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**SOTOMAYOR RESPONSE TO SENATE QUESTIONNAIRE  
PART III, QUESTION 1**

REPORT OF THE

ADVISORY PANEL  
ON INTER-GROUP RELATIONS

COMMISSIONER MARGARITA ROSA,  
CHAIR

AUGUST 16, 1991

MEMBERS OF THE ADVISORY PANEL ON INTER-GROUP RELATIONS

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President,  
National Urban Fellows

Arthur Barnes  
President,  
New York Urban Coalition

Francesco Cantarella  
Senior Vice-President, Government Relations,  
Abraham & Straus

Pauline Chu  
President,  
Chinese American Parents Association

Andre Dawkins  
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Joseph Etienne  
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Paula Ettelbrick  
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Lambda Legal Defense and Education Fund

Stanley Hill  
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Director, Inter-Group Relations and Social Actions,  
American Jewish Committee

Grace Lyu-Volckhausen  
Director, Minority Program Evaluation,  
State of New York Mortgage Agency

Margarita Rosa (Chair)  
Commissioner,  
New York State Division of Human Rights

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STATE OF NEW YORK  
EXECUTIVE DEPARTMENT

DIVISION OF HUMAN RIGHTS  
55 WEST 125 STREET  
NEW YORK, NY 10027

August 16, 1991

Dear Governor Cuomo:

I am pleased to submit to you the Report of the Advisory Panel on Inter-Group Relations. You will recall that I convened this group of distinguished New Yorkers last year at your behest, in order to explore how the State of New York might assist in reducing tensions and fostering positive inter-group relations in New York City. The results of the panel's work, including a number of recommendations for concrete action, are enclosed. We hope that you will find them useful.

Sincerely,

  
Margarita Rosa  
Chair, Advisory Panel on  
Inter-Group Relations

REPORT OF THE ADVISORY PANEL ON INTER-GROUP RELATIONS

INTRODUCTION

In June 1990, in the wake of a sharp increase in incidents of bias-related violence in New York City, Commissioner Margarita Rosa of the New York State Division of Human Rights (DHR) convened, at the behest of Governor Mario Cuomo, an Advisory Panel on Inter-Group Relations. The membership of the panel was drawn from the full spectrum of those groups which contribute to the cultural diversity of New York City.

The Advisory Panel was convened at a time when intense media attention was being paid to racial and ethnic tensions in New York City, particularly in relation to two incidents in Brooklyn: the tragic murder of a young African-American in Bensonhurst, and the emotion-charged boycott of two Korean-American produce stores on Church Avenue. The panel's mandate was to examine ways in which the State could help to reduce tensions and foster positive inter-group relations among New York City's diverse population.

At the first two panel meetings, members engaged in vigorous discussion as to the parameters of their mission. They concluded that intervention in individual situations was not the panel's task; nor had the group been convened to explore the impact of Federal or local issues, such as allegations of police misconduct.

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Furthermore, there was a sense of frustration among Advisory Panel members that any proposals would be difficult to make in the abstract. Many public and private entities already had made specific proposals to address problems of bias violence which had yet to be implemented.

Given these discussions and mindful of its own limitations, the panel chose to define its mission as identifying major issues which contribute to inter-group discord and violence and, where possible, providing concrete recommendations as to how the State could address these issues. The panel then reached a consensus that a lack of economic opportunity, particularly in minority communities, is a major factor underlying strained inter-group relations. The panel also agreed that a lack of multicultural inclusion in the public school curriculum can lead to intolerance, and ultimately to aggressive, even violent behavior among diverse racial, ethnic, and cultural groups.

In view of these preliminary deliberations, the Advisory Panel chose to focus on two specific areas of concern: economic development and youth-related issues, especially teaching young people to respect difference. Because the backgrounds of most panel members more strongly reflected expertise in the latter set of issues, the panel concentrated its investigatory and fact-finding efforts primarily in the realm of economic development.

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SUMMARY OF RECOMMENDATIONS

The Advisory Panel on Inter-Group Relations makes the following recommendations:

- \* That the State of New York institute a centralized information system that would enable aspiring entrepreneurs -- especially minority entrepreneurs -- to access, with a single telephone call or visit, information about all relevant State programs that could assist them.
  
- \* That the State of New York institute a comprehensive strategy to facilitate ongoing communication among existing State agency programs to assist aspiring minority entrepreneurs, and to disseminate information about those programs to the target communities as quickly and effectively as possible.
  
- \* That New York State designate a specific agency to identify and develop specific proposals to tap alternative funding sources, including Federal, corporate, and foundation monies, for community-based

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organizations. In addition, the Advisory Panel recommends that New York State place special emphasis in its own applying for Federal funds on those programs which permit the State to re-distribute grant monies to community-based organizations.

- \* That the State of New York take a leadership role in devising initiatives needed to implement educational programs which promote positive multicultural relations and stress respect and appreciation of diversity.
- \* That the New York State Legislature immediately enact the Bias-Related Violence and Intimidation Act.
- \* That the State Human Rights Law be amended to add sexual orientation to those bases for which discrimination in employment, housing, and public accommodations is prohibited.
- \* That the Governor and relevant State agency officials press the Federal government to augment its human and civil rights programs -- specifically to pass the Civil Rights Act of 1991 -- and maintain a close and constant review of Federal activity in the civil rights arena as it affects New York State.

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The Advisory Panel also wishes to commend the following efforts:

- \* The work of the Crisis Prevention Unit of the Division of Human Rights; and
- \* Outreach programs instituted by prosecutors' offices which are specifically aimed at reducing inter-group tensions. Other prosecutors' offices are urged to institute similar programs.

ECONOMIC DEVELOPMENT

Having identified economic empowerment through equal opportunity as a critical component in creating and maintaining sound inter-group relations, the Advisory Panel decided to gather information on existing State efforts in this area. It established fact-finding subcommittees, and invited the following representatives of New York State government entities to deliver presentations about the efforts of their agencies toward economic development and empowerment of minority communities:

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- \* Lee Webb, Executive Vice President, New York State Urban Development Corporation (UDC);
- \* Denise Pease, Deputy Superintendent, New York State Banking Department;
- \* Al Bass, Assistant Director of Business Services Bureau, Department of Economic Development -- Business Services Bureau, New York State Governor's Office of Minority and Women's Business Development;
- \* Armando Martinez, Special Assistant to the Commissioner for Fair Housing, New York State Division of Human Rights (DHR);
- \* Grace Lyu-Volckhausen, Director of Minority Program Evaluation, State of New York Mortgage Agency (SONYMA), and a member of the panel; and
- \* Anthony Dais, Deputy Commissioner for Community Services, New York State Department of Labor.

Programs to Assist Entrepreneurs

UDC's Lee Webb reported that since 1986, that agency has expanded its focus to include two new program areas: investment in economically distressed communities, and development of minority- and women-owned business. The first program area emphasizes creation of jobs by sponsoring physical improvements through grants

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or loans for renovation or new construction. These loans can assist small business owners in the study, planning, and creation of small development projects, or help store owners with commercial facade improvements.

The second new program area for UDC emphasizes businessperson development, specifically the direct stimulation of minority- and women-owned businesses, from start-up to expansion. Over the last three-and-one-half years, loans to minority businesses have comprised the single largest number of loans by UDC.

There are four types of loans offered by UDC to aspiring minority entrepreneurs. The first type are loans to minority and female individuals who can come to UDC directly for loans ranging from \$75,000 to \$500,000 to assist their efforts to build their own businesses. The second type are loans ranging from \$20,000 to \$75,000 to countywide community-based organizations which have independent boards of directors comprised of at least half women and/or members of minority groups, and at least half of whom have banking experience. These organizations then determine actual grants to businesses.

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In the third type of loan, a "micro" loan, UDC makes deposits into community development credit unions at an interest rate of two percent. Loans from these credit unions to entrepreneurs range from \$2,000 to \$12,000. The fourth type of loan involves UDC and the New York State Department of Economic Development making grants to community organizations and technical assistance providers to provide technical assistance to aspiring entrepreneurs.

Denise Pease of the Banking Department reported to the panel on the Federal Community Redevelopment Act (CRA) under which her department monitors banks on their involvement in redeveloping the communities from which they draw their deposits. A dozen factors go into making this assessment, including participation in community and economic development efforts, mortgage lending practices, establishment of automatic teller machines, and branch locations and closings. A poor CRA rating weighs heavily against a lending institution when it applies to the department for other privileges, e.g., opening a new branch.

The Banking Department also has an assistance center that entrepreneurs can call to see who provides what service. When a bank or other lending institution rejects a minority loan applicant, the Department encourages the institution to refer the customer to UDC.

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Al Bass of the Governor's Office of Minority and Women's Business Development reported that his office serves three functions: it certifies that minority- and women-owned businesses are bona fide, so that they can participate in State contract competition; its Agency Services Bureau assists entrepreneurs in introductions to appropriate State agencies; and its Business Assistance and Development unit refers businesses that need assistance to appropriate resources, such as UDC's Minority Revolving Loan Fund and Small Business Development Centers.

The office has no grant money of its own to provide, but has compiled a database of grants and loans available from other sources. It also assists in matching businesses with appropriate financial institutions; tries to interest banks in minority community economic development; and conducts forums to introduce entrepreneurs to foreign investors.

Programs to Assist Home Buyers

In addition to the above-cited programs, which are aimed at entrepreneurs, the panel also heard presentations from two State agency representatives about efforts to assist minority home buyers.

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Armando Martinez reported that the Division of Human Rights is creating an outreach program to advise community fair housing groups about the availability of data compiled pursuant to the CRA and the Home Mortgage Disclosure Act that can indicate discriminatory lending patterns.

Grace Lyu-Volckhausen reported that her division at SONYMA serves two functions: bringing the programs of SONYMA to the attention of minority communities, and evaluating SONYMA's activities as to their effectiveness in reaching New York business communities and others in economically disadvantaged communities.

The Home Buyers Program offers a first-time home buyer mortgage money at two percent below market rate. In order to qualify for a SONYMA loan, one must meet a maximum income limit which is decided within various regions in New York State by the Federal Government. Target areas are also determined by the Federal Government, based on Census tract income data. SONYMA also has a Mortgage Insurance Program which offers mortgage insurance to housing projects when a residential, mixed residential/business, or special needs (e.g., seniors or people with AIDS) project has difficulty in obtaining mortgage insurance coverage.

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A Common Thread

Through these fact-finding presentations during its first six months of operation, the Advisory Panel learned that although there exists a battery of both public and private agency programs with the objective of empowering minorities through economic development -- some of them excellent -- these already-available services are underutilized by the targeted populations. There appear to be three concrete reasons why this occurs: 1) a lack of awareness in targeted communities about how and where to obtain information; 2) the relative inaccessibility of the pertinent information, due to its fragmented nature; and 3) the lack of coordination among the public agency programs. The Advisory Panel identified a consistent problem that leads to this situation: a lack of effective outreach to target communities, resulting in underutilization of well-intentioned programs and services.

The Multi-Service Center Concept

As an initial response to these agency presentations, members of the Advisory Panel discussed how a public/private partnership might address economic development of minority entrepreneurs. One possible result of such a partnership, it was theorized, could be a centralized multi-service center in New York City, specifically designed to serve budding minority businesspeople. Such a center

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would be professionally staffed, and would showcase the full range of programs offered by public and private agencies which are committed to fostering the growth and economic development of minority communities.

This concept seemed to have some parallels with an existing effort by the New York State Department of Labor (DOL). To explore the similarities and differences -- and the possibility of "piggybacking" onto DOL's program, to save resources -- DOL was invited to send a representative to the panel's November 1990 meeting. In return, DOL's Deputy Commissioner Anthony Dais offered to host the meeting at that agency's 23rd Street Community Service Center in Manhattan, so that the panel might see first-hand a community service center in operation.

The panel found that DOL's community service centers do indeed facilitate economic development by providing a multitude of services and programs -- unemployment insurance, job referrals, training, counseling, computerized directories of job openings -- at one location. The focus, though, is on those looking for employment, rather than those seeking to start their own businesses.

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RECOMMENDATIONS - ECONOMIC DEVELOPMENT

In the key area of economic development, the Advisory Panel on Inter-Group Relations makes the following recommendations:

- \* The Advisory Panel recommends that the State of New York institute a centralized information system that would enable aspiring entrepreneurs -- especially minority entrepreneurs -- to access, with a single telephone call or visit, information about all relevant State programs that could assist them.

There are existing models from which such a system might be derived, ranging from the City of New York's "NY-MAGIC" program to the State of New York's "GATEWAY" program. For New York State, incorporation into the Department of Labor's existing operation may be the most cost-effective and feasible method of achieving this goal -- and the Advisory Panel is most mindful of the fiscal constraints under which the State is operating. Further study is advisable to determine whether grafting the Advisory Panel's proposed system onto DOL's program would be the most effective route in terms of both cost-saving and reaching the intended audience.

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But the panel also wishes to emphasize its belief that community-based organizations (CBOs) are the most effective instrument for delivering information to targeted communities. The panel recommends that State agencies involved in minority economic empowerment provide training about the services they offer to CBOs, which would in turn provide actual staffing for a multi-service center, within DOL or elsewhere.

The ultimate goal of any such center would be to have the greatest possible number of people utilize available services. But would-be businesspeople do not automatically think of the Department of Labor when seeking assistance, and the panel's meeting with DOL made it clear that even many prospective job-seekers were not aware of that agency's programs, due to lack of resources for outreach. Clearly, without a truly effective communication strategy, any effort would be to no avail.

- \* The Advisory Panel recommends that the State of New York institute a comprehensive strategy to facilitate communication among existing State agency programs to assist aspiring minority entrepreneurs, and to disseminate information about those programs to the target communities as quickly and effectively as possible.

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Public information officers of the agencies involved in minority business development should be invited to meet and talk with members of the ethnic press. An effort should be made to create a half-hour television documentary about DOL's community service centers, to get the word out to the public about the services they provide.

Funding, of course, is a constantly pressing question for the CBOs that would disseminate information about existing State programs. Here, too, the State can be of assistance.

- \* The Advisory Panel recommends that New York State designate a specific agency to identify and develop specific proposals to tap alternative funding sources, including Federal, corporate, and foundation monies, for community-based organizations. In addition, the Advisory Panel recommends that New York State place special emphasis in its own applying for Federal funds on those programs which permit the State to re-distribute grant monies to community-based organizations.

Given the existence of Federal block grants to the States, New York State should make a special effort to secure those grants that allow for distribution to community-based organizations. CBOs are

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our basic unit of community communication and economic development on the local level. If the State is unable to adequately fund their efforts with its own revenues, it should be an active participant in seeking other monies which may be available.

RECOMMENDATIONS: BIAS VIOLENCE AND INTER-GROUP RELATIONS

In addition to the economic development area, the Advisory Panel spent some time reviewing the overriding issue of inter-group violence as it relates to education and youth issues. The recent surge in youth-initiated bias violence is alarming; by some accounts, 75 percent of the perpetrators of such crimes are under the age of 25. From their own experiences, panel members have identified a failure to teach young people to respect difference, backed by a monocultural emphasis and the lack of cultural diversity awareness in the educational system, as a contributor to racial, ethnic, and other inter-group intolerance among the young.

- \* The Advisory Panel recommends that the State of New York take a leadership role in devising initiatives needed to implement educational programs which promote positive multicultural relations and stress respect and appreciation of diversity.

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While there are some such efforts underway, to date they appear to be fragmentary in nature. There must be a coordinated effort from the top to reach the hearts and minds of our young people before they learn to hate others because those others are somehow different from themselves. New York can set an example by ensuring that its State University institutes such programs in its curriculum, and that such programs are a continuing component of a SUNY education.

- \* The Advisory Panel recommends that the New York State Legislature immediately enact the Bias-Related Violence and Intimidation Act.

The continued failure of the Legislature to pass this measure, when in the last year alone such states as New Jersey, New Hampshire, and Iowa have done so, is a stain on New York's record as a leader among states in human and civil rights. Once violence against anyone is accepted as an expression of opposition to difference, a society's foundations are undermined. These crimes must receive special attention from government.

The inclusion of sexual orientation as a protected category in the bias bill is widely viewed as the reason why it has yet to be enacted. This focus on sexual orientation in the debate obscures

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the fact that bias violence is affecting a broad array of groups. Violence against racial, ethnic, and religious groups is also on the rise, as the aforementioned Bensonhurst murder and escalating anti-Asian attacks, for example, illustrate.

In the context of the proposed legislation, the Advisory Panel also would like to point out a lack of consciousness concerning bias-related violence based on gender. For example, earlier this year, several women were attacked with pins or needles at Penn Station in Manhattan. Clearly these victims were singled out as women, but these acts are not being viewed as bias-related crimes. New York State's Bias-Related Violence and Intimidation Act should include gender among its protected categories.

Emphasis on the broad reach of the bias bill is not meant to minimize the problem of violence against lesbians and gay men. At the very first meeting of the Advisory Panel, members requested a special report on the subject of gay-bashing, which was presented at the July 1990 meeting by Lance Ringel, then Director of the Office of Lesbian and Gay Concerns for DHR, and by panel member Paula Ettelbrick of Lambda Legal Defense and Education Fund. The panel heard that there is an extra dimension to violence against lesbians and gay men that may not be present in other acts of bias violence -- a belief that in perpetrating these crimes, the

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attacker is reinforcing his value system. The point must be made that those whose beliefs cause them to be intolerant of the very existence of gay people cannot be allowed to express their disapproval by acts of violence.

- \* The Advisory Panel recommends that the State Human Rights Law be amended to add sexual orientation to those bases for which discrimination in employment, housing, and public accommodations is prohibited.

The silence of the law on the issue of discrimination based on sexual orientation is one part of a social construct that seems to give tacit encouragement not only to discrimination but to violence as well. Recent events in the Persian Gulf, in which the Armed Forces suspended its policy of homosexuality being incompatible with military service -- but only for the duration of hostilities -- underscored the hollowness of a position that only allows lesbians and gay men to serve their country if shooting is actively taking place.

- \* The Advisory Panel commends the work of the Crisis Prevention Unit of the Division of Human Rights.

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In the absence of a bias bill, New York State has not waited to address bias violence. The Crisis Prevention Unit (CPU) of the Division of Human Rights was created in 1988 to provide an immediate response team to inter-group tension situations across the state. Despite a relatively small staff of ten people, the CPU was able to follow through in many situations, allowing the State to play a constructive role in decreasing inter-group tensions. Unfortunately, in late 1990, fiscal constraints mandated that the CPU staff be cut to six people.

As already noted, the panel is keenly aware of the fiscal realities facing the State. But the CPU gives DHR -- and the State of New York -- a unique capability not duplicated elsewhere within the government. The CPU's work with police departments across the state -- urging both police and prosecutors' offices to create distinct units for addressing bias-related crimes -- has been especially vital, coming as it does at a time when tensions between various minority communities and police are spiraling. Funds must be found to continue and enhance these kinds of efforts -- and not at the expense of the Division's regular caseload of Human Rights Law complaints.

- \* The Advisory Panel commends outreach programs instituted by prosecutors' offices which are specifically aimed at

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reducing inter-group tensions, and urges that other prosecutors' offices institute similar programs.

Frictions between minority communities and the justice system are not limited to police. Issues between groups often turn on a perception of unequal law enforcement, as witness the ongoing tensions between the Hispanic and Hasidic communities in the Williamsburg section of Brooklyn.

In such a climate, prosecutors' offices can play a critical role in improving inter-group relations. As part of its outreach to reduce inter-group tensions in Brooklyn, the Kings County District Attorney's office has created several advisory councils representing major constituencies which historically have been subject to discrimination. In addition, that office's "Adopt-A-School" program has sought to place assistant district attorneys and other staff in Brooklyn schools, where they can help to teach students about the justice system, and also serve as role models. These are low-budget programs that make excellent models for other prosecutors' offices.

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A CHANGED CLIMATE

From the time the panel was created until the submission of this final report, a pronounced change has occurred in the social climate of the United States of America. A war and an economic recession have taken place; the repercussions of both will be felt for years to come. In New York City, there constantly seem to be other explosive issues -- the question of condom distribution in schools, and the ugliness surrounding the St. Patrick's Day parade, to name but two recent examples -- that need to be watched because they create a deep divisiveness in our society.

In the area of civil and human rights, the most obvious and immediate ramification of the Persian Gulf conflict on the home front was the sad and alarming upsurge in discrimination against Arab-Americans. But the overrepresentation of people of color in the Armed Forces also became an issue -- and one which is closely tied to the economic situation.

In times of economic difficulty like those currently affecting New York City, New York State, and the country, members of historically disadvantaged communities are disproportionately losing their jobs. Public spending cuts also impact disproportionately on minorities, both as clients and as employees.

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In this context, the position of the President of the United States on the proposed Civil Rights Act of 1991 is not irrelevant to the question of inter-group relations. This act would, among other things, overturn the standard imposed by a 1989 Supreme Court decision which shifted the burden of proof in discrimination cases from the employer to the employee. In 1990, President Bush vetoed the Civil Rights Act -- and in 1991, he continues to oppose it -- on the grounds that it would promote hiring and promotion "quotas". This argument is based on ideology rather than the actual language of the proposed law -- which specifically states that nothing in the law should be construed as requiring that employers impose quotas.

The negative implications of this Federal stance for the people of New York State are profound. To the extent that there is Federal retrenchment on civil rights, the role of agencies like DHR becomes increasingly important. This State has a very progressive law. When people have less money, and cannot afford to go to court, they will come to DHR. And if people believe that they have no place to turn at all, sound inter-group relations are jeopardized.

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Minorities and women essentially have been told by the Federal government and the courts that their civil rights cannot be adequately protected. A climate has been created over the last ten years that says, "Enough's enough. Turn back the clock. It's time for the dominant culture to reassert its dominance." But a combination of social factors dictates that the President support adoption of the Civil Rights Act of 1991 -- not in diluted form, but in a form which really protects the needs of women and racial and religious minorities in this country. New York State must make itself heard more forcefully on this matter.

- \* The Advisory Panel recommends that the Governor and relevant State agency officials press the Federal government to augment its human and civil rights programs -- specifically to pass the Civil Rights Act of 1991 -- and maintain a close and constant review of Federal activity in the civil rights arena as it affects New York State.

A strong statement from the State of New York on this Federal legislation is of critical importance. This is one legislative item which does not impact on the budget, and involves no appropriations at this point. There is no reason why New York State cannot lobby the Federal government on civil and human rights as it does in matters of housing and banking.

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CONCLUSION

The Governor's Advisory Panel on Inter-Group Relations has been the first entity to survey and assess the range of New York State agency programs and services relating to economic development in minority communities -- especially in terms of their effectiveness in reaching targeted communities -- in light of their impact on alleviating inter-group tensions. Coordination of and communication about existing programs must be improved in order to spread the impact of the State's limited resources in the most cost-effective manner.

The Advisory Panel wishes to commend Commissioner Margarita Rosa and the DHR staff (notably Nadia Martinez, Yvette Gaynor, and Lance Ringel, principal author of this report) for the support they have provided for our work. We thank the Governor for giving us the opportunity to review current efforts to improve inter-group relations, and to make concrete recommendations for further State actions in this critical area.

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Footnotes

In the inevitable interim that occurs between approval of final language by an entity like the Advisory Panel on Inter-Group Relations and submission of its final report, events occur which relate directly to the report's content, and indeed to its recommendations. Three such events occurred in this case, which should be duly noted:

1. On April 23, 1991, Governor Mario Cuomo introduced legislation to amend the State Human Rights Law to add sexual orientation as a protected category. The State Legislature adjourned in July without taking action on the bill.

2. On June 4, 1991, Governor Cuomo issued a strongly worded statement calling on President Bush and the U.S. Congress to enact into law H.R. 1, the Civil Rights Bill of 1991.

3. On June 13, 1991, a Social Studies Syllabus Review and Development Committee appointed by Commissioner Thomas Sobol of the New York State Education Department submitted a report to the Board of Regents entitled "One Nation, Many Peoples: A Declaration of Cultural Interdependence." On July 15, Governor Cuomo and Commissioner Sobol issued statements about the report, which continues to be the subject of extensive public discussion.

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

**CLINTON LIBRARY PHOTOCOPY**

**SOTOMAYOR RESPONSE TO SENATE QUESTIONNAIRE**  
**PART IV, QUESTION 10**

Respond to Robert Henry, Cosby, sui juris  
General Delivery  
Verdi Post Office  
Verdi, NV

2005659

superior court, Washoe county, Nevada

Robert Henry, Cosby, sui juris  
Demandant,

Case Number P 361392678

against,

Part One

SONIA SOTOMAYOR, JUDGE, US  
DISTRICT COURT

Non-Statutory Abatement

and,

RICHARD H. WALKER, REGIONAL  
DIRECTOR, SECURITIES AND  
EXCHANGE COMMISSION

Defendants.

**Non-Statutory Abatement**

By Robert Henry, Cosby, sui juris:

In the matter of: UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW  
YORK, COMPLAINT 95 Civ. 2951.

To All and Sundry Whom These Presents Do or May Concern:

**Introduction**

This is a non-statutory abatement issued pursuant to common law rules applicable to such cases, against: SONIA SOTOMAYOR, PRESIDING JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK AT 500 PEARL STREET, NEW YORK, NEW YORK, AND RICHARD H. WALKER, REGIONAL DIRECTOR, SECURITIES AND EXCHANGE COMMISSION AT NORTHEAST REGIONAL OFFICE, 7 WORLD TRADE CENTER, 13TH FLOOR, NEW YORK, NEW YORK. Said agents are imposing provisions of a contract counter to public morals, in the Nature of a praemunire, and as belligerents are in violation of International Law and the Law of Nations.

Part One of this matter shall be known as **Non-Statutory Abatement** and contains the following documents titled: I. Non-Statutory Abatement, and, II. Verification

Page One of Nine

**CLINTON LIBRARY PHOTOCOPY**

# I. NON-STATUTORY ABATEMENT

## Chapter One

### Return of Papers and Averments

Please find enclosed the following item: UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK, COMPLAINT 95 Civ 2951

I was not properly served this paper. This paper was received but not accepted.

These items were refused for cause without dishonor and without recourse to me, and are returned, herewith, because they are irregular and unauthorized, based on the following to wit.

Comes Now, an private Christian, grateful to Almighty God for my Liberty, and humbly Extend Greetings and Salutations to you from, Jesus the Christ and Myself by Visitation, to exercise Ministerial Powers in this Matter, to return your paper, which was not served properly but which paper was received, but not accepted.

#### Mark My words:

##### First:

**Mark:** Your papers do not have upon their face My Christian Appellation in upper and lower case letters, nor, do the additions in the compilation upon the items, herewith returned, apply to Me, and,

##### Second:

**Mark:** Your paper alleges violations of a law, foreign to My Venue, which, no Oath, Promise, or Law attaches Me thereto; and,

##### Third:

**Mark:** Your office is not established in the Nevada State Constitution; and,

##### Fourth:

**Mark:** Your papers have no foundation in Law; for the reason, they are not from an office recognized by the People or General Laws of the State of Nevada; and,

##### Fifth:

**Mark:** Your papers lack jurisdictional facts necessary to place or bring Me within your venue; and,

##### Sixth:

**Mark:** Your papers are unintelligible to Me; based upon the following: They are not written in Proper English, being such, they fail to appraise Me of the Nature of any matter alleged, if in fact your allegations have any foundations, and,

**Seventh:**

**Mark:** Your papers fail to affirmatively show, upon their face, lawful authority for your presence in My Venue, and,

**Eighth:**

**Mark:** Your papers fail to affirmatively show, upon their face, the necessity for your entry upon My Privacy, and,

**Ninth:**

**Mark:** Your papers fail to affirmatively show, upon their face, your authority to violate or disparage Me in any way; and,

**Tenth:**

**Mark:** Your papers have no Warrant in Law; and,

**Eleventh:**

**Mark:** Your papers are not sealed with authority recognized in the State of Nevada, and,

**Twelfth:**

**Mark:** Your papers fail to disclose any legal connection between Myself and your office; and,

**Thirteenth:**

**Mark:** Your papers fail to disclose any legal connection between Myself and the Laws of New York State; and,

**Fourteenth:**

**Mark:** Your papers fail to disclose any legal connection between Myself and the Securities and Exchange Act; and,

**Fifteenth:**

**Mark:** Your papers are incomplete and defective, upon their face, due to insufficient Law.

## Chapter Two

### Firstly:

Whereas, pursuant to constitutional due process requirements of the General Laws of the State of Nevada, employees of the UNITED STATES OF AMERICA and THE SECURITIES AND EXCHANGE COMMISSION are not State Judicial Officers having power to issue orders or judgments of any kind, and,

Whereas, pursuant to constitutional due process requirements of the General Laws of the State of Nevada, judges of the United States District Court are not State Judicial Officers having power to issue orders or judgments of any kind; and,

Whereas, returned papers concerning an unlawfully imposed contract, imposes upon My Right and Privacy; and,

Whereas, My Privacy is a Constitutionally secured Right, and,

Therefore, returned papers concerning an unlawfully imposed contract are harassment and a public nuisance.

### Secondly:

Whereas, returned papers contain extraneous number (example, April 27, 1995, July 1992, 1994, etc.), which terminology, to Me, is confusing. for the reason I reckon time in years of Our Lord Jesus, the Christ; and,

Whereas, conflicting provisions of the peoples moral law forbids Me use of said foreign way of reckoning time; and,

Therefore, returned papers contain scandalous matter all to My harm.

### Thirdly:

Whereas, pursuant to the General Laws of the State of Nevada, mentioned de facto corporation is a person subject to the jurisdiction of this state, and,

Now, therefore:

I am returning all of your papers, and shall, henceforth, exercise My Right of Avoidance; for the reason: they are irregular, unauthorized, defective upon their face and utterly void, and are, herewith, abated as a public nuisance. There appear to be no factors which would warrant adjustment of the Abatement, due to a Conflict of Law.

## Chapter Three

### Denial of Due Process in Alleged Default Judgment

A default judgment against Demandant was allegedly issued by Judge Sonia Sotomayor presiding in a UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK. The alleged judgment is not valid for reason of due process and is in violation of my Constitutional Rights as a private citizen.

The alleged judgment is void because it is irregular and unlawful based on the following to wit

Comes Now, an private Christian, grateful to Almighty God for my Liberty, and humbly Extend Greetings and Salutations to you from, Jesus the Christ and Myself by Visitation, to exercise Ministerial Powers in this Matter, to deny your right to file for a default judgment against Demandant

#### Mark My words:

##### First:

**Mark:** Defendants allegedly convened a meeting on the third day of the fifth month in the year of Our Lord and Savior Jesus, the Christ, nineteen-hundred ninety-six, Anno Domini, in the Two hundred and twentieth year of the Independence of America.

##### Second:

**Mark:** Demandant was not represented by legal counsel during alleged meeting

##### Third:

**Mark:** Demandant did not receive Summons to appear nor was Demandant notified of alleged meeting in writing.

##### Fourth:

**Mark:** Defendants jurisdiction in this matter has no foundation in law.

##### Fifth:

**Mark:** Demandant has not been notified of the actual events of alleged meeting

##### Sixth:

**Mark:** Demandant has been slanderously accused, in the eyes of friends, relatives, and countrymen based on judgments that were issued during alleged meeting.

**Seventh:**

**Mark:** Demandant has suffered severe financial losses due to the libelous actions taken in the alleged meeting

**Eighth:**

**Mark:** Defendants have allegedly issued a default judgment against Demandant without due process

**Ninth:**

**Mark:** Legal service of documents by United States Post Office is not valid unless proof of service can be produced as evidence.

**Tenth:**

**Mark:** Defendant has not provided proper service to Demandant

## Chapter 4

### Firstly:

Whereas, judgments, notices, statements and legal actions arising from alleged meeting have no basis in law and violate My Constitutional Right of Privacy,

Therefore, judgments, notices, statements and legal actions are harassment and a public nuisance

### Secondly:

Whereas, jurisdiction of Judge Sotomayor in this case has not been properly obtained by due process of law; and,

Whereas, jurisdiction of the laws of New York state in this case has not been properly obtained by due process of law; and,

Whereas, jurisdiction of the laws of the Securities and Exchange Act in this case has not been properly obtained by due process of law;

Therefore, judgments, notices, statements and legal actions are invalid and unlawful.

### Thirdly:

Whereas, meetings were held in private without proper notification to Demandant and conspiratorial in nature to the eventual harm of the Demandant's Constitutional Rights.

Therefore, threatened judgments, notices, statements and legal actions are contra bonos mores.

Now, therefore:

I am notifying Defendants that judgments, notices, statements and legal actions are unlawful and defective and I shall henceforth exercise My Right of Avoidance for the reason: they are irregular, unauthorized, defective upon their face and utterly void, and are, herewith, abated as a public nuisance. There appear to be no factors which would warrant adjustment of the Abatement, due to a Conflict of Law.

**Ordering Clauses;**

Said UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK shall abate the matter of, COMPLAINT 95 Civ 2951 or file a written response within ten days of the release of this Non-Statutory Abatement showing why the Abatement should not be imposed. Any and all written responses must include a detailed factual statement and supporting documentation. Any and all accusations must include, on the face therefore, the quotation of law being violated and a clear explanation of how this law pertains to action of the Demandant. Failure to respond in the time prescribed, herein, will result in a Default and Default Judgment and subject Defendants to Civil and/or Criminal liabilities in pursuance of International Law and the Law of Nations

All remittance of this instant matter should be marked with the Case number, and mailed to the following location:

Robert Henry, Cosby, sui juris  
General Delivery  
Verdi Post Office  
Verdi, Nevada

Wherefore:

Until this Conflict of Law is resolved, I wish you to do the following, to wit;

**First:**

Obtain process issued, under seal, from a Court appertaining to a Nevada State Judicial Department; and,

**Second:**

That said process be based on sworn Oath or Affirmation from a competent Witness or Damaged Victim; and,

**Third:**

That said process bear My full Christian Appellation in upper and lower case letters, and in addition, thereto, sui juris, and must be handled and personally served upon Me by the Washoe County Sheriff.

There is no need for Me to communicate until my process is legally served.

I, private Christian, will, henceforth, maintain My Right or Privacy and exercise My Right of Avoidance and stand upon the grounds set out above.

II. VERIFICATION

Sealed by voluntary act of My own hand on this Twentieth day of the sixth month in the year of Our Lord and Savior Jesus, the Christ, nineteen-hundred ninety-six, Anno Domini, in the Two hundred and twentieth year of the Independence of America.

L.S.

I have the Honor of Being Private Christian

*Robert Henry, Cosby*  
ROBERT HENRY, COSBY

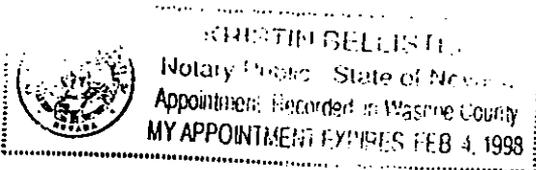
Attachment:

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK,  
COMPLAINT 95 Civ. 2951

State of Nevada  
County of Washoe

This instrument was acknowledged before me on  
June 20, 1996 by Robert Henry, Cosby.

*Kristin Bellister*  
NOTARY PUBLIC



2005659

OFFICIAL RECORDS  
WASHOE CO. NEVADA  
RECORD DEPOSITED BY  
*R Cosby*  
96 JUN 20 PM 12: 03

Page Nine of Nine

JULY 11 1996  
COUNTY CLERK

FEE 15.00 *DD*

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*la*  
*5.00*

RECEIVED

7/23/95

SONIA SOTOMAYOR  
U. S. DISTRICT JUDGE

Respond to: Robert Henry, Cosby, sui juris  
General Delivery  
Verdi Post Office  
Verdi, NV

superior court, Washoe county, Nevada

Robert Henry, Cosby, sui juris  
Demandant,

against,

SONIA SOTOMAYOR, JUDGE, US  
DISTRICT COURT  
and,  
RICHARD H. WALKER, REGIONAL  
DIRECTOR, SECURITIES AND  
EXCHANGE COMMISSION  
Defendants.

Case Number P 361392678

Part Two.

Non-Statutory Abatement

Notice of Default, Default  
Judgment, and, Praecipe.

**Non-Statutory Abatement**

By Robert Henry, Cosby, sui juris:

In the matter of: UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK, COMPLAINT 95 Civ. 2951.

**Introduction**

This is a non-statutory abatement issued pursuant to common law rules applicable to such cases, against: SONIA SOTOMAYOR, PRESIDING JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK AT 500 PEARL STREET, NEW YORK, NEW YORK, and RICHARD H. WALKER, REGIONAL DIRECTOR, SECURITIES AND EXCHANGE COMMISSION AT NORTHEAST REGIONAL OFFICE, 7 WORLD TRADE CENTER, 13TH FLOOR, NEW YORK, NEW YORK.

SONIA SOTOMAYOR, PRESIDING JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK and RICHARD H. WALKER, REGIONAL DIRECTOR, SECURITIES AND EXCHANGE COMMISSION, are imposing provisions of a contract counter to public morals, in the Nature of a praemunire, and as belligerents are in violation of International Law and the Law of Nations.

Part Two of this matter contains the following documents, titled: I. Non-Statutory Abatement Default; II. Default Judgment; and, III. Preacipe.

### **I. Notice of Default**

To: SONIA SOTOMAYOR, PRESIDING JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK and RICHARD H. WALKER, REGIONAL DIRECTOR, SECURITIES AND EXCHANGE COMMISSION,

Take notice that demand was herein made on you that you answer or otherwise plead to the plaint on file herein, a copy of which has heretofore been served on you.

Take further notice that your failure to answer or otherwise plead in response to the foregoing notice, within the time stated, the Demandant will forthwith move to cause your default to be entered and for judgment against you personally and officially for the relief demanded on the plaint.

### **II. Order for Entry of Default and Default Judgment**

The Non-Statutory Abatement in this action having been served on SONIA SOTOMAYOR, PRESIDING JUDGE, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK AT 500 PEARL STREET, NEW YORK, NEW YORK, and RICHARD H. WALKER, REGIONAL DIRECTOR, SECURITIES AND EXCHANGE COMMISSION AT NORTHEAST REGIONAL OFFICE, 7 WORLD TRADE CENTER, 13TH FLOOR, NEW YORK, NEW YORK, the Defendants, on the fifteenth day of the seventh month in the Year of our Lord Jesus Christ, nineteen-hundred ninety-six Anno Domini, in the Two hundred and twentieth year of the Independence of America, a true copy of Proof of Service is annexed, hereto, and marked "Exhibit A", for your enjoyment, and no answer, demurrer, motion, or other pleading to the plaint having in any manner been made by said defendants;

Now on the motion of the Demandant,

It is ordered that the clerk of this Court shall be, and is hereby, directed to enter the default of said default of said Defendants, and default judgment in favor of Demandant and against Defendants for the relief demanded in the plaint.

Let judgment enter accordingly.

### III. Praeceptum

The clerk of said court will please enter a default against the Defendants in the above-entitled cause because of Defendants failure to respond on the rule day of the fifteenth day of the seventh month, in the Year of our Lord Jesus, the Christ, nineteen-hundred ninety-six, Anno Domini, in the Two hundred and twentieth year of the Independence of America.

Sealed by voluntary act of My own hand on this fifteenth day of the seventh month, in the Year of our Lord Jesus, the Christ, nineteen-hundred ninety-six, Anno Domini, in the Two hundred and twentieth year of the Independence of America.

L.S.

I have the Honor of Being Private Christian

*Robert Henry Cosby*  
Robert Henry, Cosby



Attachments: Exhibit A

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Judge Sonia Sotomayor  
United States District Court  
500 Pearl Street  
New York, NY

4a. Article Number

P 361 392 678

4b. Service Type

- Registered  Certified
- Express Mail  Insured
- Return Receipt for Merchandise  COD

7. Date of Delivery

JUN 28 1996

5. Received By: (Print Name)

Cellardi

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X

Thank you for using Return Receipt Service.

PS Form 3811, December 1994

Domestic Return Receipt

UNITED STATES POSTAL SERVICE

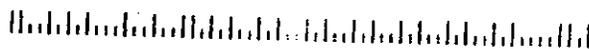


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Robert Henry, Cosby  
General Delivery  
Verdi Post Office  
Verdi, NV

JUL - 3 1996



CLINTON LIBRARY PHOTOCOPY



U.S. Department of Justice

United States Attorney  
District of Nevada

100 West Liberty, Suite 600  
Reno, Nevada 89501

MAILING ADDRESS:  
P.O. Box 40878  
Reno, Nevada 89504

(702) 784-5438  
FAX (702) 784-5181

The Honorable Sonia Sotomayor  
United States District Judge  
United States Courthouse  
Foley Square  
New York, NY 10007-1581

January 2, 1997

Re: Robert Henry Cosby v. Sotomayor  
Related Matter: SEC v. Softpoint, et al.  
Docket# 95 Civ. 2951 (S.D.N.Y.)

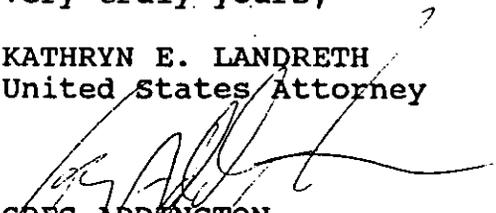
Dear Judge Sotomayor:

You will recall that this office was sent certain materials which suggested that Mr. Cosby had initiated some sort of legal action against you in Washoe County, Nevada. On September 24, 1996, I advised you that no such action had been filed in state court or federal court and that I would make further enquiry ninety days later. I have again reviewed the dockets at the state court and the federal court and have found no actions pending against you by Mr. Cosby (or anyone else). Accordingly, this office will close its file on this matter. If you have received additional materials or information which pertains to this matter or believe further action is necessary, please advise accordingly.

If you have any questions, do not hesitate to contact me.

Very truly yours,

KATHRYN E. LANDRETH  
United States Attorney

  
GREG ADDINGTON  
Assistant United States Attorney



U.S. Department of Justice

United States Attorney  
District of Nevada

100 West Liberty, Suite 600  
Reno, Nevada 89501

MAILING ADDRESS:  
P.O. Box 40878  
Reno, Nevada 89504

(702) 784-5438  
FAX (702) 784-5181

September 24, 1996

The Honorable Sonia Sotomayor  
United States District Judge  
United States Courthouse  
Foley Square  
New York, N.Y. 10007-1581

Re: Robert Henry Cosby v. Sotomayor  
Related Matter: SEC v. Softpoint, et al.  
Docket# 95 Civ. 2951 (S.D.N.Y.)

Dear Judge Sotomayor:

The materials which you forwarded to the Administrative Office of U.S. Courts were, in turn, directed to my attention. You will recall that Mr. Cosby is a defaulted civil defendant in the above-captioned related matter. In response to Mr. Cosby's perception that his legal interests were unfairly adjudicated, he sent to you a package of materials which suggested that he had initiated some sort of legal action against you in Washoe County, Nevada. I have made suitable enquiries at the U.S. District Court in Reno, Nevada and also at the Washoe County District Court for the State of Nevada and have determined that there is no pending action against you brought by Mr. Cosby (or anyone else). You may recall that the "complaint" sent to you by Mr. Cosby, while styled (imaginatively) as a civil complaint, did not bear any docket number but rather bore the U.S. Postal Service certified mail receipt number corresponding to the mailing of the materials to you.

It is my view that no further action need be taken on your behalf regarding this matter. I will keep my file "open" for at least the next 90 days after which time I will again make enquiries at the federal court and the state court. I will advise you of the results of those enquiries and take whatever action is appropriate.

If you receive additional materials from Mr. Cosby which suggests further legal (or quasi-legal) action taken by him against you in Nevada, please advise me of same. If Mr. Cosby

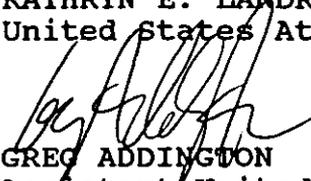
CLINTON LIBRARY PHOTOCOPY

becomes threatening or harrassing in any way to you (or your staff), please inform me immediately of those developments.

If you have any questions, do not hesitate to contact me.

Very truly yours,

KATHRYN E. LANDRETH  
United States Attorney



GREG ADDINGTON  
Assistant United States Attorney

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

STANLEY WEST,

Plaintiff,

-against-

PAVIA & HARCOURT, ESQS.,  
a New York Partnership,

Defendants.

AMENDED VERIFIED COMPLAINT

LEWIS and FIORE  
Attorneys for Plaintiff

225 BROADWAY  
NEW YORK, N. Y. 10007-3001  
(212) 285-2290

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Client Approvals Not

NOTICE OF  
ENTRY

that the within is a (certified) true copy of a  
entered in the office of the clerk of the within named Court on

19

NOTICE OF  
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the Hon.  
one of the judges of the within named Court,

19

at

M.

Dated:

LEWIS and FIORE

Attorneys for

225 BROADWAY  
NEW YORK, N. Y. 10007-3001

To:

CLINTON LIBRARY PHOTOCOPY

Attorney(s) for

mail 10/5/92  
RPE

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK  
-----X

STANLEY WEST,

Plaintiff,

AMENDED  
VERIFIED COMPLAINT

-against-

PAVIA & HARCOURT, ESQS.,  
a New York Partnership,

Index #: 30139/91

Defendants.

-----X

Plaintiff, by his attorneys, Lewis & Fiore, complaining  
of the defendant, does hereby allege as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. Plaintiff, Stanley West (hereinafter West), is a  
resident of the State of New York, City of New York, and a former  
client of the defendant.

2. Defendant is and was for all times mentioned herein,  
upon information and belief, a New York partnership engaged in the  
practice of law with offices at 600 Madison Avenue, and is made up  
of a number of attorneys who are together engaged in the practice  
of law under the firm name of Pavia & Harcourt.

3. Defendant was the attorney for Marcar Restaurant and  
Catering Corp. d/b/a L'Hostaria del Bongustaio (hereinafter  
referred to as Marcar), from January 13, 1983 through and including  
November of 1988.

4. In 1988, defendant was retained by plaintiff and

CLINTON LIBRARY PHOTOCOPY

Gennaro Picone (hereinafter referred to as Picone), to represent them in the formation of a new business with the intention of forming a new corporation, acquiring a location to conduct a restaurant business and performing all other necessary legal services to protect the rights of Picone and West.

5. Defendant accepted employment on behalf of West and Picone and was paid for its services and performed a number of services for West and Picone.

6. The defendants drafted and filed a Certificate of Incorporation for the formation of a new business corporation known as Malvasia, Inc.

7. The defendants drafted a shareholders' agreement between West and Picone.

8. The defendants drafted and accepted by-laws for Malvasia, Inc.

9. The defendants served as incorporators of Malvasia, Inc.

10. The defendants prepared a Waiver of Notice of the first meeting of the Board of Directors.

11. The defendants prepared the Minutes of the first meeting of the Board of Directors of Malvasia, Inc.

12. The defendants served as an interim secretary of Malvasia, Inc.

13. The defendants prepared written consent of the Board of Directors, accepting the resignation of one of the defendant's members as secretary and appointing West as secretary of Malvasia, Inc.

CLINTON LIBRARY PHOTOCOPY

14. The defendants prepared a corporate resolution providing that Picone be the one and only signatory on the corporate bank account, and be authorized to conduct all banking business on behalf of the corporation.

15. The defendants prepared a written consent of the Board of Directors, authorizing Picone, and Picone alone, to negotiate and bind the corporation in all respects, for the purchase of the business of Marcar.

16. The defendants prepared a document indicating unanimous consent of the Board of Directors, for Picone to be the sole signatory on the Corporate bank account and to conduct all corporate business, including the obtaining of loans on behalf of the Corporation.

17. The interests of Picone and West, by virtue of their proposed roles in the Corporation, were, from the outset, different and adverse.

18. Picone was a professional chef who was intended, by the parties, to be a full time employee of the Corporation.

19. West was a novice to the restaurant business who was intended by the parties, to supply the necessary funds to form and operate the Corporation.

20. Defendant knew, or should have known, of the conflicting and diverse interests of West and Picone.

21. Defendants should not have undertaken the tasks of representing both West and Picone.

22. In any event, defendant should have made full disclosure of the actual and potential conflicts between the

CLINTON LIBRARY PHOTOCOPY

diversity of interest between West and Picone, to West, and should have advised West to retain counsel to represent his interest, as opposed to the interest of Picone.

23. Defendant failed to make disclosures of the actual and potential conflict between the interest of Picone and West, to West, and failed to advise West to seek independent counsel to represent his interest.

24. Defendants were negligent in their representation of West, failed to exercise reasonable care in their representation of West and caused West to suffer damages.

25. Defendants knew, or should have known that their professional judgment in representing both West and Picone would, by the nature of the transaction, be compromised and that they would be incapable of the proper level of independent professional judgment in their representation of West.

26. Defendant represented to West that his rights were protected by virtue of the legal services rendered and the representation rendered by the defendants.

27. West relied upon the representations of the defendant, that his rights were protected by virtue of the legal services provided by the defendants.

28. West reasonably relied upon the representations of the defendant, as described above.

29. In reasonable reliance upon the representations of the defendant, West invested substantial sums of money, by virtue of capital contribution and loans to Malvasia, Inc.

30. Defendant's failure to advise West to retain

CLINTON LIBRARY PHOTOCOPY

independent counsel to represent his interest, was grossly negligent in that West was in the process of investing substantial sums of money in Malvasia, Inc, so that independent counsel could have been retained at a relatively small cost in comparison to the large sums of money being risked by West.

31. Defendant knowingly and intentionally acting on behalf of the interest of others, failed to advise West to retain independent counsel, failed to represent West's interest in the preparation of legal documents while representing to West that his interests were protected.

32. Defendant represented Malvasia, Inc. and Picone against West in a legal action known as Stanley West v. Malvasia, Inc. and Gennaro Picone, in the Supreme Court of New York County.

33. As a result of the foregoing, West has suffered damages in the amount of \$700,000.00.

#### AS AND FOR A SECOND CAUSE OF ACTION

34. Plaintiff repeats each and every one of the above allegations with the same force and effect as if restated in full here.

35. The defendants performed the above described acts intentionally, for the benefit of another and against the interest of West.

36. As a result of the foregoing, Plaintiff has suffered special damages, in that his entire investment of \$700,000.00 in the business venture has been lost to him because the business has closed and is no longer functioning.

CLINTON LIBRARY PHOTOCOPY

AS AND FOR A THIRD CAUSE OF ACTION

37. Plaintiff repeats and realizes each and every allegation contained in the above paragraphs as if restated in full here.

38. As outlined above, defendant made negligent misrepresentations to West.

39. As a result of the foregoing, plaintiff has been damaged in the sum of \$700,000.00.

WHEREFORE, it is respectfully requested that plaintiff be granted judgment for damages in the amount of \$700,000.00 upon the first, second and third causes of action.

DATED: New York, New York  
August 24, 1992

LEWIS & FIORE, ESQS.  
Attorneys for Plaintiff  
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(212) 285-2290

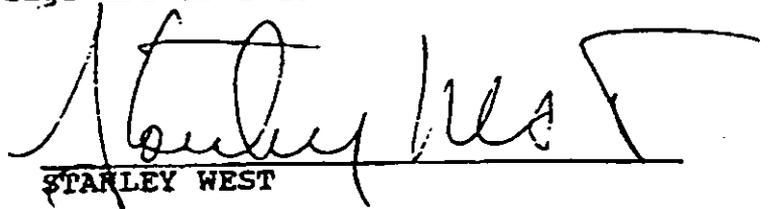
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INDIVIDUAL VERIFICATION

STATE OF NEW YORK )  
COUNTY OF ~~KINGS~~ <sup>New York</sup> ) : ss.:

STANLEY WEST, being duly sworn, deposes and says:  
deponent is the plaintiff in the within action; deponent has read  
the foregoing Amended Verified Complaint and knows the contents  
thereof; the same is true to deponent's own knowledge, except to  
those matters therein stated to be alleged upon information and  
belief, and as to those matters deponent believes it to be true.

The grounds of deponent's belief as to all matters not  
stated upon deponent's knowledge are as follows:

  
STANLEY WEST

Sworn to before  
me this 18 day  
of Sept, 1992.

Violet Squires  
NOTARY PUBLIC

VIOLET SQUIRES  
COMMISSIONER OF DEEDS  
CITY OF NEW YORK - No. 1-662  
CERTIFICATE FILED IN NY COUNTY  
COMMISSION EXPIRES 10/1/92

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