last August 11, 2003, when I submitted the initial complaint- or on medical absence –as she will be this Thursday 25 and Friday 26- nobody else can examine for conformity or process a complaint. Hence, it is left untouched until her return, never mind that §351 and the Governing Rules require that such complaints be handled ‘expeditiously and promptly’ given that judicial misconduct impairs the integrity of the courts’ just and fair process of dispensing justice. I was told that Ms. Allen was unavailable. I filed the complaint. I also tendered to the clerk for filing five individually bound copies of a motion for something else in my appeal, docket no. 03-5023 [www.ca2.uscourts.gov], each with the required Information Sheet on top.

Today, Wednesday 24, two days later, that docket still did not show that the motion had been entered. That got me concerned about the complaint too, although I know that complaints are not entered on the same docket. So I called Ms. Allen to find out whether she had inspected and approved the complaint...but not even its transmission to her had occurred! At my request, she called the In-takers at Room 1803. However, none of them knew anything about my complaint. I asked that she have them search for it while I waited on the phone. Eventually, everything that I had filed on Monday was found on another floor and brought to her. Everything had been sent to the case manager on the claim that the Statement of Facts and the Evidentiary Documents belonged to the motion. This means that not only did the clerks ignore my conversation with them about they being a complaint for Ms. Allen, but they failed to read the *second* line of the heading:...**Setting forth a COMPLAINT** UNDER 28 U.S.C. §351...”, never mind that in bold letters it states “...addressed under... **to the Circuit Judge eligible to become...**”. Was this an oversight or was their sight on a different target?

Ms. Allen herself found that heading most confusing and said that it would of course be interpreted as a statement of facts in support of the motion. As to the cover page of the Evidentiary Documents...forget'a 'bout it! I had to engage in advanced comparative exegesis to establish the identity between the text below those two words and the heading of the complaint; (see a copy of that cover page at 26, *infra*). She found so objectionable that I had not titled it Exhibits that she said that she would return it to me for correction. Eventually I managed to persuade her to just write in that word and keep it. But Ms. Allen found the complaint so incurably unacceptable that she refused to transmit it to you and will instead return to me the four copies for me to reformat and resubmit them. Her objections are the following:

1. The misconduct form is not on top, 'so how do you expect one to know that this is a misconduct complaint and not a Statement of Facts?' My suggestion that one might read the heading got me nowhere.
2. The complaint form was the wrong one, for its title refers to §372 rather than §351. I said that was the form that I received in connection with the first complaint back in August; that the heading of the Statement of Facts cites §351; that from this and the rest of the heading the intention of filing a misconduct complaint becomes clear. It was all to no avail.
3. My complaint has an index, but complaints have no such thing.
4. A major issue was that I put documents with the Statement of Facts as well as in the separate bound volume, 'What for?! You can't do that!' I explained that those are documents created since my first complaint back in August and are clearly distinguished by a plain page number, while documents accompanying my August complaint were referred to as E-page number (E as in Exhibit) or A-page number (A as in Appendix). All that was of no significance.
5. An obvious defect was that I had bound the complaint, but a complaint must not be bound; rather, it must be stapled or clipped. I indicated that Rule 2 of the Rules Governing Complaints does not prohibit binding. Moreover, I pointed out that FRAP 32(a)(3) provides that "The brief must be bound in any manner that is secure...and permits the brief to lie reasonably flat when open." However, my reasoning by analogy was lost on Ms. Allen. So I went for the practical and said that I could hardly imagine that a circuit judge would prefer to run the risk of having the sheets of a clipped complaint scatter all over the floor or to have to flip back and forth stapled sheets, if so many can be stapled at all. 'No!, Dr. Cordero, if the Rules do not say that you can do something, then you can't do it! It is that simple'.

These are the unacceptable features on account of which Ms. Allen refused to send the complaint on to you. Instead, she will return the four Statements for me to redo them and resubmit them to her for inspection. So on Monday I will have to go to the Court to bring her the reformatted copies, for if when I personally took the complaint there last Monday its copies ended up lost until I asked that the clerks searched for them two days later, can you imagine where they could end up if I mailed them, no to mention how much longer it would take to reach you after being "processed"? It is of no concern the extra time, effort, and money that Ms. Allen causes me to waste, let alone the aggravation, to comply with the written rules and 'the way things are done with complaints', which I must find out the hard way.

Therefore, I respectfully submit to you these questions:

1. Did Ms. Allen violate FRAP Rule 25(4), which provides that “The clerk **must not refuse** to accept for filing **any paper** presented for that purpose solely because it is not presented in proper form as required by these rules or by **any local rule** or **practice**?” (emphasis added)
2. Did Ms. Allen handle my complaint as she normally does any other or as part of a pattern of coordinated acts targeted on me? In this context, the following should be considered:
 - a. My appeal docket, no. 03-5023, stated, and stills states even today, that it was the district court’s decisions that were dismissed, thus giving me the misleading or false impression that I had prevailed and did not have to start preparing my petition for rehearing.
 - b. FRAP Rule 36(b) provides that “**on the date** when judgment is entered, the clerk **must** serve on all parties a copy of the opinion...”, (emphasis added). Yet, the order of January 26 was not mailed to me on that date of entry, so that on January 30, I had to call Case Manager Siomara Martinez and her supervisor, Mr. Robert Rodriguez, to request that it be mailed to me. It was postmarked February 2; as a result, it was a week after entry when I could read that in reality it was my appeal that had been dismissed, not the district court decisions appealed from.
 - c. The motion for an extension to file a petition for rehearing due to the hardship of doing pro se all the necessary legal research and writing within 10 days was granted on February 23, but was not docketed until February 26, and I did not receive it until March 1, so that I ended up having the same little amount of time in which to scramble to prepare the petition by the new deadline of March 10.
 - d. The motion for panel rehearing and hearing en banc that I filed on March 10 was not docketed until I called on March 15 and spoke with Case Manager Martinez and Supervisor Rodriguez. Do these incidents reflect the clerks’ normal level of performance or did somebody not want me to file the petition?
 - e. Cf. Opening Brief: 11.3; 11.4; 15.6;
 - f. Cf. Petition for Writ of Mandamus: 25.K and 26.L;
 - g. Cf. Statement of Facts setting forth a complaint about the Hon. John Walker, Chief Judge; next in this file.

How many elements are needed to assess the care and capacity of the clerks of the Court or to detect a pattern of wrongful acts? What degree of solidarity or coordination is there between the clerks of this Court and those of the bankruptcy and district courts in Rochester?

Looking forward to hearing from you,

sincerely,

Dr. Richard Cordero

TRUSTEES WITH THOUSANDS OF OPEN CASES AND ONE CASE THAT OPENS A WINDOW INTO THE OPERATION OF THE BANKRUPTCY FRAUD SCHEME

by Dr. Richard Cordero

I. A SCHEME THAT WORKS BY TAKING MONEY FROM MANY CREDIT CARD ISSUERS BUT NOT SO MUCH FROM ANYONE AS TO MAKE IT COST-EFFECTIVE TO SPEND TIME, EFFORT, AND MONEY PURSUING A PENNIES-ON-THE DOLLAR RECOVERY IN RISKY BANKRUPTCY PROCEEDINGS

The critical fact that should pique one's curiosity and intrigue one into examining this case further is that each trustee has *thousands of open cases*. This fact can be corroborated independently through Pacer, as shown below. It inescapably begs the question: How can one lawyer in a one or two lawyer law firm, as are those in play here, can possibly have the time to pay anything remotely close to adequate attention to so many cases? Keep in mind that the trustee must examine each petition to determine whether it meets the requirements of the Bankruptcy Code so that he may recommend to the court that its plan of debt repayment be confirmed. That requires his review of not only all the schedules that make up a petition, but also financial documents that provide the basis for the figures and statements that the debtor used to fill out the schedules.

Indeed, the trustee, as the representative of the creditors, must ascertain, for example, whether the debtor has truthfully stated all his debts, has neither hidden any of his assets nor underestimated the value of those that he has declared, and has not overestimated his current expenditures. But that is just the beginning, for then the trustee must monitor the debtor's performance of his debt repayment plan as the debtor makes monthly payments over the three to five years of the plan's life. How many seconds a month can the trustee dedicate to each of *3,909 open cases!*? Meanwhile he continues to take in new ones and must conduct in person the meeting of creditors, which he may have to adjourn one or more times. He must also appear in court not only to confirm debtors' plans, but also to state his views at hearings of motions raised by any of the parties. That is why he cannot waste time reviewing petitions. Here is where knowledge of other people's normal behavior in bankruptcy cases or, better still, what others have agreed to do, becomes such a key element for the trustee.

Many creditors, including institutional ones, cannot afford to spend the considerable amount of time, effort, and thus money necessary to recover on their bankruptcy claims unless the latter exceed a certain threshold of cost-effective participation. It comes down to not throwing good money after bad. As a result, people who know this cost barrier exploit their knowledge: They incur debts below the threshold, but to as many creditors as they can. Hence, the ideal target creditor is a credit card issuer, whose debt is unsecured and whose balance transfer feature allows the debtor to regulate his debt's threshold levels. So the debtor can charge to a card up to a certain limit of debt; keep making the minimum monthly payment to avoid a negative credit bureau report that would alert other issuers and could trigger their acceleration clauses; and move on to charging the next credit card. An industry insider, such as a bank loan official, would be in a position, not only to find out the threshold of participation of many credit card issuers, but also to use that knowledge for personal benefit as well as for the benefit of others, whether his clients or other parties. Knowledge is a valuable asset and if it joins the legal authority vested in officers in the right position, the basic elements of a scheme are in place.

As this knowledge is provided to more people and as more and more bankruptcy petitions are approved without any review of supporting documents, let alone any determination of their good faith, the number of debtors filing petitions just keeps growing. Overwhelmed by them, the creditors must increase their threshold of participation. This dynamic puts in motion a vicious circle in which a necessary threshold is exploited by petitions below it and the increasing number of such petitions requires setting a higher threshold, which is exploited in turn and so on.

At the same time, money keeps rolling in for the schemers. For one thing, even if the total debt to any one creditor is intentionally kept relatively low, the debts to all creditors add up to serious money, as shown below. To escape paying all that money, a debtor has an incentive to pay all fees, legal and otherwise, demanded by the schemers. Similarly, even if the schemers make a small amount of money on each petition, they accept so many cases, *thousands of them!*, that their total in-take also adds up to serious money. They can be so indiscriminate in accepting cases regardless of their merits precisely because they do not waste time reviewing any petition beyond what is strictly necessary to make sure that it is below the creditors' threshold of participation. Actually, in the logic of the scheme, the fewer the merits for relief under the Bankruptcy Code a petition has, the higher its value to the schemers, who can raise any acceptance fee proportionally higher. High too as well as widespread are the loss and pain that they cause to so many creditors: those who trusted them enough to lend them their money and those who believed them to be doing the right thing on their behalf rather than engaging in irresponsible and self-serving conduct that rendered them liable for claims of compensation. Neither debtors not schemers should be allowed to break bankruptcy laws and get rich with it.

II. A CHAPTER 13 TRUSTEE WITH 3,909 OPEN CASES CANNOT POSSIBLY HAVE THE TIME OR THE INCLINATION TO CHECK THE FACTUAL ACCURACY OR INTERNAL CONSISTENCY OF THE CONTENT OF EACH BANKRUPTCY PETITION TO ASCERTAIN ITS GOOD FAITH

1. Pacer is the federal courts' electronic document retrieval service. The information that it provides sheds light on why trustees may be quite unwilling and unable to spend any time investigating the bankruptcy petitions submitted to them by debtors to establish the reliability of their figures and statements. When queried with the name George Reiber, Trustee, -the standing Chapter 13 trustee in the Western District of New York- it returns this message at <https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>: "This person is a party in 13250 cases." When queried again about open cases, Pacer comes back at https://ecf.nywb.uscourts.gov/cgi-bin/login.pl?601512709478669-L_916_0-1 with 119 billable pages that end thus:

Table 1. Illustrative row of Pacer's presentation of Trustee George Reiber's 3,909 open cases in the Bankruptcy Court

2-04-21295-JCN	bk	13	William J. Hastings and Carolyn M. Hastings	Ninfo Reiber	Filed: 04/01/2004	Office: Rochester Asset: Yes Fee: Paid County: 2-Monroe
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Total number of cases: 3909

Open cases only

PACER Service Center

2. Trustee Reiber has 3,909 *open* cases at present! This is not just a huge abstract figure. Right there are the real cases, in flesh and blood, as it were, for Pacer personalizes each one of them with the debtors' names; and each has a throbbing heart: a hyperlink in the left cell that can call that case to step up to the screen for examination. What is more, they are in good health since Pacer indicates that, with the exception of fewer than 44, they are asset cases. This means that Trustee Reiber has taken care to "consider whether sufficient funds will be generated to make a meaningful distribution to creditors, prior to administering the case as **an asset case**" (emphasis added; §2-2.1. of the Trustee Manual). By the way, JCN after the case number in the left cell stands for John C. Ninfo, the judge before whom the case has been brought.
3. Trustee Reiber is the trustee for the DeLano case (section IV, *infra*). For him "meaningful distribution" under the DeLanos' debt repayment plan is 22 cents on the dollar with no interest accruing during the repayment period. No doubt, avoiding 78 cents on the dollar as well as interest is even more meaningful to the DeLanos. By the same token, that means that the Trustee has taken care of his fee, which is paid as a percentage of what the debtor pays (28 U.S.C. §586(e)(1)(B)).
4. Given that a trustee's fee compensation is computed as a percentage of a base, it is in his interest to increase the base by having debtors pay more so that his percentage fee may in turn be a proportionally higher amount. However, increasing the base would require ascertaining the veracity of the figures in the schedules of the debtors as well as investigating any indicia that they have squirreled away assets for a rainbow post-discharge life, such as a golden pot retirement. Such investigation, however, takes time, effort, and money. Worse yet from the perspective of the trustee's economic interest, an investigation can result in a debtor's debt repayment plan not being confirmed and, thus, in no stream of percentage fees flowing to the trustee. (11 U.S.C. §§1326(a)(2) and (b)(2)). "Mmm...not good!"
5. The obvious alternative is "never investigate anything, not even patently suspicious cases. Just take in as many cases as you can and make up in the total of small easy fees from a huge number of cases what you could have made by taking your percentage fee of the assets that you sweated to recover." Of necessity, such a scheme redounds to the creditors' detriment since fewer assets are brought into the estate and distributed to them. When the trustee takes it easy, the creditors take a heavy loss, whether by receiving less on the dollar or by spending a lot of money, effort, and time investigating the debtor only to get what was owed them to begin with.
6. Have U.S. Trustees contributed to the development of such an income maximizing mentality and implementing scheme by failing to demand that trustees perform their duty "to investigate the financial affairs of the debtor" (11 U.S.C. §§1302(b)(1) and §704(4)) and to "furnish such information concerning the estate and the estate's administration as is requested by a party in interest" (§704(7))?

7. This income maximizing scheme has a natural and perverse consequence: As it becomes known that trustees have no time but rather an economic disincentive to investigate debtors' financial affairs, ever more debtors with ever less deserving cases for relief under the Bankruptcy Code go ahead and file their petitions. What is worse, as people with no debt problems yet catch on to how easy it is to get a petition rubberstamped, they have every incentive to live it up by binging on their credit as if there were no repayment day, for they know there is none, just a bankruptcy petition waiting to be filed with the required fee...or perhaps 'fees'?

III. ANOTHER TRUSTEE WITH 3,092 CASES WAS UPON A PERFORMANCE AND FITNESS TO SERVE COMPLAINT REFERRED BY THE COURT TO THE ASSISTANT U.S. TRUSTEE FOR A "THOROUGH INQUIRY", WHICH WAS LIMITED TO TALKING TO HIM AND A PARTY AND TO UNCRITICALLY WRITING THEIR COMMENTS IN AN OPINION THAT THE TRUSTEE FOR REGION 2 WOULD NOT INVESTIGATE

8. At the beginning of 2002, Dr. Richard Cordero, a New York City resident, was looking for his property in storage with Premier Van Lines, Inc., a moving and storage company located in Rochester, NY. He was given the round-around by its owner, David Palmer, and others who were doing business with Mr. Palmer. After the latter disappeared from court proceedings and stopped answering his phone, the others eventually disclosed to Dr. Cordero that Mr. Palmer had filed a voluntary bankruptcy petition under Chapter 11 on behalf of Premier and that the company was already in Chapter 7 liquidation. They referred Dr. Cordero to the Chapter 7 trustee in the case, Kenneth Gordon, Esq., for information on how to locate and retrieve his property. However, Trustee Gordon refused to provide such information, instead made false and defamatory statements about Dr. Cordero, and merely referred him back to the same people that had referred him to Trustee Gordon.
9. Dr. Cordero requested a review of Trustee Gordon's performance and fitness to serve as trustee in a complaint filed with Judge Ninfo, before whom Mr. Palmer's petition was pending. Judge Ninfo did not investigate whether the Trustee had submitted to him false statement, as Dr. Cordero had pointed out, but simply referred the matter to Assistant U.S. Trustee Kathleen Dunivin Schmitt for a "thorough inquiry". However, what she actually conducted was only a quick 'contact': a substandard communication exercise limited in its scope to talking to the trustee and a lawyer for a party and in its depth to uncritically accepting at face value what she was told. Her written supervisory opinion of October 22, 2002, was infirm with mistakes of fact and inadequate coverage of the issues raised.
10. Dr. Cordero appealed Trustee Schmitt's opinion to her superior at the time, Carolyn S. Schwartz, U.S. Trustee for Region 2. He sent her a detailed critical analysis, dated November 25, 2002, of that opinion against the background of facts supported by documentary evidence. It must be among the files now in the hands of her successor, Region 2 Trustee Deirdre A. Martini. It is also available as entry no. 19 in docket no. 02-2230, Pfuntner v. Trustee Gordon et al. (www.nywb.uscourts.gov). But Trustee Schwartz would not investigate the matter.

11. Yet, there was more than enough justification to investigate Trustee Gordon, for he too has *thousands* of cases. The statistics on Pacer as of November 3, 2003, showed that since April 12, 2000, Trustee Gordon was the trustee in 3,092 cases!

Table 2. Number of Cases of Trustee Kenneth Gordon in the Bankruptcy Court
 compared with the number of cases of bankruptcy attorneys appearing there

<https://ecf.nywb.uscourts.gov/cgi-bin/login.pl>

NAME	NUMBER OF CASES AND CAPACITY IN WHICH APPEARING					
	since	trustee	since	attorney	since	party
Trustee Kenneth W. Gordon	04/12/00	3,092	09/25/89	127	12/22/94	75
Trustee Kathleen D. Schmitt	09/30/02	9				
Attorney David D. MacKnight			04/07/82	479	05/20/91	6
Attorney Michael J. Beyma			01/30/91	13	12/27/02	1
Attorney Karl S. Essler			04/08/91	6		
Attorney Raymond C. Stilwell			12/29/88	248		

12. Chapter 7 Trustee Gordon, just as Chapter 13 Trustee Reiber (section 0, supra), could not possibly have had the time or the inclination to spend more than the strictly indispensable time on any single case, let alone spend time on a person from whom he could earn no fee. Indeed, in his Memorandum of Law of February 5, 2003, in Opposition to Cordero's Motion to Extend Time to Appeal, Trustee Gordon unwittingly provided the motive for having handled the liquidation of Premier Van Lines negligently and recklessly: "As the Court is aware, the sum total of compensation to be paid to the Trustee in this case is \$60.00" (docket no. 02-2230, entry 55, pgs. 5-6). Trustee Gordon had no financial incentive to do his job...nor did he have a sense of duty! But why did he ever think that telling the court, that is, Judge Ninfo, how little he would earn from liquidating Premier would in the court's eyes excuse his misconduct?
13. The reason is that Judge Ninfo does not apply the laws and rules of Congress, which together with the facts of the case he has consistently disregarded to the detriment of Dr. Cordero (1-5 and 11-12, supra). Nor does he cite the case law of the courts hierarchically above his. Rather, he applies the laws of close personal relationships, those developed by frequency of contact between interdependent people with different degrees of power. Therein the person with greater power is interested in his power not being challenged and those with less power are interested in being in good terms with him so as to receive benefits and/or avoid retaliation. Frequency of contact is only available to the local parties, such as Trustee Gordon, as oppose to Dr. Cordero, who lives in New York City and is appearing as a party for the first time ever and, as such, in all likelihood the last time too.
14. The importance for the locals, such as Trustee Gordon, to mind the law of relationships over the laws and rules of Congress or the facts of their cases becomes obvious upon realizing that in the Bankruptcy Court for the Western District of New York there are only three judges and the Chief Judge is none other than Judge Ninfo. Thus, the locals have a powerful incentive not

to ‘rise in objections’, as it were, thereby antagonizing the key judge and the one before whom they appear all the time, even several times on a single day. Indeed, for the single morning of Wednesday, October 15, 2003, Judge Ninfo’s calendar included the following entries:

Table 3. Entries on Judge Ninfo’s calendar for the morning of Wednesday, October 15, 2003

NAME	# of APPEARANCES	NAME	# of APPEARANCES
Kenneth Gordon	1	David MacKnight	3
Kathleen Schmitt	3	Raymond Stilwell	2

15. When locals must pay such respect to the judge, there develops among them a vassal-lord relationship: The lord distributes among his vassals favorable and unfavorable rulings and decisions to maintain a certain balance among them, who pay homage by accepting what they are given without raising objections, let alone launching appeals. In turn, the lord protects them when non-locals come in asserting against the vassals rights under the laws of Congress. So have the lord and his vassals carved out of the land of Congress’ law the Fiefdom of Rochester. Therein the law of close personal relationships rules.
16. The reality of this social dynamic is so indisputable, the reach of such relationships among local parties so pervasive, and their effect upon non-locals so pernicious, that a very long time ago Congress devised a means to combat them: jurisdiction based on diversity of citizenship. Its potent rationale was and still is that state courts tend to be partial toward state litigants and against out-of-state ones, thus skewing the process and denying justice to all its participants as well as impairing the public’s trust in the system of justice. In the matter at hand, that dynamic has materialized in a federal court that favors the locals at the expense of the sole non-local who dared assert his rights against them under a foreign law, that is, the laws of Congress.
17. Hence, when Trustee Gordon ‘made the Court aware that “the sum total of compensation to be paid to the Trustee in this case is \$60.00”’, he was calling upon the Lord to protect him. The Lord came through to protect his vassal. Although Trustee Gordon himself in that very same February 5 Memorandum of Law of his (para. 12, supra) stated on page 2 that “On January 29, 2003, Cordero filed the instant motion to extend time for the filing of his Notice of Appeal”, thereby admitting its timeliness, Judge Ninfo found that “the motion to extend was not filed with the Bankruptcy Court Clerk’ until 1/30/03” (docket no. 02-2230, entry 57), whereby he made the motion untimely and therefore denied it! Dr. Cordero’s protest was to no avail.
18. Are the local assistant U.S. trustee with her supervisory power and Trustee Gordon with his 3,092 cases and the money in a vassal-lord relationship to each other? Does the Region 2 Trustee know that a non-local has no chance whatsoever of turning the trustee into the subject of a “thorough inquiry” by the local U.S. trustee? Consequently, should she have investigated Trustee Gordon? What homage do local and regional U.S. trustees receive and what fief do they grant?

IV. A CASE THAT ILLUSTRATES HOW A BANKRUPTCY PETITION RIDDLED WITH RED FLAGS AS TO ITS GOOD FAITH IS ACCEPTED WITHOUT REVIEW BY THE TRUSTEE AND READIED FOR CONFIRMATION BY THE BANKRUPTCY COURT

19. On January 27, 2004, a bankruptcy petition under Chapter 13 of the Bankruptcy Code (Title 11, U.S.C.) was filed in the Bankruptcy Court for the Western District of New York in Rochester by David and Mary Ann DeLano (case 04-20280; 28, *infra*). The figures in its schedules and the surrounding circumstances should have alerted the trustee and his attorney to the patently suspicious nature of the petition. Yet, Chapter 13 Trustee George Reiber (section II, *supra*) and Attorney James Weidman (11-12, *supra*) were about to submit its repayment plan to the court for approval when Dr. Richard Cordero, a creditor, objected in a five page analysis of the figures in the schedules. Even so, the Trustee and his attorney vouched for the petition's good faith. Let's list the salient figures and circumstances:
20. The DeLanos incurred scores of thousands of dollars in credit card debt,
21. at the average interest rate of 16% or the delinquent interest rate of over 23%,
22. carried it for over 10 years by making only the minimum payments,
23. have ended up owing \$98,092 to 18 credit card issuers listed in Schedule F,
24. owe also a mortgage of \$77,084,
25. have near the end of their work life an equity in their house of only \$21,415,
26. declared earnings in 2002 of \$91,655 and in 2003 of \$108,586,
27. yet claim that after a lifetime of work their tangible personal property is only \$9,945,
28. claim as exempt \$59,000 in a retirement account,
29. claim another \$96,111.07 as a 401-k exemption,
30. make a \$10,000 loan to their son and declare it uncollectible,
31. but offer to repay only 22 cents on the dollar without interest for just 3 years,
32. argue against having to provide a single credit card statement covering any length of time 'because the DeLanos do not maintain credit card statements dating back more than 10 years in their records and doubt that those statements are available from even the credit card companies', even though the DeLanos must still receive every month the **monthly** credit card statement from each of the issuers of the 18 credit cards and as recently as last January they must have consulted such statements to provide in Schedule F their account number with, and address of, each of those 18 issuers, and
33. pretend that it is irrelevant to their having gotten into financial trouble and filed a bankruptcy petition that Mr. DeLano is *a 15 year bank officer!*, or rather more precisely, a bank **loan** officer, whose daily work must include ascertaining the creditworthiness of loan applicants and their ability to repay over the loan's life, and who is still employed that capacity by a major bank, namely, Manufacturers and Traders Trust Bank. He had to know better!
34. Did Mr. DeLano put his knowledge and experience as a loan officer to good use in living it up with his family and closing his accounts down with 18 credit card issuers by filing for bank-

ruptcy? How could Mr. DeLano, despite his “experience in banking”, from which he should have learned his obligation to keep financial documents for a certain number of years, pretend that he does not have them to back up his petition? Those are self-evident questions that have a direct bearing on the petition’s good faith. Did Trustee Reiber and Attorney Weidman ever ask them? How did they ascertain the timeline of debt accumulation and its nature if they did not check those credit card statements before readying the petition for submission to the court?

35. Until the DeLanos provide financial documents supporting their petition, including credit card statements, let’s assume *arguendo* that when Mr. DeLano lost his job at a financial institution and took a lower paying job at another in 1989, the combine income of his and his wife, a Xerox technician, was \$50,000. Last year, 15 years later, it was over \$108,000. Let’s assume further that their average annual income was \$75,000. In 15 years they earned \$1,125,000...but they allege to end up with tangible property worth only \$9,945 and a home equity of merely \$21,415!, and this does not begin to take into account what they already owned before 1989, let alone all their credit card borrowing. Where did the money go? Or where is it now? Mr. DeLano is 62 and Mrs. DeLano is 59. What kind of retirement are they planning for?
36. Did the Trustee and his Attorney ever get the hint that the petitions’ figures and circumstances made no sense or were they too busy with their other 3,908 cases and the in-take of new ones to ask any questions and request any supporting documents? How many other cases did they also accept under the motto “don’t ask, don’t check, cash in”? Do other debtors and officers with power to approve or disapprove petitions practice the enriching wisdom of that motto? How many creditors, including tax authorities, are being left holding bags of worthless IOUs?
37. For his part, Trustee Reiber is being allowed to hold on to the DeLanos’ case to belatedly “investigate” it, which he is doing only because of Dr. Cordero’s assertion of his right to be furnished with financial information about the DeLanos (para. 6, *supra*). Yet, not to replace the Trustee –as requested by Dr. Cordero- but rather to allow him to be the one to investigate the DeLanos now, disregards the Trustee’s obvious conflict of interest: It is in Trustee Reiber’s interest to conclude his “investigation” with the finding that the DeLanos filed their petition in good faith, lest he indict his own agent, Attorney Weidman, who approved it for submission to the court, thereby rendering himself liable as his principal and casting doubt on his own proper handling of his other thousands of cases.
38. Indeed, if an egregious case as the DeLano’s passed muster with them, what about the others? Such doubts could have devastating consequences for all involved. To begin with, they could trigger an examination of Trustee Reiber’s other cases, which could lead to his and his agent-attorney’s suspension and removal. Were those penalizing measures adopted, they would inevitably lead to questioning the kind of supervision that the Trustee and his attorney have been receiving from the U.S. assistant and regional trustees. The next logical question would be what kind of oversight the bankruptcy and district courts have been exercising over petitions submitted to them, in particular, and the bankruptcy process, in general.
39. What were they all thinking!? Whatever it was, from their perspective it is evident that the best self-protection is not to set in motion an investigative process that can escape their control and end up crushing them. This proves the old-axiom that a person, just as an institution, cannot investigate himself zealously, objectively, and reassuringly. A third independent party, unfamiliar with the case and unrelated to its players, must be entrusted with and carry out the investigation and then tender its uncompromising report to all those with an interest in the case.

		(Tacy, K.) (Entered: 10/24/2003)
11/12/2003		Trustee Fee Paid. P1# 0446500072. (Bibbs, D.) (Entered: 11/14/2003)
01/07/2004	108	Letter Filed by Creditor Richard Cordero . (Attachments: # 1 Letter in response) (Finucane, P.) (Entered: 05/04/2004)
05/04/2004	109	Letter dated 5/4/04 from the Clerk of the Court, Paul R. Warren, Esq. to Dr. Richard Cordero regarding search request. (Finucane, P.) (Entered: 05/05/2004)
05/20/2004	110	Letter from Paul R. Warren, Clerk of the Court to Creditor Richard Cordero, re: search request. (Attachments: # 1 Exhibit relevant portions of the Bankruptcy Fee Compendium) (Tacy, K.) (Entered: 05/20/2004)
05/26/2004	111	Letter Filed by Creditor Richard Cordero in response to (RE: related document(s) 110 Letter of Paul R. Warren, Clerk of the Court). (Tacy, K.) (Entered: 05/26/2004)

PACER Service Center			
Transaction Receipt			
01/27/2005 04:30:18			
PACER Login:		Client Code:	
Description:	Docket Report	Search Criteria:	2-01-20692-JCN Fil or Ent: Fil Doc From: 0 Doc To: 99999999 Term: y Links: n Format: HTMLfmt
Billable Pages:	7	Cost:	0.56

FORM B1	United States Bankruptcy Court Western District of New York	Voluntary Petition
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Name of Debtor (if individual, enter Last, First, Middle): DeLano, David G.	Name of Joint Debtor (Spouse) (Last, First, Middle): DeLano, Mary Ann
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All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):
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Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): xxx-xx-3894	Last four digits of Soc. Sec. No. / Complete EIN or other Tax I.D. No. (if more than one, state all): xxx-xx-0517
--	--

Street Address of Debtor (No. & Street, City, State & Zip Code): 1262 Shoecraft Road Webster, NY 14580	Street Address of Joint Debtor (No. & Street, City, State & Zip Code): 1262 Shoecraft Road Webster, NY 14580
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County of Residence or of the Principal Place of Business: Monroe	County of Residence or of the Principal Place of Business: Monroe
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Mailing Address of Debtor (if different from street address):	Mailing Address of Joint Debtor (if different from street address):
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Location of Principal Assets of Business Debtor (if different from street address above):

Information Regarding the Debtor (Check the Applicable Boxes)

Venue (Check any applicable box)

- Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

<p>Type of Debtor (Check all boxes that apply)</p> <input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other _____ <input type="checkbox"/> Clearing Bank	<p>Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box)</p> <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input checked="" type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding
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<p>Nature of Debts (Check one box)</p> <input checked="" type="checkbox"/> Consumer/Non-Business <input type="checkbox"/> Business	<p>Filing Fee (Check one box)</p> <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only.) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.
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<p>Chapter 11 Small Business (Check all boxes that apply)</p> <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)	
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<p>Statistical/Administrative Information (Estimates only)</p> <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors. <table style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Estimated Number of Creditors</td> <td style="text-align: center;">1-15</td> <td style="text-align: center;">16-49</td> <td style="text-align: center;">50-99</td> <td style="text-align: center;">100-199</td> <td style="text-align: center;">200-999</td> <td style="text-align: center;">1000-over</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> <table style="width:100%; border-collapse: collapse;"> <tr> <td colspan="8" style="text-align: left;">Estimated Assets</td> </tr> <tr> <td style="text-align: center;">\$0 to \$50,000</td> <td style="text-align: center;">\$50,001 to \$100,000</td> <td style="text-align: center;">\$100,001 to \$500,000</td> <td style="text-align: center;">\$500,001 to \$1 million</td> <td style="text-align: center;">\$1,000,001 to \$10 million</td> <td style="text-align: center;">\$10,000,001 to \$50 million</td> <td style="text-align: center;">\$50,000,001 to \$100 million</td> <td style="text-align: center;">More than \$100 million</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> <table style="width:100%; border-collapse: collapse;"> <tr> <td colspan="8" style="text-align: left;">Estimated Debts</td> </tr> <tr> <td style="text-align: center;">\$0 to \$50,000</td> <td style="text-align: center;">\$50,001 to \$100,000</td> <td style="text-align: center;">\$100,001 to \$500,000</td> <td style="text-align: center;">\$500,001 to \$1 million</td> <td style="text-align: center;">\$1,000,001 to \$10 million</td> <td style="text-align: center;">\$10,000,001 to \$50 million</td> <td style="text-align: center;">\$50,000,001 to \$100 million</td> <td style="text-align: center;">More than \$100 million</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	Estimated Number of Creditors	1-15	16-49	50-99	100-199	200-999	1000-over		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Estimated Assets								\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Estimated Debts								\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors	1-15	16-49	50-99	100-199	200-999	1000-over																																																									
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Voluntary Petition <i>(This page must be completed and filed in every case)</i>	Name of Debtor(s): FORM B1, Page 2 DeLano, David G. DeLano, Mary Ann
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Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)		
Location Where Filed: - None -	Case Number:	Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)		
Name of Debtor: - None -	Case Number:	Date Filed:
District:	Relationship:	Judge:

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.
I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

/s/ David G. DeLano
Signature of Debtor David G. DeLano

/s/ Mary Ann DeLano
Signature of Joint Debtor Mary Ann DeLano

Telephone Number (If not represented by attorney)

January 26, 2004
Date

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)

Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

/s/ Christopher K. Werner, Esq. January 26, 2004
Signature of Attorney for Debtor(s) Date
Christopher K. Werner, Esq.

Exhibit C

Does the debtor own or have possession of any property that poses a threat of imminent and identifiable harm to public health or safety?

Yes, and Exhibit C is attached and made a part of this petition.
 No

Signature of Attorney

/s/ Christopher K. Werner, Esq.
Signature of Attorney for Debtor(s)
Christopher K. Werner, Esq.
Printed Name of Attorney for Debtor(s)
Boylan, Brown, Code, Vigdor & Wilson, LLP
Firm Name
2400 Chase Square
Rochester, NY 14604
Address
585-232-5300
Telephone Number
January 26, 2004
Date

Signature of Non-Attorney Petition Preparer

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Printed Name of Bankruptcy Petition Preparer

Social Security Number (Required by 11 U.S.C. § 110(c).)

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.
The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano,
Mary Ann DeLano
Debtors

Case No. _____
Chapter 13

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts from Schedules D, E, and F to determine the total amount of the debtor's liabilities.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	AMOUNTS SCHEDULED		
			ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	98,500.00		
B - Personal Property	Yes	4	164,956.57		
C - Property Claimed as Exempt	Yes	1			
D - Creditors Holding Secured Claims	Yes	1		87,369.49	
E - Creditors Holding Unsecured Priority Claims	Yes	1		0.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	4		98,092.91	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	1			4,886.50
J - Current Expenditures of Individual Debtor(s)	Yes	1			2,946.50
Total Number of Sheets of ALL Schedules		16			
Total Assets			263,456.57		
			Total Liabilities	185,462.40	

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE A. REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. (See Schedule D.) If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
1262 Shoecraft Road, Webster (value per appraisal 11/23/03)	Fee Simple	J	98,500.00	77,084.49

Sub-Total > 98,500.00 (Total of this page)

Total > 98,500.00

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property."

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand		misc cash on hand	J	35.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		M & T Checking account	J	300.00
		M & T Savings	W	200.00
		M & T Bank Checking	W	0.50
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		Furniture: sofa, loveseat, 2 chairs, 2 lamps, 2 tv's 2 radios, end tables, basement sofa, kitchen table and chairs, misc kitchen appliances, refrigerator, stove, microwave, place settings; Bedroom furniture - bed, dresser, nightstand, lamps, 2 foutons, 2 lamps, table 4 chairs on porch; desk, misc garden tools, misc hand tools.	J	2,000.00
		computer (2000); washer/dryer, riding mower (5 yrs), dehumidifier, gas grill,	J	350.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		misc books, misc wall decorations, family photos, family bible	J	100.00
6. Wearing apparel.		misc wearing apparel	J	50.00
7. Furs and jewelry.		wedding rings, wrist watches	J	100.00
		misc costume jewelry, string of pearls	W	200.00

Sub-Total > 3,335.50
(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
8. Firearms and sports, photographic, and other hobby equipment.		camera - 35mm snapshot cameras ((2) purchased for \$19.95 each new	J	10.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Itemize.		Xerox 401-K \$38,000; stock options \$4,000; retirement account \$17,000 - all in retirement account	W	59,000.00
		401-k (net of outstanding loan \$9,642.56)	H	96,111.07
12. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
13. Interests in partnerships or joint ventures. Itemize.	X			
14. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
15. Accounts receivable.		Debt due from son (\$10,000) - uncertain collectibility - unpaid even when employed but now laid off from Heidelberg/Nexpress	J	Unknown
16. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
17. Other liquidated debts owing debtor including tax refunds. Give particulars.		2003 tax liability expected	J	0.00
18. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property.	X			

Sub-Total > 155,121.07
(Total of this page)

Sheet 1 of 3 continuation sheets attached
to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
19. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
20. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
21. Patents, copyrights, and other intellectual property. Give particulars.	X			
22. Licenses, franchises, and other general intangibles. Give particulars.	X			
23. Automobiles, trucks, trailers, and other vehicles and accessories.		1993 Chevrolet Cavalier 70,000 miles	W	1,000.00
		1998 Chevrolet Blazer 56,000 miles (value Kelly Blue Book average of retail and trade-in - good condition)	H	5,500.00
24. Boats, motors, and accessories.	X			
25. Aircraft and accessories.	X			
26. Office equipment, furnishings, and supplies.	X			
27. Machinery, fixtures, equipment, and supplies used in business.	X			
28. Inventory.	X			
29. Animals.	X			
30. Crops - growing or harvested. Give particulars.	X			
31. Farming equipment and implements.	X			

Sub-Total > 6,500.00
(Total of this page)

Sheet 2 of 3 continuation sheets attached
to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
32. Farm supplies, chemicals, and feed.	X			
33. Other personal property of any kind not already listed.	X			

Sub-Total > 0.00
(Total of this page)
Total > 164,956.57

(Report also on Summary of Schedules)

Sheet 3 of 3 continuation sheets attached
to the Schedule of Personal Property

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Real Property</u>			
1262 Shoecraft Road, Webster (value per appraisal 11/23/03)	NYCPLR § 5206(a)	20,000.00	98,500.00
<u>Household Goods and Furnishings</u>			
Furniture: sofa, loveseat, 2 chairs, 2 lamps, 2 tv's 2 radios, end tables, basement sofa, kitchen table and chairs, misc kitchen appliances, refrigerator, stove, microwave, place settings; Bedroom furniture - bed, dresser, nightstand, lamps, 2 foutons, 2 lamps, table 4 chairs on porch; desk, misc garden tools, misc hand tools.	NYCPLR § 5205(a)(5)	2,000.00	2,000.00
<u>Books, Pictures and Other Art Objects; Collectibles</u>			
misc books, misc wall decorations, family photos, family bible	NYCPLR § 5205(a)(2)	100.00	100.00
<u>Wearing Apparel</u>			
misc wearing apparel	NYCPLR § 5205(a)(5)	50.00	50.00
<u>Furs and Jewelry</u>			
wedding rings, wrist watches	NYCPLR § 5205(a)(6)	100.00	100.00
<u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u>			
Xerox 401-K \$38,000; stock options \$4,000; retirement account \$17,000 - all in retirement account	Debtor & Creditor Law § 282(2)(e)	59,000.00	59,000.00
401-k (net of outstanding loan \$9,642.56)	Debtor & Creditor Law § 282(2)(e)	96,111.07	96,111.07
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
1993 Chevrolet Cavalier 70,000 miles	Debtor & Creditor Law § 282(1)	1,000.00	1,000.00

0 continuation sheets attached to Schedule of Property Claimed as Exempt

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests. List creditors in alphabetical order to the extent practicable. If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community		C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION IF ANY
		H W J C	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND MARKET VALUE OF PROPERTY SUBJECT TO LIEN					
Account No. 5687652			2001					
Capitol One Auto Finance PO Box 93016 Long Beach, CA 90809-3016		J	auto lien 1998 Chevrolet Blazer 56,000 miles (value Kelly Blue Book average of retail and trade-in - good condition)				10,285.00	4,785.00
			Value \$ 5,500.00					
Account No.			fist mortgage					
Genesee Regional Bank 3670 Mt Read Blvd Rochester, NY 14616		J	1262 Shoecraft Road, Webster (value per appraisal 11/23/03)				77,084.49	0.00
			Value \$					
Account No.								
			Value \$					
Account No.								
			Value \$					

0 continuation sheets attached

Subtotal
(Total of this page)

87,369.49

Total
(Report on Summary of Schedules)

87,369.49

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether husband, wife, both of them or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets.)

Extensions of credit in an involuntary case

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2).

Wages, salaries, and commissions

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$4,650* per person earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507 (a)(3).

Contributions to employee benefit plans

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

Certain farmers and fishermen

Claims of certain farmers and fishermen, up to \$4,650* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

Deposits by individuals

Claims of individuals up to \$2,100* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6).

Alimony, Maintenance, or Support

Claims of a spouse, former spouse, or child of the debtor for alimony, maintenance, or support, to the extent provided in 11 U.S.C. § 507(a)(7).

Taxes and Certain Other Debts Owed to Governmental Units

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C § 507(a)(8).

Commitments to Maintain the Capital of an Insured Depository Institution

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

*Amounts are subject to adjustment on April 1, 2004, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

0 continuation sheets attached

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C				
Account No. 5398-8090-0311-9990 AT&T Universal P.O. Box 8217 South Hackensack, NJ 07606-8217		H				1,912.63
Account No. 4024-0807-6136-1712 Bank Of America P.O. Box 53132 Phoenix, AZ 85072-3132		H				3,296.83
Account No. 4266-8699-5018-4134 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153		H				9,846.80
Account No. 4712-0207-0151-3292 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153		H				5,130.80
Subtotal (Total of this page)						20,187.06

3 continuation sheets attached

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C				
Account No. 4262 519 982 211 Bank One Cardmember Services P.O. Box 15153 Wilmington, DE 19886-5153	H		1990 and prior Credit card purchases			9,876.49
Account No. 4388-6413-4765-8994 Capital One P.O. Box 85147 Richmond, VA 23276	H		2001- 8/03 Credit card purchases			449.35
Account No. 4862-3621-5719-3502 Capital One P.O. Box 85147 Richmond, VA 23276	H		2001 - 8/03 Credit card purchases			460.26
Account No. 4102-0082-4002-1537 Chase P.O. Box 1010 Hicksville, NY 11802	W		1990 and prior Credit card purchases			10,909.01
Account No. 5457-1500-2197-7384 Citi Cards P.O. Box 8116 South Hackensack, NJ 07606-8116	W		1990 and prior Credit card purchases			2,127.08
Sheet no. <u>1</u> of <u>3</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims					Subtotal (Total of this page)	23,822.19

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C				
Account No. 5466-5360-6017-7176 Citi Cards P.O. Box 8115 South Hackensack, NJ 07606-8115	H		1990 and prior Credit card purchases			4,043.94
Account No. 6011-0020-4000-6645 Discover Card P.O. Box 15251 Wilmington, DE 19886-5251	J		1990 and prior Credit card purchases			5,219.03
Account No. Dr. Richard Cordero 59 Crescent Street Brooklyn, NY 11208-1515	H		2002 Alleged liability re: stored merchandise as employee of M&T Bank - suit pending US BK Ct.	X	X	Unknown
Account No. 5487-8900-2018-8012 Fleet Credit Card Service P.O. Box 15368 Wilmington, DE 19886-5368	W		1990 and prior Credit card purchases			2,126.92
Account No. 5215-3125-0126-4385 HSBC MasterCard/Visa HSBC Bank USA Suite 0627 Buffalo, NY 14270-0627	H		1990 and prior Credit card purchases			9,065.01
Subtotal (Total of this page)						20,454.90

Sheet no. 2 of 3 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E B R O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C				
Account No. 4313-0228-5801-9530 MBNA America P.O. Box 15137 Wilmington, DE 19886-5137		W	1990 and prior Credit card purchases			6,422.47
Account No. 5329-0315-0992-1928 MBNA America P.O. Box 15137 Wilmington, DE 19886-5137		H	1990 and prior Credit card purchases			18,498.21
Account No. 749 90063 031 903 MBNA America P.O. Box 15102 Wilmington, DE 19886-5102		H	1990 and prior Credit card purchases			3,823.74
Account No. 34 80074 30593 0 Sears Card Payment Center P.O. Box 182149 Columbus, OH 43218-2149		H	1990 - 10/99 Credit card purchases			3,554.34
Account No. 17720544 Wells Fargo Financial P.O. Box 98784 Las Vegas, NV 89193-8784		H	8/03 Credit card purchases			1,330.00
Subtotal (Total of this page)						33,628.76
Total (Report on Summary of Schedules)						98,092.91

Sheet no. 3 of 3 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser," "Agent," etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described.

NOTE: A party listed on this schedule will not receive notice of the filing of this case unless the party is also scheduled in the appropriate schedule of creditors.

Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.
State whether lease is for nonresidential real property.
State contract number of any government contract.

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE H. CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. In community property states, a married debtor not filing a joint case should report the name and address of the nondebtor spouse on this schedule. Include all names used by the nondebtor spouse during the six years immediately preceding the commencement of this case.

Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
------------------------------	------------------------------

0 continuation sheets attached to Schedule of Codebtors

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by a married debtor in a chapter 12 or 13 case whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Debtor's Marital Status: Married	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP None.	AGE
EMPLOYMENT:	DEBTOR	SPOUSE
Occupation	Loan officer	
Name of Employer	M & T Bank	unemployed - Xerox
How long employed		
Address of Employer	PO Box 427 Buffalo, NY 14240	

	DEBTOR	SPOUSE
INCOME: (Estimate of average monthly income)		
Current monthly gross wages, salary, and commissions (pro rate if not paid monthly)	\$ 5,760.00	\$ 1,741.00
Estimated monthly overtime	\$ 0.00	\$ 0.00
SUBTOTAL	\$ 5,760.00	\$ 1,741.00
LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 1,440.00	\$ 435.25
b. Insurance	\$ 414.95	\$ 0.00
c. Union dues	\$ 0.00	\$ 0.00
d. Other (Specify) Retirement Loan (to 10/05)	\$ 324.30	\$ 0.00
	\$ 0.00	\$ 0.00
SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 2,179.25	\$ 435.25
TOTAL NET MONTHLY TAKE HOME PAY	\$ 3,580.75	\$ 1,305.75
Regular income from operation of business or profession or farm (attach detailed statement)	\$ 0.00	\$ 0.00
Income from real property	\$ 0.00	\$ 0.00
Interest and dividends	\$ 0.00	\$ 0.00
Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ 0.00	\$ 0.00
Social security or other government assistance (Specify)	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
Pension or retirement income	\$ 0.00	\$ 0.00
Other monthly income (Specify)	\$ 0.00	\$ 0.00
	\$ 0.00	\$ 0.00
TOTAL MONTHLY INCOME	\$ 3,580.75	\$ 1,305.75
TOTAL COMBINED MONTHLY INCOME	\$ 4,886.50	

(Report also on Summary of Schedules)

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:

Wife currently on unemployment thru 6/04. Age 59 - re-employment not expected. Reduces net income by \$1,129/month.

Retirement Loan was made to son, who was to re-pay @\$200/mon. but has been unable to do so as employed at \$10/hr. Potentially uncollectible - due to recent Kodak acquisition of Heidelberg - Nexpress.

Husband will retire in three years at end of plan (extended beyond age 65 to complete three year plan.)

In re David G. DeLano,
Mary Ann DeLano

Case No. _____

Debtors

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>1,167.00</u>
Are real estate taxes included? Yes <u>X</u> No _____		
Is property insurance included? Yes _____ No <u>X</u>		
Utilities: Electricity and heating fuel	\$	<u>168.00</u>
Water and sewer	\$	<u>30.00</u>
Telephone	\$	<u>40.00</u>
Other <u>Cell Phone \$62 (req. for work); cable \$55; Internet \$23.95</u>	\$	<u>140.95</u>
Home maintenance (repairs and upkeep)	\$	<u>50.00</u>
Food	\$	<u>430.00</u>
Clothing	\$	<u>60.00</u>
Laundry and dry cleaning	\$	<u>5.00</u>
Medical and dental expenses	\$	<u>120.00</u>
Transportation (not including car payments)	\$	<u>295.00</u>
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>107.50</u>
Charitable contributions	\$	<u>50.00</u>
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$	<u>0.00</u>
Life	\$	<u>0.00</u>
Health	\$	<u>0.00</u>
Auto	\$	<u>110.00</u>
Other	\$	<u>0.00</u>
Taxes (not deducted from wages or included in home mortgage payments)		
(Specify)	\$	<u>0.00</u>
Installment payments: (In chapter 12 and 13 cases, do not list payments to be included in the plan.)		
Auto	\$	<u>0.00</u>
Other <u>reserve for auto</u>	\$	<u>50.00</u>
Other <u>Parking</u>	\$	<u>58.05</u>
Other	\$	<u>0.00</u>
Alimony, maintenance, and support paid to others	\$	<u>0.00</u>
Payments for support of additional dependents not living at your home	\$	<u>0.00</u>
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>0.00</u>
Other <u>family gifts - Christmas/Birthdays</u>	\$	<u>20.00</u>
Other <u>Haircuts and personal hygiene</u>	\$	<u>45.00</u>
TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)	\$	<u>2,946.50</u>

[FOR CHAPTER 12 AND 13 DEBTORSONLY]

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	\$	<u>4,886.50</u>
B. Total projected monthly expenses	\$	<u>2,946.50</u>
C. Excess income (A minus B)	\$	<u>1,940.00</u>
D. Total amount to be paid into plan each <u>Monthly</u>	\$	<u>1,940.00</u>

(interval)

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano _____
Debtor(s)

Case No. _____
Chapter 13 _____

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 17 sheets [total shown on summary page plus 1], and that they are true and correct to the best of my knowledge, information, and belief.

Date January 26, 2004 _____

Signature /s/ David G. DeLano _____
David G. DeLano
Debtor

Date January 26, 2004 _____

Signature /s/ Mary Ann DeLano _____
Mary Ann DeLano
Joint Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano
Debtor(s)

Case No. _____
Chapter 13

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs.

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within the six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE (if more than one)
\$91,655.00	2002 joint income
\$108,586.00	2003 Income (H) \$67,118; (W) \$41,468

2. Income other than from employment or operation of business

None State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
--------	--------

3. Payments to creditors

- None a. List all payments on loans, installment purchases of goods or services, and other debts, aggregating more than \$600 to any creditor, made within **90 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
Genesee Regional Bank 3670 Mt Read Blvd Rochester, NY 14616	monthly mortgage \$1,167/mon with taxes and insurance	\$5,000.00	\$77,082.49
Capitol One Auto Finance PO Box 93016 Long Beach, CA 90809-3016	monthly auto payment \$348/mon	\$1,044.00	\$10,000.00

- None b. List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
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4. Suits and administrative proceedings, executions, garnishments and attachments

- None a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
In re Premier Van Lines, Inc; James Pfuntner / Ken Gordon Trustee v. Richard Cordero, M & T Bank et al v. Palmer, Dworkin, Hefferson Henrietta Assoc and Delano	(As against debtor) damages for inability of Cordero to recover property held in storage	US Bankruptcy Court, Western District of NY	pending

- None b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
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5. Repossessions, foreclosures and returns

- None List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
--	--	-----------------------------------

6. Assignments and receiverships

- None a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
------------------------------	--------------------	-----------------------------------

- None b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

- None List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
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8. Losses

- None List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case **or since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
-----------------------------------	--	--------------

9. Payments related to debt counseling or bankruptcy

- None List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Christopher K. Werner 2400 Chase Square Rochester, NY 14604	Nov - Dec 2003	\$1,350 plus filing fee

10. Other transfers

- None List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
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11. Closed financial accounts

- None List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
---------------------------------	--	------------------------------------

12. Safe deposit boxes

- None List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
M & T Bank Webster Branch	debtors	Personal papers	

13. Setoffs

- None List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
------------------------------	----------------	------------------

14. Property held for another person

- None List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
---------------------------	-----------------------------------	----------------------

15. Prior address of debtor

- None If the debtor has moved within the **two years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
---------	-----------	--------------------

16. Spouses and Former Spouses

- None If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the **six-year period** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

- None a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
-----------------------	---------------------------------------	----------------	-------------------

- None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
-----------------------	---------------------------------------	----------------	-------------------

- None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
---------------------------------------	---------------	-----------------------

18 . Nature, location and name of business

- None a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was a self-employed professional within the **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

NAME	TAXPAYER I.D. NO. (EIN)	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
------	-------------------------	---------	--------------------	----------------------------

- None b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS
------	---------

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within the **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or otherwise self-employed.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within the six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)*

19. Books, records and financial statements

- None a. List all bookkeepers and accountants who within the **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

DATES SERVICES RENDERED

- None b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

- None c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

- None d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the **two years** immediately preceding the commencement of this case by the debtor.

NAME AND ADDRESS

DATE ISSUED

20. Inventories

- None a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY

INVENTORY SUPERVISOR

DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

- None b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY

NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY
RECORDS

21 . Current Partners, Officers, Directors and Shareholders

- None a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS

NATURE OF INTEREST

PERCENTAGE OF INTEREST

- None b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS

TITLE

NATURE AND PERCENTAGE
OF STOCK OWNERSHIP

22 . Former partners, officers, directors and shareholders

- None a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL
------	---------	--------------------

- None b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION
------------------	-------	---------------------

23 . Withdrawals from a partnership or distributions by a corporation

- None If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
---	-----------------------------------	--

24. Tax Consolidation Group.

- None If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the **six-year period** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER
----------------------------	--------------------------------

25. Pension Funds.

- None If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the **six-year period** immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER
----------------------	--------------------------------

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date <u>January 26, 2004</u>	Signature <u>/s/ David G. DeLano</u> David G. DeLano Debtor
------------------------------	---

Date <u>January 26, 2004</u>	Signature <u>/s/ Mary Ann DeLano</u> Mary Ann DeLano Joint Debtor
------------------------------	---

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano

Debtor(s)

Case No. _____
Chapter 13

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept.....	\$	<u>1,350.00</u>
Prior to the filing of this statement I have received.....	\$	<u>1,350.00</u>
Balance Due.....	\$	<u>0.00</u>

2. The source of the compensation paid to me was:

Debtor Other (specify):

3. The source of compensation to be paid to me is:

Debtor Other (specify):

4. I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached.

5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
- Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
- Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
- [Other provisions as needed]

Negotiations with secured creditors to reduce to market value; exemption planning; preparation and filing of reaffirmation agreements and applications as needed; preparation and filing of motions pursuant to 11 USC 522(f)(2)(A) for avoidance of liens on household goods.

6. By agreement with the debtor(s), the above-disclosed fee does not include the following service:

Representation of the debtors in any dischargeability actions, judicial lien avoidances, relief from stay actions or any other adversary proceeding.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Dated: January 26, 2004

/s/ Christopher K. Werner, Esq.

Christopher K. Werner, Esq.
Boylan, Brown, Code, Vigdor & Wilson, LLP
2400 Chase Square
Rochester, NY 14604
585-232-5300

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano
Debtor(s)

Case No. _____
Chapter 13

VERIFICATION OF CREDITOR MATRIX

The above-named Debtors hereby verify that the attached list of creditors is true and correct to the best of their knowledge.

Date: January 26, 2004

/s/ David G. DeLano
David G. DeLano
Signature of Debtor

Date: January 26, 2004

/s/ Mary Ann DeLano
Mary Ann DeLano
Signature of Debtor

AT&T Universal
P.O. Box 8217
South Hackensack, NJ 07606-8217

Bank Of America
P.O. Box 53132
Phoenix, AZ 85072-3132

Bank One
Cardmember Services
P.O. Box 15153
Wilmington, DE 19886-5153

Capital One
P.O. Box 85147
Richmond, VA 23276

Capitol One Auto Finance
PO Box 93016
Long Beach, CA 90809-3016

Chase
P.O. Box 1010
Hicksville, NY 11802

Citi Cards
P.O. Box 8116
South Hackensack, NJ 07606-8116

Citi Cards
P.O. Box 8115
South Hackensack, NJ 07606-8115

Citibank USA
45 Congress Street
Salem, MA 01970

Discover Card
P.O. Box 15251
Wilmington, DE 19886-5251

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

Fleet Credit Card Service
P.O. Box 15368
Wilmington, DE 19886-5368

Genesee Regional Bank
3670 Mt Read Blvd
Rochester, NY 14616

HSBC MasterCard/Visa
HSBC Bank USA
Suite 0627
Buffalo, NY 14270-0627

MBNA America
P.O. Box 15137
Wilmington, DE 19886-5137

MBNA America
P.O. Box 15102
Wilmington, DE 19886-5102

Sears Card
Payment Center
P.O. Box 182149
Columbus, OH 43218-2149

Wells Fargo Financial
P.O. Box 98784
Las Vegas, NV 89193-8784

**United States Bankruptcy Court
Western District of New York**

In re David G. DeLano
Mary Ann DeLano

Debtor(s)

Case No. _____

Chapter 13

CHAPTER 13 PLAN

1. **Payments to the Trustee:** The future earnings or other future income of the Debtor is submitted to the supervision and control of the trustee. The Debtor (or the Debtor's employer) shall pay to the trustee the sum of \$1,940.00 per month for 5 months, then \$635.00 per month for 25 months, then \$960.00 per month for 6 months.
Total of plan payments: \$31,335.00
2. **Plan Length:** This plan is estimated to be for 36 months.
3. **Allowed claims against the Debtor shall be paid in accordance with the provisions of the Bankruptcy Code and this Plan.**
 - a. Secured creditors shall retain their mortgage, lien or security interest in collateral until the amount of their allowed secured claims have been fully paid or until the Debtor has been discharged. Upon payment of the amount allowed by the Court as a secured claim in the Plan, the secured creditors included in the Plan shall be deemed to have their full claims satisfied and shall terminate any mortgage, lien or security interest on the Debtor's property which was in existence at the time of the filing of the Plan, or the Court may order termination of such mortgage, lien or security interest.
 - b. Creditors who have co-signers, co-makers, or guarantors ("Co-Obligors") from whom they are enjoined from collection under 11 U.S.C. § 1301, and which are separately classified and shall file their claims, including all of the contractual interest which is due or will become due during the consummation of the Plan, and payment of the amount specified in the proof of claim to the creditor shall constitute full payment of the debt as to the Debtor and any Co-Obligor.
 - c. All priority creditors under 11 U.S.C. § 507 shall be paid in full in deferred cash payments.
4. **From the payments received under the plan, the trustee shall make disbursements as follows:**

- a. **Administrative Expenses**
 - (1) Trustee's Fee: 10.00%
 - (2) Attorney's Fee (unpaid portion): NONE
 - (3) Filing Fee (unpaid portion): NONE

- b. **Priority Claims under 11 U.S.C. § 507**

Name	Amount of Claim	Interest Rate (If specified)
-NONE-		

- c. **Secured Claims**

- (1) **Secured Debts Which Will Not Extend Beyond the Length of the Plan**

Name	Proposed Amount of Allowed Secured Claim	Monthly Payment (If fixed)	Interest Rate (If specified)
Capitol One Auto Finance	5,500.00	Prorata	6.00%

- (2) **Secured Debts Which Will Extend Beyond the Length of the Plan**

Name	Amount of Claim	Monthly Payment	Interest Rate (If specified)
-NONE-			

- d. **Unsecured Claims**

- (1) **Special Nonpriority Unsecured:** Debts which are co-signed or are non-dischargeable shall be paid in full (100%).

Name	Amount of Claim	Interest Rate (If specified)
-NONE-		

- (2) **General Nonpriority Unsecured:** Other unsecured debts shall be paid 22 cents on the dollar and paid pro rata, with no interest if the creditor has no Co-obligors, provided that where the amount or balance of any unsecured claim is less than \$10,00 it may be paid in full.

5. The Debtor proposes to cure defaults to the following creditors by means of monthly payments by the trustee:

Creditor	Amount of Default to be Cured	Interest Rate (If specified)
-NONE-		

6. The Debtor shall make regular payments directly to the following creditors:

Name	Amount of Claim	Monthly Payment	Interest Rate (If specified)
Genesee Regional Bank	77,084.49	0.00	0.00%

7. The employer on whom the Court will be requested to order payment withheld from earnings is:
NONE. Payments to be made directly by debtor without wage deduction.

8. The following executory contracts of the debtor are rejected:

Other Party	Description of Contract or Lease
-NONE-	

9. Property to Be Surrendered to Secured Creditor

Name	Amount of Claim	Description of Property
-NONE-		

10. The following liens shall be avoided pursuant to 11 U.S.C. § 522(f), or other applicable sections of the Bankruptcy Code:

Name	Amount of Claim	Description of Property
-NONE-		

11. Title to the Debtor's property shall revert in debtor on confirmation of a plan.

12. As used herein, the term "Debtor" shall include both debtors in a joint case.

13. Other Provisions:

Date January 26, 2004

Signature /s/ David G. DeLano
David G. DeLano
Debtor

Date January 26, 2004

Signature /s/ Mary Ann DeLano
Mary Ann DeLano
Joint Debtor

GEORGE M. REIBER

CHAPTER 13 TRUSTEE

SOUTH WINTON COURT

3138 SOUTH WINTON ROAD

ROCHESTER, NEW YORK 14623

GEORGE M. REIBER
JAMES W. WEIDMAN

585-427-7225
FAX 585-427-7804

April 20, 2004

Christopher Werner, Esq.
2400 Chase Square
Rochester, NY 14604

Dear Mr. Werner,

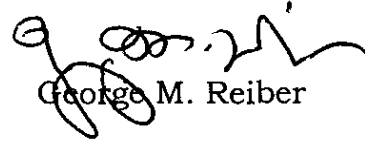
RE: David & Mary Ann DeLano; BK#04-20280

Because of the concerns which have been raised concerning the amount of credit card debt in this matter and Mr. DeLano's position as a loan officer with a bank, I am requesting that you obtain the following additional documents and information for review:

1. With respect to each of the credit cards which have a scheduled indebtedness of greater than \$5000, please provide the name, address, and phone number of a contact person who is able to answer requests for additional documentation. According to my count, this will constitute eight of the credit cards listed which have a total indebtedness of approximately \$75,000. Some of these creditors have already filed claims and therefore the proof of claim should provide you with a contact person.
2. For each of the credit cards indicated above, please provide me with copies of the monthly statements for the three years prior to the filing of the bankruptcy petition.
3. Please provide me with a credit bureau report issued by either Equifax, Transunion, or Experian.
4. Please provide me with copies of the last three years of income tax returns.
5. Please provide me with all documentation pertaining to the loan made to the DeLano's son.

Please advise me as soon as possible the time frame within which your clients will be able to obtain this information.

Very truly yours,



George M. Reiber

Gmr/vr

Xc:

Kathleen Dunivin Schmitt, Esq.
Dr. Richard Cordero

GEORGE M. REIBER
CHAPTER 13 TRUSTEE
SOUTH WINTON COURT
3136 SOUTH WINTON ROAD
ROCHESTER, NEW YORK 14623

GEORGE M. REIBER
JAMES W. WEICMAN

585-427-7225
FAX 585-427-7804

May 18, 2004

Christopher Werner, Esq.
2400 Chase Square
Rochester, NY 14604

Dear Chris,

RE: David & Mary Ann Delano; BK#04-20280

Please advise me as to the progress that you and your clients have made on obtaining the documents which I requested in my prior letter to you dated April 20, 2004.

Thank you for your anticipated cooperation and consideration.

Very truly yours,

/s/ 
George M. Reiber

Gmr/vr

Xc:

Kathleen Dunivin Schmitt, Esq.
U.S. Bankruptcy Court
Dr. Richard Cordero

Table of All Memoranda and Orders
of
The Judicial Conference of the United States
Committee to Review Circuit Council Conduct and Disability Orders
sent to Dr. Cordero from the General Counsel's Office of the Administrative Office of the
U.S. Courts and showing how few §351 complaints are allowed to reach the Judicial Conference
as petitions for review of judicial council action

	In re Complaint of	Docket no.	Status	Circuit Council	
1.	George Arshal	82-372-001	Incomplete after p.3	Court of Claims	
2.	Gail Spilman	82-372-002		6th	
3.	Thomas C. Murphy	82-372-003		2nd	
4.	Andrew Sulner	82-372-004		2nd	
5.			Missing?		
6.	John A. Course	82-372-006		7th	
7.	Avabelle Baskett, et al.	83-372-001		Court of Claims	
8.	of bankruptcy judge	84-372-001		9th	
9.	Fred W. Phelps, Sr. et al. v. Hon. Patrick F. Kelly	87-372-001		10th	
10	Petition No. 88-372-001	88-372-001		not stated	
11	Donald Gene Henthorn v. Judge Vela and Magistrate Judges Mallet and Garza	92-372-001		5th	
12	In re: Complaints of Judicial Misconduct	93-372-001		10th	
13	In re: Complaints of Judicial Misconduct	94-372-001		D.C. Ct. of Appeals	
14	In re: Complaints of Judicial Misconduct	95-372-001		9th	
15	In re: Complaints of Judicial Misconduct or Disability [Dist. Judge John H. McBryde]	98-372-001		5th	
16	In re: Complaint of Judicial Misconduct	01-372-001	Incomplete after p.3	D.C. Ct. of Appeals	
17	Agenda E-17, Conduct and Disability; March 2003: no petitions for review pending; Committee "is monitoring the status of Spargo v. NYS Comms. on Judicial Conduct, 244 F.Supp.2d 72(NDNY 2003)		p. 2 is missing or p. 1 and 3 are mismatched		
18	Agenda E-17, Conduct and Disability; September 2003: no petitions for review pending; the Committee "has continued to monitor congressional activity in the area of judicial conduct an disability", p.35				
19	Agenda E-17, Conduct and Disability; March 2004: no petitions for review for received or pending				

**REPORT OF THE JUDICIAL CONFERENCE COMMITTEE TO REVIEW
CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES:**

The Committee to Review Circuit Council Conduct and Disability Orders last met on August 30-31, 2001. Since that meeting the Committee has communicated by mail and telephone.

PETITIONS FOR REVIEW

The Committee has not received any petitions for review of judicial council action taken under 28 U.S.C. § 354 since the Committee's last report to the Judicial Conference. Nor are there any petitions for review pending from before that time.

Respectfully submitted,



William J. Bauer, Chairman
Pasco M. Bowman
Carolyn R. Dimmick
Barefoot Sanders
Stephanie K. Seymour

NOTICE

**NO RECOMMENDATION PRESENTED HEREIN REPRESENTS THE POLICY OF THE JUDICIAL
CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.**

**REPORT OF THE PROCEEDINGS
OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES**

*SEPTEMBER 23, 2003
WASHINGTON, D.C.*

*JUDICIAL CONFERENCE OF THE UNITED STATES
CHIEF JUSTICE WILLIAM H. REHNQUIST,
PRESIDING
LEONIDAS RALPH MECHAM, SECRETARY*

ACCELERATED FUNDING

On recommendation of the Committee, the Judicial Conference agreed to designate for accelerated funding in fiscal year 2004 the new full-time magistrate judge positions at Brooklyn, New York; Central Islip, New York; Chattanooga, Tennessee; and Baltimore or Greenbelt, Maryland.

COMMITTEE ACTIVITIES

The Committee on the Administration of the Magistrate Judges System reported that it decided to defer, but not withdraw, its position that service as an arbitrator or mediator by retired magistrate judges and bankruptcy judges should not be considered the practice of law under the Regulations of the Director Implementing the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act. The Committee also discussed possible additional criteria for the creation of new full-time magistrate judge positions and decided that the current Judicial Conference criteria are comprehensive and that the Committee's detailed review of each request ensures that only justified requests are approved. Further, the Committee considered an item on law clerk assistance for Social Security appeals that was also considered by the Court Administration and Case Management and Judicial Resources Committees, and requested that detailed materials be prepared on this subject for these committees' December 2003 meetings.

COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS

COMMITTEE ACTIVITIES

The Committee to Review Circuit Council Conduct and Disability Orders reported that, in the absence of any petition before it for review of judicial council action under the Judicial Conduct and Disability Act, it has continued to monitor congressional activity in the area of judicial conduct and disability.

**REPORT OF THE JUDICIAL CONFERENCE COMMITTEE TO REVIEW
CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

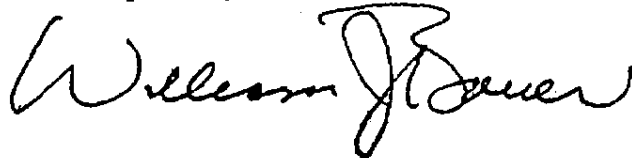
**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
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PETITIONS FOR REVIEW

The Committee has not received any petitions for review of judicial council action taken under 28 U.S.C. § 354 since the Committee's last report to the Judicial Conference. Nor are there any petitions for review pending from before that time.

Respectfully submitted,



William J. Bauer, Chairman
Pasco M. Bowman
Carolyn R. Dimmick
Barefoot Sanders
Stephanie K. Seymour

NOTICE

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CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.**

**REPORT OF THE JUDICIAL CONFERENCE COMMITTEE TO REVIEW
CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS**

**TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES:**

The Committee to Review Circuit Council Conduct and Disability Orders last met on August 30-31, 2001. Since that meeting the Committee has communicated by mail and telephone.

AMENDMENTS TO THE JUDICIAL CONDUCT AND DISABILITY ACT

The 21st Century Department of Justice Appropriations Authorization Act, Division C, Title I, Subtitle C, §§ 11041-43 (Pub. L. No. 107-273, 11/2/02), amended the Judicial Conduct and Disability Act, the former 28 U.S.C. § 372(c), in several minor respects. For the most part the provisions of that Act have been preserved verbatim.

The statute makes essentially four changes in the provisions of the Judicial Conduct and Disability Act:

1. As a matter of form, the statute recodifies section 372(c) as sections 351 through 364 of title 28.

NOTICE

**NO RECOMMENDATION PRESENTED HEREIN REPRESENTS THE POLICY OF THE JUDICIAL
CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.**

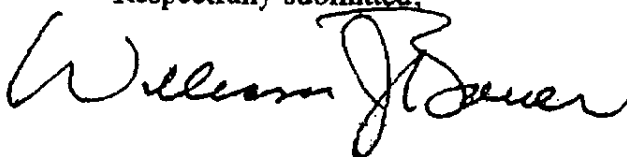
and Disability Act, 28 U.S.C. § 372(c)(6)(B), because of the judge's "intemperate, abusive and intimidating treatment of lawyers, fellow judges, and others." The sanctions consisted of (1) a public reprimand, (2) a one-year suspension from new case assignments, and (3) a three-year suspension from hearing cases in which certain listed attorneys appeared. The court of appeals had affirmed the district court's dismissal of the district judge's challenges to the public reprimand, and had ruled that the district judge's challenges to the one-year and three-year suspensions should have been dismissed as moot.

The denial of certiorari by the Supreme Court would appear to finally put an end to this long-running litigation.

PETITIONS FOR REVIEW

The Committee has not received any petitions for review of judicial council action taken under 28 U.S.C. § 354 (section 372(c)(6)) since the Committee's last report to the Judicial Conference. Nor are there any petitions for review pending from before that time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William J. Bauer". The signature is fluid and cursive, with a large initial "W" and "J".

William J. Bauer, Chairman
Pasco M. Bowman
Carolyn R. Dimmick
Barefoot Sanders
Stephanie K. Seymour

**CONTACT INFORMATION
USEFUL TO INVESTIGATE THIS MATTER**

The Hon. John M. **Walker**, Jr.
Chief **Judge**
Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square, Room 1802
New York, NY 10007
tel. (212) 857-8500

Hon. Judge John C. **Ninfo**, II
Bankruptcy **Judge**
United States Bankruptcy Court
1400 United States Courthouse
100 State Street
Rochester, NY 14614
tel. (585) 613-4200

Hon. David **Larimer**
U.S. District **Judge**
United States District Court
2120 U.S. Courthouse
100 State Street
Rochester, NY 14614-1387
tel. (585) 263-6263

Ms. Deirdre A. **Martini**
U.S. **Trustee** for Region 2
Office of the United States Trustee
55 Whitehall Street, 21st Floor
New York, NY 10004
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TABLE OF MEDIA PROFESSIONALS

to whom to send this matter for investigation failing one
by the Judiciary Committee of the United States Senate

(several among these professionals will surely pick up and follow the leads)

	State of member	Reporter First	Reporter Last	Title	Media	Address	City	State	Zip Code	Phone	Internet
1.	ABC	Peter	Jennings	Anchor	ABC World News Tonight	7 West 66th Street	NY	NY	10023		www.abcnews.go.com
2.		Barbara	Walters	Anchor and Correspondent	ABC 20/20	7 West 66th Street	NY	NY	10023		www.abcnews.go.com
3.		Terry	Moran	White House Correspondent	ABC News	1717 DeSales Street NW	Washington	D.C.	20036		
4.		Sarah	Wallace	Chief Investigative Correspondent	ABC The Investigators	7 Lincoln Square	NY	NY	10023	(877).847-6397	www.7online.com
5.		Charles Diane	Gibson Sawyer	Co-Anchors	ABC News, Good Morning America	7 West 66th Street	NY	NY	10023		
6.		Ted	Koppel	Anchor	ABC News Nightline	7 West 66th Street	NY	NY	10023		
7.		George	Stephanopoulos	Anchor	ABC News	7 West 66th Street	NY	NY	10023		
8.	CBS	Dan	Rather	Anchor	CBS	524 West 57th Street	New York	N.Y.	10019		cbsnews.cbs.com
9.		Bob	Schieffer	Anchor/Moderator	CBS Face the Nation	524 West 57th Street	New York	N.Y.	10019		
10.		Lesley	Stahl	Anchor	CBS 48 Hours	524 West 57th Street	New York	N.Y.	10019	(212) 975-3247	
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12.		Peter	Van Sant		CBS 48 Hours	524 West 57th Street	New York	N.Y.	10019		
13.		Susan	Zirinsky	Executive Producer	CBS 48 Hours	524 West 57th Street	New York	N.Y.	10019		
14.		Mike	Wallace	Co-Editor	CBS 60 Minutes	524 West 57th Street	New York	N.Y.	10019	(212) 975-3247	
15.		Steve	Kroft	Co-Editor/ Investigative Reporter	CBS 60 Minutes	524 West 57th Street	New York	N.Y.	10019		
16.		Josh	Howard	Executive Producer	CBS 60 Minutes II	524 West 57th Street	New York	N.Y.	10019	(212) 975-6200	
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20.		Eason	Jordan	Chief News Executive	CNN	P.O. Box 105366 One CNN Center	Atlanta	GA	30348		
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23.	C-SPAN			The News Editor	C-SPAN	400 North Capitol St. NW, Suite 650	Washington	D.C.	20001		http://www.c-span.org
24.	NBC	Tom	Brokaw	Anchor	NBC News	30 Rockefeller Plaza	New York	N.Y.	10112		www.msnbc.com
25.		Lisa	Myers	Senior investigative correspondent	NBC News	30 Rockefeller Plaza	New York	N.Y.	10112		
26.		Stone	Phillips	Anchor	NBC Dateline	30 Rockefeller Plaza	New York	N.Y.	10112		
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31.		Tim	Russert	Bureau Chief/Moderator	NBC	4001 Nebraska Avenue NW	Washington	D.C.	20016		
32.	MSNBC and CNB			The Chief Investigator	MSNBC and CNBC	2200 Fletcher Ave.	Ft. Lee	NJ	07024		http://www.cbc.com
33.	FOX	Chris	Wallace	Anchor	Fox News	1211 Avenue of the Americas	New York	N.Y.	10036		http://www.foxnews.com
34.				The Bureau Chief	Fox News	400 North Capitol St. NW, Suite 550	Washington	D.C.	20001		
35.	PBS	Jim	Lehrer		NewsHour with Jim Lehrer	WETA-TV 3620 South 27th St.	Arlington	VA	22206		www.pbs.org/newshour/
36.		John F.	Wilson	SVP & Co-Chief Program Executive	PBS	1320 Braddock Place	Alexandria	VA	22314		http://www.pbs.org
37.	UPN 23 WNLO-TV	Chris	Musial	News Director	WNLO-, WIVB-TV	2077 Elmwood Avenue	Buffalo	NY	14207	(716) 874-4410; (800) 794-3687	www.WNLO.com
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40.		David	Broder	National Political Correspondent	The Washington Post	1150 15th Street NW	Washington	D.C.	20071		
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134.		Fred	Mott	Publisher	The State	P.O. Box 1333	Colum bia	SC	29202	(800) 888- 3566	www.thestate.com

135.	Tennessee	Chris Peck	Editor	The Commercial Appeal	495 Union Ave.	Memp his	TN	38103	(800) 444-6397;(901) 529-2390	www.commercialappeal.com
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141.		Wesley R. Turner	President/Publisher	Fort Worth Star-Telegram	400 West 7th	Fort Worth	TX	76102	(817) 390-7454	http://www.dfw.com/ml/dfw/
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