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July 8, 2004

Ms. Roseann B. MacKechnie  
Clerk of Court of U.S. Court of Appeals for the Second Circuit  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 1802  
New York, NY 10007

Dear Ms. MacKechnie,

I hereby petition the Judicial Council for review of the Chief Judge’s order of June 8, 2004, dismissing my judicial misconduct complaint, docket no. 03-8547 (hereinafter the Complaint).

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- I. The Chief Judge violated his obligation with respect to this complaint in several substantive aspects so as to warrant the appointment by the Judicial Council of a special committee**
- A. The Chief Judge violated his obligation to act promptly and expeditiously**
1. The obligation to handle judicial misconduct complaints “promptly” and “expeditiously” permeates the provisions adopted by Congress at 28 U.S.C. §351 et seq. and those adopted

thereunder by this Judicial Council in its Rules Governing Complaints Against Judicial Officers (collectively hereinafter the Complaint Provisions). To begin with, one of the grounds for the complaint is that “a judge has engaged in conduct prejudicial to the effective and **expeditious** administration of the business of the courts”; §351(a), (emphasis added); cf. Preface to the Rules.

2. That obligation was violated by the Chief Judge, the Hon. John M. Walker, Jr., before he even received the Complaint. Indeed, he set up or allowed the continued operation of a procedure that bottlenecks all complaints through one single clerk; (page 3, *infra*). This has the reasonable consequence –from which intention can be inferred- of making the clerk, who may be on vacation, sick, or too busy, liable to fail to comply with the obligation under §351(c) that “...the clerk shall promptly transmit the complaint to the chief judge”; cf. Rule 3(a)(1). In fact, the clerk failed so to comply not only in this precise instance, but also in the subsequent complaint of March 19, 2004, about the Chief Judge himself, docket no. 04-8510; (22, *infra*).
3. Once the complaint is transmitted, even its thorough, conscientious review has to be expeditious. This obligation is laid on the chief judge by Congress, which provided thus:

**§352(a) Expeditious review; limited inquiry.**–The chief judge shall expeditiously review any complaint received under section 351(a)...

4. A complaint can be reviewed “expeditiously” because the law specifically provides that:

§352(a)...The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute. (cf. Rule 4(b))

5. The Complaint was filed on August 11, 2003. No special committee was appointed. Moreover, there are facts from which it can reasonably be deduced that as of March 8, 2004, the Chief Judge had not even contacted the complained-about judge, the Hon. John C. Ninfo, II, Bankruptcy Judge in Rochester, WBNY; (22-24, *infra*). This deduction finds support in the fact that the dismissal order is predicated only on the content of the Complaint itself and in nothing other than “A review of the docket sheet in this case”, such as the one accompanying the Complaint and, thus, readily available. The fact that the Chief Judge refused even to take possession of a letter of February 2, inquiring about the status of the Complaint, (76, *infra*), also allows the explanation that he had made no inquiries even six months after submission and, consequently, had nothing to reply and no better way to avoid admitting to it than to send the letter back immediately on February 4, 2004, (78, *infra*).
6. The Complaint was dismissed on June 8, 2004, in three double-spaced pages and three lines. This means that to perform the “**Expeditious review**” that §352(a) requires of the chief judge, Chief Judge Walker unreasonably took **10 months!** It cannot reasonably be pretended that such a no-inquiry, quick-job, pro-forma dismissal required 10 months.
7. Consequently, Chief Judge Walker’s violation of his promptness obligation casts doubt on his commitment to complying with his other obligations under the Complaint Provisions, such as those laying out the criteria applicable to dismiss or to appoint a special committee.

### **B. The Chief Judge violated his obligation to dispose of the Complaint and write a reasoned order himself**

8. The fact is that Chief Judge Walker did not comply with his obligation under the Complaint Provisions to dispose of the complaint by deciding for one of the only options for action available to him. It was the Hon. Dennis Jacobs, Circuit Judge, who did so. The importance of

this fact lies, on the one hand, in his lack of legal authority to delegate an obligation that the Complaint Provisions unambiguously impose on the chief judge and, on the other hand, the Chief Judge's motive for not complying given the benefit that he derives therefrom.

### 1. Chief Judge Walker lacked authority to delegate his disposition obligation

9. Section 351 provides that '(a) a complaint is filed with the clerk of the court of appeals, who '(c) promptly transmits it to the chief judge of the circuit.' Only when the chief judge is the one complained about, is the clerk required to transmit it to someone else, namely, the next eligible chief judge. Rule 40c)-(f) requires the chief judge to take the subsequent action, as do:

§352(a)...After expeditiously reviewing a complaint under subsection (a), **the chief judge**, by written order stating **his** or her **reasons**, may-

(1) dismiss the complaint-

(A) if **the chief judge** finds the complaint to be-...

(2) conclude the proceeding if the **chief judge** finds that...

§353. Special committees

(a) Appointment.-If **the chief judge** does not enter an order under section 352(b), **the chief judge** shall promptly-

(1) appoint...a special committee to investigate...(emphasis added)

10. Congress did not provide for the chief judge to designate another person to make a decision and write it down in a reasoned order. By contrast, when Congress did want to authorize the chief judge to proceed by delegation, it clearly provided therefor. So in §352(a) it allowed that "The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge...or any other person who may have knowledge of the matter...".
11. Likewise, Rule 4(b) provides that "In determining what action to take, the chief judge, with such assistance as may be appropriate, may conduct a limited inquiry...". But the Rule makes no provision for the chief judge to receive any other assistance by delegating his disposition obligation. Hence, subsection (c) allows a complaint to be dismissed only "if **the chief judge** concludes" that one of the dismissal criteria is applicable. For its part, subsection (f) lays squarely on the chief judge alone the obligation to take the following step:

Rule 4(f)(1) If the complaint is dismissed...**the chief judge** will prepare a supporting memorandum that sets forth the allegations of the complaint and the reasons for the disposition. (emphasis added)

12. There is no other provision for the chief judge informally, without any order or explanation whatsoever, to have somebody else write the chief judge's reasons, let alone for that other person to dispose of the complaint as he or she sees fit and write his or her own reasons. This is a court of law. Procedural events occur according to law or rule. They do not take the place of legally provided events just because the judges feel like it. Brethren they may be, but pals in a fraternity covering for each other they are not.

### 2. The Chief Judge had a self-serving motive for not complying with his disposition obligation

13. In any activity that depends on trust in some people for the acceptance of their actions by others,

it is not enough to do the right thing, but one must also be seen doing the right thing. It was Judge Jacobs, as “acting chief judge”, who dismissed the Complaint and wrote the memorandum. Under what circumstances this occurred is important to know. For one thing, it was Chief Judge Walker who has the legal obligation with no delegating authority to decide its disposition and write his reasons therefor. In addition, his obligation was strengthened by a special circumstance, namely, that a second complaint, one about him, was submitted to Judge Jacob by Dr. Cordero on March 19, 2004, docket no. 04-8510 (22, *infra*). Hence, who disposed of the Complaint, the one about Judge Ninfo, has serious implications for future decisions and events concerning the complaint about Chief Judge Walker himself.

14. Indeed, if the Chief Judge came under investigation upon the complaint about him, he would be subject to important restrictions, namely:

§359 Restrictions

(a) **Restriction on individuals who are subject of investigation.**-No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

15. If the Chief Judge were investigated, these restrictions would apply to him for a long time, even years. This is particularly so in light of the Chief Judge’s implied interpretation of his statutory and regulatory obligation to act “promptly” and “expeditiously” as allowing him to take ten months just to dismiss the complaint, without even communicating with anybody, let alone appointing a special committee. By the same token, those with the obligation to act “expeditiously” with regard to the complaint about him could take just as long. Among those with such obligations are these:

- a) the special committee, which has the obligation to “expeditiously file a comprehensive written report”; §353(c);
- b) the judicial council, which has the obligation to “take such action as is appropriate to assure the effective and expeditious administration of the business of the courts”, §354(a)(1)(C); “shall immediately provide written notice to...the judge” complained about; (a)(4); and “shall promptly certify such determination [e.g. of an impeachable offense by the judge complained about]...to the Judicial Conference”; (b)(2)(B); and
- c) the Judicial Conference, which simply acts “as it considers appropriate”, §355(a), and that could take years!, for it has no direct obligation to act with promptness other than that flowing indirectly from §354(a)(1)(C).

16. No doubt, if these bodies acted as ‘promptly’ as Chief Judge Walker did, §359 restrictions could substantially limit him in his official role as chief judge for the remainder of his current term as such. That must safely be assumed to raise the most unwelcome prospect of a constant source of embarrassment, to put it mildly.

17. However, the Chief Judge’s problem in avoiding an investigation is that the Complaint about Judge Ninfo and the complaint about him are related. It is reasonable to supposed that if Judge Ninfo were investigated and the special committee determined that Judge Ninfo had, as charged, engaged with other court officers in a pattern of non-coincidental, intentional, and coordinated disregard of the law, rules, and facts, then it would inevitably be asked why Chief Judge Walker

too disregarded for at least 10 months the law imposing on him the promptness obligation, thereby allowing the continuation of ‘a prejudice “to the administration of the business of the courts”’ so grave as to undermine the integrity of the judicial system in his circuit. That question would raise many others, such as what he should have known, as the foremost judicial officer in this circuit; when he should have known it; and how many of the overwhelming majority of complaints, equally dismissed without any investigation, would have led a prudent and impartial person to investigate them. Questions like these could spin the investigation out of control quite easily.

18. Therefore, if the Complaint about Judge Ninfo could be dismissed, then the related complaint about the Chief Judge could more easily be dismissed, thus eliminating the risk of his being investigated. What is more, if the Complaint could somehow be dismissed by somebody other than him, the inference could be prevented that he had done so out of his own interest in having the complaint about him dismissed too.
19. It so happens that after the obligation to act “promptly” and “expeditiously” was disregarded for 10 months and despite the lack of any delegating authority, that less risky situation has set in through the dismissal by Judge Jacobs of the Complaint. Whether what appears to have happened is what actually happened is a matter to be determined by the Judicial Council through the appointment of a special committee. But that appearance reasonably arises from the totality of circumstances.
20. Moreover, the appearance of a self-serving motive for the action taken is supported by the axiom that neither a person nor the persons in an institution can investigate themselves impartially, objectively, and zealously. Much less can they do so reliably since their loyalties and their short and long term self-interests in the context of office politics will induce or even force them to close ranks against an ‘attack’ from an outsider. Only independent investigators whose careers cannot be affected one way or another by those investigated or their friendly peers can be expected to conduct a reliable investigation.

### **C. The Chief Judge violated his obligation to make misconduct orders “publicly available”**

21. Rule 17(a) provides that:

A docket-sheet record of orders of the chief judge and the judicial council and the texts of any memoranda supporting such orders and any dissenting opinions or separate statements by members of the judicial council will be made available to the public when final...

22. However, Chief Judge Walker violated this provision too. Thus, Dr. Cordero received the order of dismissal on Saturday, June 12, and went to the Courthouse on June 16, to request Rule 17(a) records. But they were not made available to him. Instead, the matter was referred to Mr. Fernando Galindo, Chief Deputy of the Clerk of Court, who referred it to Clerk of Court Roseann MacKechnie, who, according to Mr. Galindo, referred it to Chief Judge Walker. Dr. Cordero wrote a letter to the Chief Judge on June 19 to make him aware that he was invoking his right to access those records; that the Chief Judge had an obligation to make them available; and that time was of the essence because of the deadline of July 9 for submitting this petition for review (28, *infra*). Yet, the letter was never answered. Dr. Cordero called Mr. Galindo and left messages for him. Only on June 29 did Mr. Galindo call back Dr. Cordero to tell him that the orders would be made available to him the next day, June 30, fully two weeks after his initial request.

23. When on the 30<sup>th</sup> Dr. Cordero requested those records at the Courthouse In-take Room, imagine his bafflement when he was told for the first time that only the orders of 2002, 2003, and 2004 were available! He asked to speak with Chief Deputy Galindo, who then told him that the orders for all the previous years were in the archive. Where!? In the archive, but neither in the basement of the Courthouse, nor in an annex, nor in another building in the City of New York, nor in the State of New York, nor elsewhere in the Second Circuit, no: In the National Archives in Missouri! Moreover, to consult them, Dr. Cordero would have to make a written request, pay \$45, and wait at least 10 days for them to arrive. Dr. Cordero asked for at least the docket sheet of those records, but Mr. Galindo told him that there was none. Neither the records nor the truth about them was made available to him timely or completely.
24. Dr. Cordero felt cheated! How would you have felt? If you had written that day, June 30, to the Chief Judge protesting such piecemeal and substantially incomplete disclosure of what you were entitled to and which was made only because you kept insisting, whereby you were made to waste half the time allowed for you to exercise your right to appeal (29, *infra*), but the letter was never answered, would you trust that the Chief Judge cared about even appearing to comply with his obligations under the Complaint Provisions? Would his non-compliance with his obligation to make those orders available cause you to distrust that he had complied with those Provisions when dismissing your complaint?
25. Consider this. The next day Dr. Cordero checked out a binder of orders from Mrs. Harris, the Head of the In-take Room, and stepped into the adjoining reading room. He sat and read for some time the... ‘There is no sleeping in the reading room’, a clerk told him. It appears that Dr. Cordero was nodding. He went on reading for several hours and taking notes in his... ‘You are sleeping and there is no sleeping in the reading room’. This time it was Mrs. Harris, the Head In-taker. He told her that he had not gone there to sleep, but rather must have fallen asleep. She replied ‘You have already been warned and if you fall asleep again, I will call the marshals.’
26. The marshals!, those security officers in charge of preventing criminals and terrorists from smuggling into the Courthouse guns and bombs to kill and maim federal employees and visitors. Mrs. Harris would call them away from manning the metal detectors in the lobby to catch Dr. Cordero as he threatened everybody in the reading and In-take rooms with nodding! Can you assure yourself, let alone others, that you will not nod again while reading for hours in a noisy room? (33, *infra*) How would you feel if you, a professional and self-respecting person, were taken away in public by the marshals?
27. Was Mrs. Harris acting on her own initiative or as an agent in a Courthouse where... madhouse, the nurse! The infamous head nurse in “One Flew over the Cuckoos’ Nest”! Did she need specific instructions to apply minute rules so insensitively to mentally ill inmates or was she the product of an institution, imitating top managers that had no respect for the obligations of their profession, psychiatry, and disregarded the rights of the inmates -particularly the one faking mental illness- whose requests they repressed with electroshocks to their brains to quash any sense of self-assertion in their minds? Here, in the lawhouse -the law of trickle down unlawfulness (36, *infra*) and of power unchecked is power abused- the Head In-taker will call in the marshals to straitjacket a reader dangerously nodding everybody around, while Chief Warden electrocutes his obligation to keep misconduct orders publicly available and sends the body of those orders to the padded room of archival preservation in Missouri. How dangerous is that body?
28. Very. The table of the few orders left behind in the Courthouse and read by Dr. Cordero shows (57, *infra*) that all complaints were dismissed in reasoned orders written by Chief Judge Walker.

For its part, the Judicial Council, without any supporting memoranda, dismissed all the petitions for review. No wonder that body of orders is considered to be so dangerous as to need to be put far away in an archive, for it kicks and screams loud and clear an indictment, not of the complainants for each of them without exception submitting allegedly meritless or “frivolous” complaints, but rather of the judges for dismissing out of hand with no investigation by any special committee all misconduct complaints and review petitions.

29. Such systematic dismissal explains a most extraordinary phenomenon that defies statistical probabilities: While the 2003 Report of the Administrative Office of the U.S. Courts highlights that another record was set with federal appeals filings that grew 6% to 60,847, and civil filings in the U.S. district courts of 252,962, (66, *infra*), the three consecutive reports of the Judicial Conference for March 2004, and September and March 2003, (60, *infra*), astonishingly indicate that, as the latter put it:

The Committee [to Review Circuit Council Conduct and Disability Orders] 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. (65; cf. 59, *infra*)

30. This is incredible! No, no that complainants lose the will to appeal to the Judicial Conference once their complaints have been dismissed by the judicial councils. In a society as litigious as ours that is a cultural impossibility. Rather, what is incredible is that the judicial councils would abuse so blatantly their discretion under §352(c) to deny all petitions for review of chief judges’ orders, thereby barring their way to the Judicial Conference; (cf. Rule 8(f)(2)). One can justifiably imagine how each circuit makes it a point of honor not to disavow their respective chief judge and certainly never refer up their dirty laundry to be washed in the Judicial Conference. It is as if the courts of appeals had the power to prevent each and every case from reaching the Supreme Court and abused it systematically. In that event, instead of reporting 8,255 filings in the 2002 Term –an increase of 4% from the 7,924 in the 2001 Term (66, *infra*)-the Supreme Court would be caused to report 0 filings in a term! Somebody would notice! Sooner or later the Justices too would realize that such appeals system was what the current operation of the judicial misconduct complaints procedure is: a sham!
31. And somebody has noticed: None other than Supreme Court Chief Justice William Rehnquist, who has appointed Justice Stephen Breyer to head the Judicial Conduct and Disability Act Study Committee (67, *infra*). Congress too has taken notice. The Chairman of the House of Representatives Committee on the Judiciary, F. James Sensenbrenner, Jr., welcomed the appointment of Justice Breyer and recognized the need for the study saying that “Since [the 1980s], however, this process has not worked as well, with some complaints being dismissed out of hand by the judicial branch without any investigation.” (69, *infra*)
32. Such perfunctory dismissals have compromised, as Justice Breyer’s Committee put it in its news release after its first meeting last June 10, “The public’s confidence in the integrity of the judicial branch [which] depends not only upon the Constitution’s assurance of judicial independence [but] also depends upon the public’s understanding that effective complaint procedures, and remedies, are available in instances of misconduct or disability”; (67, *infra*). If the Justice and his colleagues put an effective complaint procedure at a par with the judiciary’s constitutionally ensured independence, why then have chief judges and judicial councils treated complaints with so much contempt? Are they dispensing protection to each other in their peer system at the

expense of those for whose benefit they took an oath to dispense justice?

**II. The dismissal of the Complaint was so “out of hand” that it did not even recognize the two issues presented or how an unbiased understanding of the adduced circumstantial evidence required it to be considered within the scope of the Complaint Provisions and in need of investigation by a special committee**

33. Given that the ‘out of hand dismissal of complaints without any investigation’ has been recognized as a problem that warrants action by officers at the top of the judicial branch, there is little justification for putting any stock on the allegations for dismissing the Complaint. This is all the more so because the Chief Judge has openly and repeatedly violated unambiguous obligations under the Complaint Provisions, including his own circuit’s Rules, and has a personal interest in the related complaint about him not being investigated, which would trigger embarrassing and long lasting restrictions on his official role. From him a reasonable person would not expect strict and impartial application of the criteria for handling the Complaint.
34. The same negative expectation is elicited by Judge Jacobs, who dismissed the Complaint 10 months after it was submitted on August 11, 2003, and has disregarded his obligation to handle “promptly” and “expeditiously” the complaint of March 19, 2004, about his peer, the Chief Judge; (22, *infra*). Hence, how could one dignify his “Disposition” by discussing it at length as if he had even attempted to apply legal reasoning to examine the facts presented? Instead, he repeats the sweeping and conclusory statements found in the other dismissals, such as:
- [a] Complainant has failed to provide evidence of any conduct “prejudicial to the effective and expeditious administration of the business of the courts.”
  - [b] his statements...amount to a challenge to the merits of a decision or a procedural ruling. [This is a particularly inane dismissal cop-out because when complaining about the conduct of judges as such, their misconduct is most likely to be related to and find its way into their decisions. The insightful question to ask is in what way the judge’s misconduct biased his judgment and colored his decision.]
  - [c] his allegations of bias and prejudice are unsupported and therefore rejected as frivolous. [Brilliantly concise legal definition and careful application to the facts of the lazy catch-all term ‘frivolous’!]
  - [d] Finally, to the extent that the complaint relies on the conduct or inaction of the trustee, the court reporter, the Clerk, the Case Administrator, or court officers, it is rejected. The Act applies only to judges...
35. That last statement is much more interesting because it reveals that Judge Jacobs did not even know what the issues presented were, namely (75, *infra*):

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.

36. Judge Jacobs failed to recognize the abstract notion of motive and how it could lead Judge Ninfo to take decisions that only apparently had anything to do with legal merits. What is less, he did not even detect, let alone refer to, the concrete and expressly used term “pattern”. Had he detected it, he could have understood how acts by non-judges, and thus not normally covered by the Complaint Provisions, could form part of unlawful activity coordinated by a judge, which would definitely constitute misconduct, to put it mildly. But he remained at the superficial level of considering each individual act in isolation and dismissing them singly. How can the dots be connected to detect any pattern of conduct supportive of reasonable suspicion of wrongdoing if the dots are not even plotted on a chart so that they can be looked at collectively?
37. Circumstantial evidence is so indisputably admitted in our legal system that cases built on it can cause a person to lose his property, his freedom, and even his life. Such cases look at the totality of circumstances. The Complaint describes those circumstances as a whole. It is supported by a separate volume of documentary evidence consisting of more than 500 pages –referred to as A-#, which were discussed in greater detail in another separate 54 page memorandum that laid out the facts and showed how they formed a pattern of activity. This memorandum is referred to as E-# in the 5-page Complaint, which is only its summary; (71-75, *infra*). Just the heft of such evidence and its carefully intertwined presentation would induce an unbiased person –one with no agenda other than to insure the integrity of the courts and to grant a meaningful hearing to the complainant- to entertain the idea that the Complaint might be a thoughtful piece of work with substance to it. Judge Jacobs not only failed to make reference to that material, but he did not even acknowledge its existence. Is it reasonable to assume that he did not waste time browsing it if he only intended to write a quick job, pro-forma dismissal?
38. The totality of circumstances presented in the Complaint is sufficient to raise reasonable suspicion of wrongdoing. There is no requirement that the complainant, who is a private citizen, not a private investigator, build an airtight criminal case ready for submission by the district attorney to the judge for trial. That is the work that a special committee would begin to do upon its appointment by a chief judge or a judicial council concerned by even the appearance of wrongdoing that undermines public confidence in their circuit’s judicial system. Unlike the complainant, such committee can conduct a deeper and more extensive investigation because it has the necessary subpoena power. An even more effective investigation can be mounted in cooperation with the FBI through a simultaneous referral to it. Indeed, the FBI has in addition the required expert manpower and resources to interview and depose large numbers of persons anywhere they may be and cross-relate their statements; engage in forensic accounting and trace bankruptcy debtors’ assets from where they were to wherever they may have ended up; and flush out and pursue evidence of official corruption. What motives could Chief Judge Walker and Judge Jacobs have had to fail to take these elementary prudent steps given the stakes?
39. Had they appointed a special committee, it would have found at least the following:
  - a) The Chapter 7 trustee referred to Judge Ninfo by Dr. Cordero for a review of his performance and fitness to serve has, according to Pacer<sup>1</sup>, 3,383 *cases*! No wonder he had no

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<sup>1</sup> Public Access to Court Electronic Records; [ecf.nywb.uscourts.gov](http://ecf.nywb.uscourts.gov); or <https://pacer.psc.uscourts.gov>.

time to find out that Dr. Cordero's property was covered by an income producing contract that was an asset of the estate. Did Judge Ninfo know about this but dismissed Dr. Cordero's claims against the trustee to protect the trustee, who is a regular in his court?

- b) What is more, the Chapter 13 trustee has, again according to Pacer, 3,909 *open* cases! He also 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. So on what basis does he accept petitions and ready them for confirmation of their plans of debt repayment by Judge Ninfo, before whom he regularly appears?
  - c) A petition for bankruptcy, dated January 26, 2004, was filed by David and Mary Ann DeLano; (82 et seq., *infra*). Though internally riddled with red flags as to its good faith (79, *infra*), it was accepted by the trustee without asking for a single external supporting financial document; and was readied for confirmation by the bankruptcy court. This is a test case that will blow up the cover of everything that is wrong in that bankruptcy district.
40. This Complaint too is a test case whether, as expected, this petition is denied by the Judicial Council, and then it goes straight to Justice Breyer's Committee; or the petition is granted and a special committee is belatedly appointed and the good faith and thoroughness of its investigation are checked by comparing its results against those of others underway.

### III. Relief Requested

41. Therefore, I, Dr. Cordero, respectfully request of the Judicial Council that:
- a) neither Chief Judge Walker appoint himself nor Judge Dennis Jacobs be appointed to the review panel;
  - b) the review panel refer the petition to the full membership of the Judicial Council;
  - c) the Judicial Council itself take the "appropriate action" under Rule 5 of appointing a special committee to investigate and that neither Chief Judge Walker nor Judge Jacobs be members of such committee, but its members be experienced investigators unrelated to the Court of Appeals and the WDNY Bankruptcy and District Courts and be capable of conducting an independent, objective, and zealous investigation;
  - d) the special committee be charged with investigating any and all judges, administrative staff, debtors as well as both private and U.S. trustees in WDNY and NYC to determine:
    - 1) their involvement in the pattern of non-coincidental, intentional, and coordinated acts of disregard of the law, rules, and facts complained about;
    - 2) the relation between misconduct of judicial personnel and a scheme of bankruptcy fraud involving non-judicial personnel; and
    - 3) whether district and circuit judges have engaged in a systematic effort to suppress misconduct complaints and/or have violated Complaint Provisions;
  - e) this matter be simultaneously referred to the FBI for cooperative investigation; and
  - f) this Complaint together with this petition and the documentary evidence submitted with each be referred to the Judicial Conference of the United States; (cf. Rule 14(a) and (e)(2)).

Sincerely,

*Dr. Richard Cordero*