Courts Without Justice

by Robert S. Palmer, Ph.D.

I was dragged into the study of law by my 1983 divorce. Until 1990, I was convinced that divorce courts and divorce lawyers were the premier examples of the judicial system's corruption and injustice. I was wrong. While virtually all divorce courts and lawyers are detestable creatures who profit from institutionalized injustice and merrily cripple children's lives, the divorce "professionals" are mere scavengers compared to the predators that populate our bankruptcy courts. The U.S. bankruptcy courts are essentially unaccountable to the people and deal in such huge sums of money that corruption is not occasional, it's endemic, blatant, and when necessary, murderous.

Robert Palmer got tangled up in a bankruptcy, and over time also began to realize the dimensions of the extortion racket he'd fallen into. As you'll see, the real dimension of bankruptcy court corruption can be glimpsed, not in the individual case, but in the number of people and institutions that turn a blind eye and refuse to investigate or correct that corruption. If you want to study organized crime, study bankruptcy courts. Compared to bankruptcy "trustees" et al, Chicago's Gangster Disciples and L.A.'s Crips are purse-snatching punks.

Also, since I have recently begun to obsess about trusts (see "The Truth About Trusts" and "Trust Fever", this issue), I suspect the bankruptcy system's use of "trustees" signals that bankruptcy courts are really operating as some sort of trust(s). To precipitate a bankruptcy (trust?), the bankrupt individual needs to apply (contract) to the court for protection. Likewise, until the bankruptcy is fully discharged, the bankrupt individual can revoke his bankruptcy petition whenever he likes and return to a "non-bankrupt" status. This peculiar power suggests the bankrupt individual functions like the Grantor of a revocable trust. Further, as you'll see in Mr. Palmer's article, bankruptcy court "judges" are allowed to exercise unusual powers, far greater than mere government administrators or judges. Maybe they aren't adjudicating a case, so much as administering a trust.

Of course, a minimum of three creditors can also petition to place a debtor into an involuntary bankruptcy. "Out of the mouths or two or more witnesses shall a thing be established" . . . ? Is it possible that these three creditors are really creating a Trust and conveying the debtor (or their liens on his property) into the body of that trust/ bankruptcy?

Are bankruptcies really trusts? If so, the solution to bankruptcy corruption might be found in a study of trusts. Read Mr. Palmer's article, and let me know if you thinks there's any validity to my bankruptcy /trust suspicion.

Since the bombing in Oklahoma City, the Department of Justice has denied the notion that the government is encroaching on our constitutional rights. Indeed, the President contends that the Justice Department protects our constitutional rights. Unfortunately, those who believe that the government is really concerned about our individual rights should consider what's going on in the courts — especially the bankruptcy courts, where business owners file for reorganization of their debts under Chapter 11 to protect their assets from creditors, only to lose them to bankruptcy professionals acting under color of law.

In October of 1989, Charles Duck, who served as a trustee in the Santa Rosa, California, bankruptcy court was convicted of embezzling $1.9 million from Chapter 11 bankruptcy estates. Duck was prosecuted by the United States Trustee who has jurisdiction over bankruptcy trustees, but no jurisdiction over other bankruptcy professionals. Duck, as trustee held a nominal position. He relied on his attorneys and other bankruptcy professionals to administer estates.

The *San Francisco Daily Journal* reported, "While Duck often operated outside the rules, he sometimes did so with the tacit approval of people, including judges, lawyers and other trustees, whose job it was to police him."

Duck was the fall-guy. He filed for bankruptcy to fend off debtors whose assets had been stolen. His plea and a light 27 month prison sentence closed out one of the nation s biggest bankruptcy scandals. Those who should have known what was going on, including Duck's attorney, Harvey Hoffman, claimed they had no idea what Duck was doing. The Department of Justice did not protect the constitutional rights of fleeced debtors. Instead, the U.S. Attorney granted immunity to the judges, lawyers and other trustees who may have acted with Duck.

Dexter Jacobson

In June of 1990, Jacobson revealed that he meant to do something about the fraud that had poisoned Bay Area bankruptcy courts for over a decade. If federal prosecutors would not investigate the dealings of bankruptcy professionals, he would. Jacobson was one of those few lawyers who would put his clients' interests above those of other lawyers.

In August of 1990, Jacobson set up conferences with Department of Justice officials to describe complaints against those who had victimized his clients in the Santa Rosa and San Francisco bankruptcy courts. Just before he was scheduled to confer, Jacobson was taken into the Marin Highlands, north of San Francisco, and shot once in the head while he faced his killer. The assassin took the slug leaving no evidence to attach him to the crime.

Several days passed before Jacobson was found in a culvert. While Jacobson's body lay hidden from view, his home and office were ransacked. His hard drive was erased. All trace of the complaints he had been drafting was obliterated. The U.S. Attorney took no action.

My case

Just as the U.S. Attorney took no action on the Dexter Jacobson case, he also ignored my complaints about judicial crime in the San Jose bankruptcy court. My experience may shed some added light on how the government fails to protect the people from judicial crime.

I was drawn into bankruptcy court after I did business with a building contractor, Ilbert Tucker. Tucker was both spiritual leader and business leader of the Carmel Valley Subud, a Spiritual Brotherhood. Some 20 Subud employees were joint venturers in a Subud Enterprise called "Stone, Post & Flower" which built houses in and around Carmel Valley, California.

On August 6, 1976, an involuntary bankruptcy petition was filed against Tucker by several of his unpaid creditors in San Jose, California. However, Tucker was not a poor, honest debtor. Tucker and his attorney, Dennis Powell, exploited the bankruptcy system to put Tucker on the fast track to wealth.

The record shows that Stone, Post & Flower was a joint venture operated by a five man Board of Directors, including Tucker. Yet the court and its appointees administered Tucker's estate as a proprietorship. They relieved his partners of the liability for the enterprise's debts. In contemplation of bankruptcy, the venture disbursed over $300,000 to Tucker's parents, and four members of the Board. Testimony in the record attests that five residences belonging to the enterprise were held in the names of joint venturers.

On September 21, 1976, Tucker reported net *debt* of almost $46,000. However, less than three months later (December 8, 1976), Tucker amended his schedules and reported net *worth* of almost $685,000, with real property of approximately $836,000 and *debts* suddenly increased to almost $534,000.

In my opinion, Bankruptcy Judge Seymour J. Abrahams acted illegally when he continued to administer the bankruptcy estate after Tucker reported that his financial position improved by over $730,000 *during* three months of bankruptcy.

In December of 1976, I employed James Grube, an attorney who specialized in bankruptcy, to protect my interests as holder of two secured notes. A year later, I fired Grube for conniving against me to lose. The security for one property was stolen with a fabricated contract of sale, and the other property was stolen by prearranged bid sale. These actions were validated by Judge Abrahams. We cannot expect Grube, who is now a Bankruptcy Judge in San Jose, to be any more honest as a judge than he was as an attorney.

In April of 1980, Judge Abrahams discharged Tucker

from bankruptcy wiping out his debts and thereby completing the swindle of Tucker's many creditors. At discharge, it was a "no asset" estate. Creditors got nothing. Later that year, Tucker's attorney Powell reportedly told my attorney that Tucker and Tucker's brother had built a $2 million housing project. I believe the money stolen from bankruptcy creditors was used to capitalize the construction of a 54-unit housing project having a retail value approaching $5 million.

Redress of grievance?

After several years of litigation and personal study, I asked U.S. Attorney Joseph Russoniello to investigate Tucker's sham bankruptcy. He refused. In 1989, I complained to U.S. Attorney General Richard Thornburgh for an order compelling an investigation of Tucker's sham bankruptcy. He also refused.

I appealed to the circuit court and petitioned for a rehearing en banc. The case was dismissed because District Judge Thomas Hogan ruled that he could not compel an investigation when federal prosecutors (U.S. Attorney Russoniello) would not prosecute.

I complained about Tucker's sham bankruptcy to the Department of Justice. FBI agent James Rabin said, "You're nuts if you think I'm taking on a federal judge."

I complained to the California State Bar against the trustee's attorneys, Harvey Hoffman and William Kelly, the bankrupt's attorneys, Dennis Powell and Robert Herendeen, and my attorneys, David Murray and James Grube. The State Bar complacently tolerated the moral turpitude of attorneys who acted in conspiracy with a judge.

I appealed to the United States District Court, raising a Fifth Amendment constitutional issue of denial of due process of law. Instead of justice, I got injustice. Favored parties like Tucker rely on the judge, while unfavored parties rely on the merits of their case, and lose.

Finally, judgments were imposed on me by District Judge Marilyn Patel to drive me from the courts. (On TV, Patel projects the public image of a fair judge, but she is an unabashed tyrant in the courtroom.)

Administrator or judge?

In 1794, the Supreme Court ruled that judges cannot exercise administrative duties. Administrative duties are solely within the jurisdiction of the executive branch. This constitutes an expression of the "separation of powers" doctrine fundamental to our Constitution.

Nevertheless, bankruptcy judges are the only judges who exercise dual administrative and judicial duties. As an *administrator*, the bankruptcy judge confers with the trustee regarding actions to be undertaken to recover assets for an estate. Then in his *judicial* capacity, he may rule on that which *he* has *already* approved. The bankruptcy judge, who appointed or approved the appointment of the trustee and his attorneys, lacks the appearance of impartiality and denies opponents of the trustee due process of law.

Moreover bankruptcy judges are unconstitutionally appointed *by judges* of the appellate courts. Because the dishonesty of bankruptcy judges reflect on the judges who appointed them, appellate judges are reluctant to expose judicial misconduct in the bankruptcy courts.

No statute of limitations protects a dishonest judge from removal, including justices of the United States Supreme Court. Nevertheless, in my case, no judge provided judicial review of those elements of the National Bankruptcy Law that are inconsistent with the Fifth Amendment or the separation of powers doctrine.

Four justices reviewed the sham bankruptcy in their former capacities: William Rehnquist, Ninth Circuit Associate Justice, Anthony Kennedy, Ninth Circuit Judge, Clarence Thomas and Ruth Ginsberg Judges of the District of Columbia Circuit Court of Appeals. I believe that all justices who reviewed Tucker's bankruptcy should be impeached. The constitutional rights of Tucker's creditors have been sacrificed because lawyer-justices are put above the law by lawyer-prosecutors.

A lack of judicial accountability has created a judicial system where judges may rule in accord with their own will rather than the law. When judges are at little personal risk for any amount of bribery, cronyism, fraud or other malfeasance in office, we know our system of government is deeply flawed.

Lawyers dominate all three branches of government and complacently tolerate judicial crime. They are indifferent when injustice is imposed on unfavored litigants. When the people refuse to elect lawyers to serve as President or members of Congress, then lawyer-judges will be accountable to nonlawyer officials and judicial accountability may be restored to our courts. Until then, the courts will be dominated by cronyism and fraud.

Mr. Palmer published Courts Without Justice, which focuses on bankruptcy court abuse and is available from BookMasters Distribution Center, Mansfield Ohio, 800/247-6553.