

COURT INQUIRY IS SET ON BID TO SELL TAPES

Study of Two Lawyers' Ties With the Berkowitz Case Is Also Expected

By **MARCIA CHAMBERS**

The Appellate Division of State Supreme Court in Brooklyn plans to investigate the conduct of two lawyers who offered to sell taped memoirs they had obtained from David R. Berkowitz to at least two newspapers.

Acting through its investigatory arm, a joint Bar Association grievance committee that checks out disciplinary allegations against lawyers in Brooklyn, Queens and Staten Island, the court is also expected to inquire how the lawyers, Phillip Peltz and Ira Leitel, managed to come into the state's case against Mr. Berkowitz, the 24-year-old mail clerk accused of being the slayer called "Son of Sam."

On Friday, Richard A. Brown, the judge who presided over Mr. Berkowitz's arraignment in Brooklyn Criminal Court, barred Mr. Peltz, Mr. Leitel and Leon Stern, a lawyer hired by the Berkowitz family, from releasing or disseminating confidential material obtained from Mr. Berkowitz in recent days at Kings County Hospital, where he is undergoing a court-ordered psychiatric examination.

It was expected by those familiar with

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the case that Judge Brown would send the transcripts of the proceedings, including contradictory statements of how Mr. Peltz had come into the case, to the Appellate Division.

Mr. Peltz is currently facing possible disbarment proceedings before the same appellate court as a result of a 1969 Manhattan Federal conspiracy conviction that only recently came to the attention of Brooklyn authorities.

The controversy over just which lawyer, Mr. Peltz or Mr. Stern, represents Mr. Berkowitz flared up in public yesterday when Mr. Berkowitz's father, Nathan, confronted Mr. Peltz in the Kings County Hospital lobby and ordered him off the case. The discussion was so heated, authorities said, that the elder Mr. Berkowitz and Mr. Peltz had to move into a nearby interview room.

Afterward, Mr. Peltz, 43 years old, who has a prior criminal conviction for securities violations, went to visit the suspect, now undergoing tests to determine if he has the capacity to understand the charges against him and to assist his lawyers in his defense. On Friday Mr. Peltz said that the younger Mr. Berkowitz had retained him. He could not be reached for comment yesterday on whether the younger Mr. Berkowitz had dismissed him yesterday.

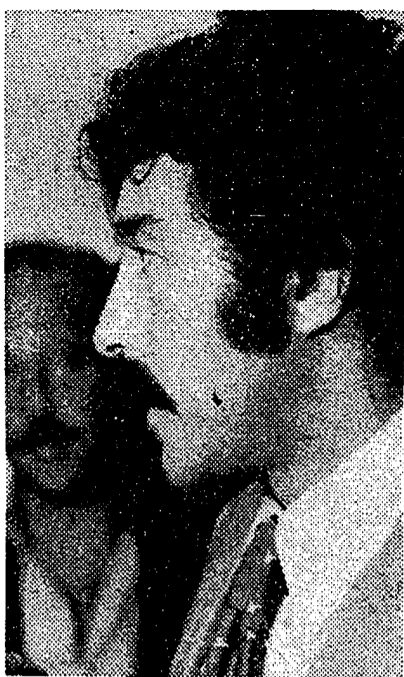
Another Issue on Tapes

At issue, several lawyers and judges said, are the Canons of Ethics governing the legal profession. One canon prohibits the release of privileged information between attorney and client unless a client authorizes his lawyer to do so—and Mr. Berkowitz's mental capacity may not have enabled him to make that decision. Other canons deal with "trying" a case yet to go to trial in the newspapers, and with misrepresenting how a lawyer came to obtain a case.

Mr. Peltz's entry into the celebrated case has raised a host of thorny legal issues. Since the Berkowitz case in Brooklyn is now before a grand jury, any court proceedings involving Mr. Peltz appear to straddle the jurisdictions of Criminal Court and State Supreme Court.

And while conceivably Judge Brown might have held a hearing and taken testimony on how the lawyer was retained, to do so might threaten Mr. Berkowitz's constitutional right to have a counsel of his choice—assuming he is competent to choose one.

Another issue yet to be resolved is the security of the tapes, for while Judge Brown has barred Mr. Peltz and Mr. Leitel from releasing or disseminating them, it is not known if the lawyers contracted with other publishers or film companies to sell the 6 hours of tapes prior to the



Associated Press

Phillip Peltz at news conference Friday at Brooklyn Supreme Court.

judge's oral order stopping them at about 2 P.M. Friday. Thus far, neither Mr. Stern, who until yesterday had not visited Mr. Berkowitz, nor the suspect's father, has moved in Supreme Court to have themselves or the court take custody of the tapes.

On Thursday morning, Mr. Peltz served a notice of appearance in Criminal Court that he was representing Mr. Berkowitz, and told Judge Brown that a member of the family had hired him—a claim that Nathan Berkowitz, in a letter, told the judge was untrue. Following the arraignment, Mr. Peltz went to the hospital, interviewed Mr. Berkowitz, and obtained a document signed by the suspect giving him power of attorney and full title to literary and press memoir rights.

During the course of the evening Mr. Peltz appeared on a television news show, saying the "precious rights" of Mr. Berkowitz to a fair trial had to be preserved. Shortly before midnight, according to Peter Michelmore, an associate editor at The Post, Mr. Peltz and Mr. Leitel appeared in the newspaper's city room.

According to Mr. Michelmore and to an article in yesterday's Post, the lawyers offered to sell the newspaper serialization and book rights to a 30-minute taped interview and subsequent interviews for \$100,000. Under the terms of the agreement, Mr. Michelmore said, Mr. Berkowitz would get two-thirds of the net proceeds and Mr. Peltz one-third. Mr. Michelmore said yesterday that the lawyers had shown him Mr. Berkowitz's written authorization.

"I rejected the offer—I was quite startled," Mr. Michelmore said. "It seemed the whole thing was so absurd and distasteful." Mr. Michelmore said Mr. Peltz had made it clear that the tapes would not be available for immediate use. Mr. Michelmore said Rupert Murdoch, The Post's publisher, wanted "nothing to do with these people."

Ten hours after The Post turned down the lawyers' offer, Mr. Peltz and Mr. Leitel, through a representative, went to The Daily News, where, according to Richard Oliver, the city editor, the tapes offered were for sale for \$50,000 and for immediate use.

The Daily News also rejected the offer. Meanwhile, others who had either shared Mr. Berkowitz's life or become symbolic figures in it moved yesterday into the literary arena. Sam Carr, of Yonkers, apparently the "Sam" figure, said he wanted to sell his story for more than \$15,000. And in Detroit, Iris and Cary Klausner offered The Post and The New York Times access to a dozen letters that Mrs. Klausner said she had received from Mr. Berkowitz in 1971 and 1972 when he was in the Army.

Mrs. Klausner dated Mr. Berkowitz when she lived in Co-op City in the Bronx. She said that a reporter for The New York Post had examined the letters and had agreed to pay the \$500 she had asked for them.

No one could be reached yesterday at The Post to confirm the purchase. The Times had refused to pay and was not granted access to the letters.