

Forty

“PENTHOUSE IS HOPING THAT I DIE AND THAT MY COMPANY GOES BANKRUPT”¹



Dear Mrs Rossellini,
Your son brought laughter and love wherever he went.

— Bob Colacello²



FRANCO ROSSELLINI RETREATED. He would not answer phone calls. He would not respond to letters. He would see almost no one. His “At-a-Glance” datebook nearly goes blank for the next two weeks, except for medical appointments and a cable-TV bill. Gradually, he added a few appointments to his datebook, but he would not start getting out again with any regularity until late June. Apart from a few brief conversations with Lupoi and Sarno, he would not deal with any of his business colleagues until year’s end, and then only with reluctance. He had divorced himself from Felix.

The ruling of the Court of Appeals was so bizarre, so unfounded, so contrary to law, and so contrary to evidence that it would have been easy to appeal to the Supreme Court of Cassation, but only with sufficient funds at hand. That is why Franco Rossellini could never exercise his right, for he had no funds at all. He knew that he was near the end of his life. He was weak and barely mobile. He was at least occasionally taking Valium³ as well as cocaine.⁴ He had frequent

1. The full quotation is “I think that the Judge [Diane A. Lebedeff] should be informed of our efforts to settle re[a]sonably our dispute with Penthouse. It should be clear to her that Penthouse is only trying to delay and not give us an accounting hoping that I die and that my company goes bankrupt.” Rossellini: letter to John Sarno, 13 November 1991. FRC.

2. Bob Colacello: letter of condolence to Lina Pugli Rossellini, 16 June 1992. FRC.

3. Rossellini: “At-a-Glance” datebook entry for 25 January 1991. FRC.

4. Adriano Magistretti: phone conversation with RS, 1 December 2014.

doctor and hospital visits, and finally he got so desperate as to undergo acupuncture.⁵ Some wealthy friends, whose identities we may never learn, paid his medical bills.⁶ Except for a few intimates (Fiorella Mariani, Ingrid and Isabella Rossellini, Enzo Natale, and Franco Marconi), he no longer trusted anybody. He had no more fight left in him. He would accept the court's findings. One can see from photographs shortly afterwards that his acceptance of defeat led to an emotional cleansing. His pursuit of justice had become an all-consuming addiction. For his own peace of mind, he needed to go cold turkey.

The court's findings were immediately followed by a bill from Lupoi's office for services in the amount of £12,597,087 (US\$11,060.47),⁷ but Rossellini had no more money to give.

It was Giuseppe Biagiotti, Felix's accountant, who forwarded Lupoi's bill to Rossellini. He added his own cover letter,⁸ assuring Rossellini of his "fraternal solidarity in this moment of utter bewilderment and sorrow." He had already told Lupoi that, in view of the economic interests at stake, it should be easy to get a "fast track" to a hearing at the Supreme Court of Cassation. This, he said, must be done urgently before everyone involved was reduced to bankruptcy. Lupoi in theory was agreeable, but said that such a proceeding would cost a minimum of £100,000,000 (US\$78,501.05). Could he be paid?

Lupoi's and Biagiotti's letters arrived simultaneously with a letter from Fiorella Mariani. It was a letter from a relative who now proved her sincerest friendship.

Franchino my dear! The news that Lupoi gave me boggled me! But after the first moment of total loss, the reaction is the opposite! It's like when you fall from a horse that you have to get right back on... right? Sister Pandora has also taken caution to put them in jail? Well, now you ask her to get you out of a mess!... and go and go immediately under an emergency procedure in Cassation!!! This is typically the favorable time for those who want to cheat you by taking advantage of the situation, and take the film with two lire... any of your creditors starting with Lupoi or Marina or others who you might find among the unscrupulous (friends)!

5. Rossellini: "At-a-Glance" datebook entries for 14, 28, 31 January; 9, 11, 12 February; 12, 16, 20, 22 March; 1, 8, 25, 26, 29 April; 2, 6, 13, 16, 30 May; 7 June; 3, 5, 6 July; 7, 8, 10, 21, 24, 27 August; 3, 6 September; 3, 4, 8, 11, 14, 15, 18, 22, 23, 25, 28 October; 28 November; 10, 13, 17, 20, 27 December 1991; 3; 10 January 1992. FRC.

6. Ben Brantley, "Rossellini Requiem," *Vanity Fair* 56 no 5, May 1993, p. 159.

7. Studio Legale Lupoi: letter to Rossellini, 19 April 1991. FRC.

8. Giuseppe Biagiotti: letter to Rossellini, 19 April 1991. FRC.

Listen to me! Do not break out in tears and despair... it is a waste of time... and take courage because nothing is lost yet!

As you can see from his letter, even a pessimist like Castorino thinks like me!⁹

Don't let Lupoi see you in tears, but pissed off and determined to persevere! Like when you refused to compromise with the president of the Penthouse.

If you've managed to establish good bank accounts (Romeo told me that he could help you in this regard) and get out of the midst of the smaller creditors such as Pentastudio and Marcheggiani and make a deal with Cinecittà and say (according to Romeo): I lost the case, so I can give you only this — and down comes a good slice of the debt!

My khaki, I can imagine how this news made you sick and certainly did not help your nerves, but get back on the horse and run off at a gallop! This is, I think, the only sensible thing to do and you'll see that your health will be better!

I embrace you tightly tightly.

Your Fiorella¹⁰

The feelings were well-placed, but how could Rossellini possibly take the matter to the Supreme Court of Cassation? He was now entirely out of money and without any possibility of earning any. His situation was hopeless.

APRIL 1991 — LEFT-OVERS

SHORTLY BEFORE THE RULING by the Court of Appeals, Uniexport and CVF licensed *Caligula* to GB Entertainment of Glendale, California, for exploitation in South Korea, and yet before opening date a flurry of urgent faxes flooded in.¹¹ Another distributor, Woo Jin Film Company, was running previews for *Caligula* in cinemas. Had Uniexport licensed this film to a rival? Not at all. The usual pattern had been at work once again, as Penthouse again attempted to crowd Felix out of the market.

Since Rossellini would speak to no one, the repeated pleas for help emanating from the Koreans at GB went unheeded and unanswered. Pietro Bolognini was trying to bide time by assuring GB that he was forwarding their grievances to Rossellini, but Rossellini would never respond.

9. The reference to Castorino is entirely lost on us.

10. Fiorella Mariani: letter to Rossellini, 19 April 1991. FRC.

11. Kay Kim of GB Entertainment, Inc.: faxes to Uniexport, 18 and 19 April 1991 (FRC); Uniexport: fax to Kim of GB, 19 April 1991 (FRC); Uniexport: fax to Rossellini, 19 April 1991 (FRC); Cathie N. Kim of GB: fax to Rossellini, 22 April 1991, and Cathie N. Kim of GB: fax to "Miss Carla," 22 April 1991 (FRC).

Pietro Bolognini was also suffering from the current situation. He faxed Rossellini on 30 April 1991, asking "We are anxious to have news from you! How is it that nobody can tell us how you're doing? Affectionately, Pietro."¹² Bolognini, of course, had more than personal concern for Franco's well-being. He was in urgent need of help in order to deal with customers in South Korea, the United Kingdom, Scandinavia, and Chile — and that was "apart from the pending business you have with me."¹³ He was on his way to set up his booth at the Hotel Martinez in conjunction with the Cannes Film Festival, and he knew he was walking through a gauntlet. He was right.

This morning the customer who purchased CALIGULA for South Korea came to our booth screaming in fury that you immediately have to return the \$12,000 advance to them because PENTHOUSE had already handed over copies of the film to another company which is already coming out in theatres in South Korea.

We need to hear from you urgently because the customer will come back to our stand tomorrow to get news. He also said he has sent several faxes to you in New York and you never responded.¹⁴

It is extremely urgent that you send us in Rome via DHL a check for US\$12,000 payable to GB ENTERTAINMENT COMPANY to be delivered to the said company, which at the had paid you the same amount in due course as an advance on the contract of the film in South Korea.¹⁵

A month later there was another troubling communication, this time from Denmark,¹⁶ as there was some sort of "situation" that had sprouted just as they were about to release the film. How should they handle the matter? Franco did not respond.

To all appearances, the fate of the master elements of *I, Caligula* as well as of the submasters of the various versions of *Caligula* was sealed by a letter from Technicolor Roma.¹⁷ It was time to pay the next instalment. An inventory was attached for Rossellini's review. He seems never to have answered, and if that was the case, we can be quite sure that Technicolor then discarded all the materials. There is a good chance that these materials included important trims,

12. Pietro Bolognini of Uniexport Film: fax to Rossellini, 30 April 1991. [FRC](#).

13. Bolognini of Uniexport: fax to Rossellini, 7 May 1991. [FRC](#).

14. Bolognini of Uniexport: fax to Rossellini, 9 May 1991. [FRC](#).

15. Bolognini of Uniexport: fax to Rossellini, 17 May 1991. [FRC](#).

16. Kurt Wellejus of Scanbox Danmark AS: fax to Rossellini, 13 June 1991. [FRC](#).

17. Romano Veroni of Technicolor SpA: letter to Rossellini, July 1991. [FRC](#).

raw footage, and rough cuts. If that was the case, then there will never be a possibility of restoring *Caligula* to Tinto Brass's intentions.

Lupoi had at last grown impatient, and sent Rossellini a letter devoid of any sympathy:

Dear Mr Rossellini,

The element of trust between us that is the basis of the professional relationship between client and lawyer has now gone completely missing.

The present letter, therefore, is a formal renunciation of all orders entrusted by me to you or to FELIX CINEMATOGRAFICA.

While I make no issue either about the honoraria or the expense reimbursements, I cannot forego the \$13,500 that I foolishly anticipated.

I send warm greetings to you and to your mother.

LUPOI LAW OFFICE
Prof Maurizio Lupoi Esq¹⁸

Rossellini delayed his response. He hired a new lawyer. Though this name appears nowhere earlier in the surviving documentation, there can be but little doubt that the new lawyer had long been a close family friend. He was another Franco, namely, Franco Marconi.

There were still left-over problems that had never been settled. Pietro Bolognini received a message from México.¹⁹ Uniexport had licensed the soft version to Carlos Amador SA for an autumn 1990 cinema release, but now word arrived from Amador and Grupo Empresas CA via fax: The replacement submaster of *Caligula* was unusable, as bad as the version originally sent. Could Rossellini send better material, along with an internegative of the preview ("trailer") and Spanish subtitles? Bolognini appealed to Rossellini for advice, but heard nothing in response. Indeed, there was nothing Rossellini could say or do.

Not helping matters was a scolding fax that arrived from Monique André of Albatross Films of Paris:

Following the judgement of the Court, which gave the property of the above-mentioned picture, it seems that Mr Sugiyama from New Select was right to ask so many documents to release the picture.

Now he cannot release it, so please let us know by fax, as soon as possible, when you will reimburse him of the royalties he has fully paid for a picture you have no rights and that he cannot release in Japan.

18. Maurizio Lupoi: letter to Rossellini: 1 August 1991. FRC.

19. Carlos Amador for Carlos Amador SA and Grupo Empresas CA: fax to Pietro Bolognini of Uniexport Film, 28 August 1991. FRC.

I hope you will understand that my situation is very a[w]kward and rely on your honesty to answer me as soon as possible.

With Kind Regards.²⁰

There is no evidence of a reply.

Franco's closest friend, Enzo Natale, whom he now wished to adopt as a son,²¹ responded to their new lawyer on Rossellini's behalf, and his emotions were still as raw as Rossellini's:

I wish to thank you first of all for the kind words that you used with Franco. Very slowly and with great care we hope that he can survive and that within a few years he can take advantage of Professor Salk's vaccine. You can understand from this how important it would be for him to be surrounded by trusted people who can give him back his trust after the infinite injustices that he has had to suffer. After the telephone calls that he had with you I could see with joy an honest and true change. These months have been a crunch, but strangely I feel that little by little he is returning to be who he was.

You represent for us a person who is a friend to whom we are connected by a profound sentiment of friendship.

The ruling that I attach is the ignoble testimony of a real and proper fraud, the product of an operation of corruption and of arbitrary opinions rendered only to justify ignoble doings.

Among the thousand extremely serious contradictions that the ruling carries with it there is one that by itself brings down the whole castle of idiocies to which the judges have climbed: They did not keep in mind that the videocassette and TV rights at the time of the 2-2-84 agreement were not in our possession and only in April 1985 did we acquire the property in its entirety. I'd like to know how you can make a cession of something that you don't have.

Warm regards

Enzo²²

Lupoi sent another letter, though he really did not need to, and he addressed it only to Felix Cinematografica, but with a carbon copy to Giuseppe Biagiotti:

On Friday, 13 September, I was notified of the sentence of the Rome Court of Appeals in your case against Penthouse.

Therefore, the time for appealing to the Court of Cassation has expired.

Yours sincerely.²³

20. Monique André for Albatross Films: fax to Rossellini, 17 September 1991. FRC.

21. Brantley, "Rossellini Requiem," *Vanity Fair*, May 1993, p. 184.

22. Enzo Natale on behalf of Rossellini: letter to Franco Marconi, 8 September 1991. FRC.

It was not signed. Lupoi was out of the office. Fiorella Mariani, who was employed by Biagiotti, forwarded another copy of this letter to Rossellini, and she added a handwritten footnote: "Then, Biagiotti told me that Solito is dead, poor thing! Kisses. Fiore."

At long last Rossellini decided that Lupoi's lament about the \$13,500 deserved a reply. Yet he physically could not reply, and asked Natale to reply on his behalf:

Dear Professor,

Please excuse us for the delay with which I am replying to your letter of last month, 1 August.

I have just returned now from Italy where I went to visit my family.

Franco is unfortunately still very sick; he cannot use his right arm and it is not possible for him to write.

I ask you to please not worry about the amount of the \$13,500 that you talk about in the letter.

Franco guarantees that at the first opportunity he will see that you have this amount. Therefore, thank you for your patience.

I ask you therefore to return the file in your possession and place it into the hands of Fiorella Mariani since the lawyer Feletti of National Bank of Labor wishes to have a copy. As you know National Bank of Labor discounted a good seven hundred million that the Ministry had issued to us.

Warm regards from Franco and from Mrs Rossellini.

Enzo Natale²⁴

Natale sent a copy of the above letter to Fiorella Mariani Rossellini, with a cover message:

Dear Fiorella,

I am sending you a copy of the letter (FAX) that we sent to our attorney Lupoi. I am adding also copy of the letter with which Lupoi affirms that nothing is owed to him except for \$13,500 (between us let be it said that such sum was improperly taken in by him inasmuch as it was part of a sum that he should have deposited with the National Bank of Labor)

It is urgent to have the file back in order to deliver it to Avv. Marconi.

It is important that this be done by you inasmuch as Franco does not trust anybody else.

23. Lupoi: letter to Felix Cinematografica, 17 September 1991. FRC.

24. Natale on behalf of Rossellini: fax to Lupoi, 18 September 1991. FRC.

Big kisses from all of us.

Enzo²⁵

Finally, in early October, Rossellini began to rally. He published a two-page biography, somewhat exaggerated, as part of a proposed press release, and appended to it a copy of the Gold Medal award he had received from the Italian Red Cross. He had his attorney (Sarno? Marconi?) open negotiations with Penthouse for a settlement, and asked that the pending case in the French court be closed.²⁶ Bitoun immediately responded with a message that the court may or may not accept this new situation, and that in any case Rossellini and Felix still owed him 200,000 francs (US\$34,467.14) and was wondering when this balance would be forthcoming.²⁷

Rossellini attempted to settle his affairs with John Sarno, who had done such exceptional work for so little pay. From Manila, he painfully scrawled a message on a page of a lined yellow note tablet and faxed it:

Dear John,

two words to comment [on] our telephone conversation.

I think that the Judge [Diane A. Lebedeff] should be informed of our efforts to settle re[asonably] our dispute with Penthouse.

It should be clear to her that Penthouse is only trying to delay and not give us an accounting hoping that I die and my company goes bankrupt.

When they gave us access to the books in 1984 it was clear that they were hiding millions of profits as Mr Fingher [sic] — the accountant — put it in writing.

I can not beli[e]ve that a Judge lets them get away with all these criminalities.

It is our absolute right to know how much amounts the money kept by Penthouse²⁸

Penthouse's refusal to provide an accounting or to pay Rossellini his 10% share was no different from Penthouse's treatment of Malcolm McDowell, who also owned five percent the net receipts. The film had broken records in much of Europe and Asia, and McDowell told the press that "*Caligula* has grossed more money — \$70 million — than any other movie I made."²⁹ Yet McDowell also

25. Natale on behalf of Rossellini: fax to Mariani, 19 September 1991. FRC.

26. Jacques-Georges Bitoun: fax to Rossellini, 7 October 1991 (FRC); Rossellini: fax to Bitoun [sic], 8 October 1991 (FRC).

27. Bitoun: fax to Rossellini, 9 October 1991. FRC.

28. Rossellini: fax to John Sarno, 13 November 1991. FRC.

29. Lou Gaul, "'Blue Thunder' Villain: McDowell Still Clocking Hours as Actor, Looking to Directing," *The Doylestown [Pennsylvania] Daily Intelligencer*, 19 May 1983, p. 38.

admitted the other truth: "I'm expecting a big check from Guccione next week, but I've never seen so much as a statement."³⁰ In 1990, he explained: "I heard it made 100 million dollars, but I never saw a cent of my percentage. It is called creative accounting. It took 11 months to shoot in Italy. They had hired me for 11 weeks, so it was a bit like winning the pools. I had no English taxes to pay and was able to square off my first divorce."³¹ As recently as the October 2007 deluxe DVD issue, McDowell was still telling interviewers that he had never received a penny in royalties.

In the meantime, the South Korean matter was still a bother. Bolognini sent Rossellini yet another fax to let him know that G.B. Entertainment was now attempting to recover its \$12,000 advance from Uniexport.³² He begged Rossellini to contact G.B. and let them understand that Uniexport had merely been an intermediary, and that Rossellini had already collected the advance. There was no known response.

Lupoi again contacted Rossellini by fax, this time in care of Rossellini's physician, Dr Michael Mullen, with copies to Marconi, Felix, and Biagiotti:

Dear Mr Rossellini

The attorney Marconi sent me a copy of the power of attorney that you issued to him last 31 January.

Faced with this evidence I must therefore give up. Above all, I must completely withdraw regarding you and your mother.

I shall say nothing else, except that Marconi will defend Felix by himself. I will adjust as the situation requires.

Maurizio Lupoi³³

Then came a surprise, and from an unexpected quarter. Irwin E. Bloom, of Irwin E. Bloom & Co., PC, Certified Public Accountants, sent a warm letter to well-known fashion designer Miss Elsa Peretti, thanking her for loaning Franco Rossellini \$140,000.³⁴ Peretti surely understood that she would never see the money again, for she knew that Rossellini was at death's door. And Rossellini must have understood that as well. Nonetheless, he promised to repay her when he could, at an eight percent annual interest. We are led to wonder when Peretti began loaning Rossellini money. Had she been responsible for allowing him to

30. Arthur Bell, "Bell Tells," *The Village Voice*, Tuesday, 13 April 1982, p.???

31. Scarth Flett, "Answering Russia's Call to Kill the Tsar," *The Sunday Express*, 16 September 1990, p. ???.

32. Bolognini of Uniexport: fax to Rossellini, 9 December 1991. FRC.

33. Lupoi: fax to Rossellini, 10 March 1992. FRC.

34. Irwin E. Bloom: letter to Elsa Peretti, 31 March 1992. Someone named Rita forwarded a copy of this letter to Rossellini for his records. FRC.

pay his rent? Had she helped with his medical bills? Which expenses did Rossellini pay from this \$140,000? We do not know, but we do know that he did not pay Bitoun, who let him know that his pending case against Penthouse had been removed from the docket, and who demanded his unpaid fees yet again.³⁵ Fiorella Mariani wrote to let him know that the royalty check he had never deposited from SIAE (licenses for his father's music), in the amount of £13,551,210 (US\$11,279.69) was about to be voided.³⁶ That is how we know that Rossellini was no longer capable of keeping up with any sort of paperwork.

35. Bitoun: fax to Rossellini, 20 May 1992. FRC.

36. Mariani: fax to Rossellini: 20 May 1992. FRC.