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September 15, 2006

Hon. Sherry Klein Heitler
Supreme Court
60 Centre Street,
Room 438
New York, N.Y. 10007

Re: Charney v. North Jersey et al.,
Index No. 24517/88

Dear Justice Heitler:

A motion for approval of the final accounting of Mr. Windels was returnable on September 11, 2006, relying on N.Y. Business Corporation Law §1216(c). Most respectfully that provision required that the “court shall hear the allegations, objections and proofs of all parties interested”. In addition it provides that the “account and the hearing” may be referred to a referee so there is no question that it requires an evidentiary hearing. Mr. Windels’ motion was scheduled for January 23, 2006 at which time I appeared, but no evidentiary hearing was held on that day. It was followed by a March 23, 2006 order, which deprived me of standing to object to that accounting. My motion to vacate that order was denied. Mr. Windels reaffirmed in his June 12, 2006 letter that “the only party on whom the accounting was servedwho responded to the accounting was Ms. Herskowitz whom your Honor has ruled lacks standing to object to my accounting”. I then filed further papers, with a cover letter objecting to the ex parte nature of the proceedings on Mr. Windels’ accounting. I also raised the issue that I could not be expected to travel from Florida to New York, when I was deprived to participate in those proceedings and so could be held in contempt pursuant to the March 23, 2006 order, if I attempted to object to that accounting.

It was not until Your Honor’s letter of September 5, 2006, sent by regular mail, the contents of which I learned only when upon my insistence this Court’s deputy Steve read it to me, late Friday afternoon, September 8, 2006 that this Court stated that Ms. Herskowitz “was not barred from objecting to Mr. Windels’ accounting if you appear in court”, however, without setting aside the denial of standing in the March 23, 2006 order. On September 6, 2006, Mr. Windels verified in his Affirmation in further support of his motion for approval of his accounting that there is no objection to his accounting, and he omitted me from his Affirmation, except for serving it on me, because of that denial of standing in the March 23, 2006 order.

I was told by deputy Steve that I would be called by phone on Monday when the case is called at 11:30 A.M. When I called on Monday at 10:00 A.M., deputy Steve told to me to stand by. When I received no call, I called this court around noon time, and was told by deputy Steve

that the papers were marked submitted. I strenuously object to have my papers marked as submitted without the required evidentiary hearing pursuant to N.Y. B.C.L. §1216(c) and request that a hearing be set without depriving me standing. Most certainly, if it is the intention of Your Honor that I can be heard on my objections as required in an evidentiary hearing pursuant to §1216(c) then I am entitled to be given adequate notice as to such hearing especially since I have to travel from Florida to New York, which has become quite expensive. Otherwise, this would be an ex parte proceeding on Mr. Windels accounting without the required evidentiary hearing.

Sincerely,

Judith Herskowitz

cc: Paul Windels III
Susan Charney pro se
Atty. Gen. State of N.Y.
Fidelity & Deposit Co.
c/o Blaikei Group