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Hon. Jacqueline Silbermann
Administrative Judge
Supreme Court
60 Centre Street,
New York, N.Y. 10007

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

Dear Justice Silbermann:

I have written previously to your Honor, with regard to the above case, which purports to revolve around corporate receivership and other corporate matters and is therefore a matter for the Commercial Division over which your Honor is the Administrative Judge. Therefore, it would appear this complaint is properly addressed to your Honor.

The issue revolves around the transfer of close to \$700,000.00 to the New York court, which was the surplus remaining from the sale of the corporate real property in the New Jersey bankruptcy court, that was free and clear after payment of all claims and administrative expenses. The distribution of the surplus was a function of the bankruptcy court, but Mr Steven Delibert the New York attorney convinced the bankruptcy judge to transfer it to Mr. Paul Windels III as the "neutral custodian" for determination of the distributive shares of the shareholders. Thereupon the bankruptcy judge expressly ruled that the transfer of the surplus was "for adjudication there of the shareholders' rights therein between Judith Herskowitz and Susan Charney". Following receipt of these funds by the "neutral custodian" all of this was swept away and ignored, so that the transfer of the surplus was by an interstate fraud.

Without my knowledge, Mr. Delibert entered into a private deal made out of court, to divide those funds with four other lawyers and with plaintiff. Sharing in that surplus was Mr. Windels impersonating himself as receiver for North Jersey Trading Corporation, to approve that private deal on behalf of the corporation, for which he was not authorized by law as the "neutral custodian". Justice Sherry Klein Heitler readily issued an Order to Show Cause on that prearranged deal and summarily approved it, without allowing any opposition. To cover that Justice Heitler fostered a corporate receivership for the reliquidation of the already liquidated surplus through a charade of publications, for a retroactive effect, thirteen years after the appointment of a *temporary* receiver that never went into effect, that was a decade after final judgment was entered and after the corporate real property was sold and so the court was wholly without jurisdiction to allow Mr. Windels to assume the status of corporate receiver. This especially where North Jersey is a

foreign corporation, with no property and no business within New York for Article 12 B.C.L. to apply. Nevertheless, the recipients of that surplus were designated by Mr. Windels as "creditors" after they were paid that surplus, without ever making a claim in the New York court under Article 12 N.Y. Business Corporation Law, 1207 (C). Mr. Windels was then directed by Justice Silbermann to file his final accounting under B.C.L. §1216. It is provided under §1216(c) that,

“Upon presentation of such account, the court shall hear the allegations, objections and proofs of all parties interested and allow or disallow such account, in whole or in part, and make a final order. The court may refer the account and the hearing, in whole or in part, to a referee who shall report thereon to the court.”

Whereas a corporate receivership would be relied upon, as a coverup on that private deal to disgorge the surplus, the accompanying requirement to hear allegations, proofs and objections in an evidentiary hearing or trial has been dispensed by Justice Heitler, in alignment with Mr. Windels. As your Honor knows not to hear this case on evidence and testimony has been the history of this case in flagrant denial of due process §1216(c) makes clear that property cannot be taken by the stroke of the pen, strict procedures are required, none of which has been followed here. I am entitled to a resolution of this case as required by law, upon evidence as testimony. No attempt to resolve these issues was made. Instead orders are entered to eliminate me an interested party, on inadmissible hearsay and without the required notice and hearing and supporting evidence.

I have filed papers protesting the *ex parte* nature of the proceedings that allowed only Mr. Windels to participate, which binds no one, which are the latest papers on file. Appeal is not the remedy. First of all that is an insult on injury, to have to spend time and money in the appellate court, thirteen hundred miles from my home, making learned arguments and engaging in mental gymnastics to give illegal and unlawful acts committed knowingly and willfully an appearance of respectability. Moreover, since Justice has not allowed to create a record, there is no record for appellate review, nor is an *ex parte* order appealable, but is required to be heard by the lower court, which has not been a possibility in the court of Justice Heitler. I have been deprived of the use of those funds for six years now. It is a firmly established principle of law that justice delayed is justice denied.

Yours truly,

Judith Herskowitz

cc: Justice Sherry Klein Heitler
Paul Windels III
Susan Charney