

September 23, 2014

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**RE: PETERS vs. USA, Docket No. 14-1840, Eighth Circuit Court of Appeals**

Dear Mr. Flamm:

My name is Thomas Petters, I am serving a 50-year sentence on a white collar crime. Without going into all the details, I feel there was great prejudice and bias towards me throughout my trial and certainly at my sentencing, partially due to violations of 28 U.S.C. §§ 455(a) and 455(b)(5)(ii & iii). I received a 50-year sentence my co-defendants who ran and operated the companies received 1-year and 5-year sentences respectively.

The law firm I used for all of my 51 various companies, including Polaroid, Fingerhut, Sun Country Airlines and all others, Fredrikson & Byron, P.A., employed Richard H. Kyle, Jr., the son of the Honorable Judge Richard H. Kyle. Richard H. Kyle, Jr. is a partner of Fredrikson & Byron. Judge Kyle was the trial judge in this action.

Since September 1, 2010, my jailhouse lawyer and myself have requested my direct appeal attorney's and 28 U.S.C. §2255 attorney to include the issue of disqualification and recusal of Judge Kyle pursuant to 28 U.S.C. §455 et al., to no avail. My §2255 was denied on December 5, 2013. See, USA vs. PETERS, Criminal No. 08-364(RHK), Document No. 628 and Civil No. 13-1110(RHK).

On December 6, 2013, I requested my jailhouse lawyer, John Gregory Lambros to take over the case and raise the issue of whether Judge Kyle should of disqualified himself. Through some creative pleading, Lambros filed a "MOTION TO ALTER OR AMEND JUDGMENT, PURSUANT TO RULE 59(e) OF THE FEDERAL RULES OF CIVIL PROCEDURE" and a "MOTION TO DISQUALIFY THE HONORABLE RICHARD H. KYLE IN THIS ACTION", on or about December 28, 2013. Therefore, forcing Judge Kyle to have jurisdiction, as he was required to respond to the Rule 59(e) motion. Judge Kyle denied both motions and they are currently in front of the Eighth Circuit for review.

On May 6, 2014, Lambros filed a "MOTION FOR ISSUANCE OF CERTIFICATE OF APPEALABILITY" and/or "Writ of Mandamus": **Issue: Routes of appellate review to challenge Judge Kyle's refusal to disqualify himself during Defendant Petters' §2255 on March 11, 2014, pursuant to Fed. R. Civ. P. 59(e). See attached.**

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Petters letter to Attorney Flamm

RE: REPRESENTATION - POSITION PAPER - AMICUS CURIAE PETITION

Lambros believes the issue that sets Petters request for the recusal of Judge Kyle from any other case Lambros could find during his research of 28 USC §455 et al, is the fact that a **\$13.5 MILLION PENALTY WAS APPROVED AND PAID BY FREDRIKSON & BYRON, P.A. ON JUNE 6, 2012.** Attorney Douglas A. Kelly, the receiver and Chapter 11 Trustee of Thomas Petters and PCI approved the settlement in a clawback suit in this action. The "SETTLEMENT ARGREEMENT" clearly asserts legal and equitable claims against FREDRIKSON & BYRON relating to its representation of Petters. The claims were for breach of fiduciary duty, breach of contract, aiding and abetting breach of fiduciary duty, aiding and abetting fraud, civil conspiracy, unjust enrichment and LEGAL MALPRACTICE. See, June 6, 2012, "AFFIDAVIT" by Attorney Kelly, pages 5 and 6, paragraph 9. See, USA vs. THOMAS JOSEPH PETERS, et al., Civil No. 08-5348(ADM/JSM).

The attached "Certificate of Appealability" and/or "WRIT OF MANDAMUS" requests the court to respond to the following ISSUE/GROUND THREE (3): (see page 27)

"REASONABLE JURISTS COULD DIFFER WITH, OR WOULD FIND DEBATABLE OR WRONG, THE DISTRICT COURT'S DENIAL OR RELIEF ON PETERS' CLAIM THAT A **\$13.5 MILLION PENALTY DOES NOT FULFILL THE STANDARD OF 'AN INTEREST THAT COULD SUBSTANTIALLY AFFECTED,'** WITHIN 28 USC § 455(b)(5)(iii) and/or the "CODE OF CONDUCT FOR UNITED STATES JUDGES, Canon 3(C)(1)(d) ~~(iii)~~."

INTERESTING FACT:

Seven (7) months before Petters' trial started, Fredrikson & Byron, P.A and the Honorable Judge Kyle were confronted with the same issue concerning his son Richard H. Kyle, Jr.. See, IN RE MEDTRONIC, INC. SPRINT FIDELIS LEADS PRODUCT LIABILITY LITIGATION, 601 F. Supp. 2d 1120 (D. Minn. 2009). Judge Kyle stated in his ORDER that FREDRIKSON & BYRON and his son's interest could not be affected and that plaintiff's argument was a:

HYPOTHETICAL HOUSE OF CARDS:

"At bottom, the argument Plaintiffs advance is little more than a hypothetical house of cards; my son could be affected if the court were to rule against Medtronic, if Medtronic then retaliated by withdrawing business from FREDRIKSON, if the removal of the business were to impair my son's financial interests, and if that impairment were substantial. The converse argument, which Plaintiffs also raise, is similarly conjectural: my son could be affected if the Court were to rule in favor of Medtronic, if Medtronic then rewarded FREDRIKSON by funneling it more business, if the additional business enhanced my son's financial interests, and if that enhancement were substantial. But, Plaintiffs are REQUIRED TO OFFER PROOF OF PARTIALITY, ..... (collecting cases)."  
Id. at 1124-25.

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Petters letter to Attorney Flamm

RE: REPRESENTATION - POSITION PAPER - AMICUS CURIAE PETITION

**PETTERS' DOES NOT PRESENT A "HYPOTHETICAL HOUSE OF CARDS" - \$13.5 MILLION AFFECTED!**

As stated above, the May 30, 2012, "SETTLEMENT AGREEMENT" in the sum of \$13.5 million, due to claims of legal malpractice, breach of contract, civil conspiracy, etc., and June 6, 2012 "SETTLEMENT AGREEMENT", Document No. 2264-1, proves the standard of "an interest that could be substantially be affected", was affected. See attached "MOTION ...." and/or WRIT OF MANDAMUS", paragraphs 94 thru 96.

**POTENTIAL CLASS-ACTION CLAIMS AGAINST FREDRICKSON & BYRON, P.A. IN EXCESS OF \$1 BILLION IN DAMAGES:**

On July 25, 2014, Petters and Lambros placed Fredrickson & Byron on notice that the February 26, 2014, U.S. Supreme Court ruling in CHADBOURNE & PARKE LLP vs. TROICE, et al., No. 12-79, offers victims of Petters case a chance to file class action suits against Fredrickson & Byron, thus adding additional support to the requirements to disqualify Judge Kyle, pursuant to 28 USC §§ 455 et al. As you know, the CHADBOURNE case allows victims a chance to recover more of their losses under State law when they sue LAW FIRMS and other third parties on allegations they aided the fraud when the product sold in Ponzi schemes aren't considered securities - even though a 1998 federal law largely prohibits state-law class-action claims for securities fraud.

**REQUESTING YOUR SERVICES:**

I am requesting your services in providing advice, position paper and/or amicus curiae brief to supplement my current appeal and possible expert testimony regarding the above judicial disqualification issue.

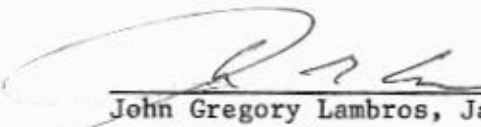
Your past and current litigation experience and publications within the field of attorney and judicial disqualification are greatly needed to support my current legal pleadings.

Please advise as soon as possible as to your employment needs.

Sincerely,

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Thomas Joseph Petters  
[www.NoPayClassifieds.com/TomPetters](http://www.NoPayClassifieds.com/TomPetters)



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John Gregory Lambros, JailHouse Lawyer  
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