

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-152

Complainant: No. 1364210428A

Judge: No. 1364210428B

ORDER

The commission considered the complaint filed in this matter and after reviewing the recording of the hearing, found no ethical misconduct on the part of the judge. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: October 21, 2009.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on October 21, 2009.

This order may not be used as a basis for disqualification of a judge.

Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

RE: Commissioner

June 9, 2009

Dear Sir or Madam,

Why would a judge give someone the contents of an estate when that person is not in the Will? Especially when that person was brought in contempt of court for stealing from the estate? Such was the ruling given by Commissioner _____ on March 24th in the matter of the Estate of _____

On September 5th of 2005, I found my mother dead on the den floor. Her Will named me as Personal Representative and my brother and I as beneficiaries. Under the watchful eyes of my attorney, _____ and my CPA, _____, I carefully probated her estate and closed it in June of 2006. I had not removed all of her possessions from her house. Her domestic partner, _____ whom we referred to as our stepfather, agreed to allow us to take whatever we wanted whenever we wanted so long as we signed her cars over to him. Neither my brother nor I had the space in our small homes for her furniture at the time. He was not in the Will, but we agreed.

Thereafter, it became increasingly difficult to go through my mother's possessions. My brother refused to cooperate, claiming he was too busy with work. He did not like Mr. _____ did not trust him, and wanted nothing to do with him. Nor did he want to help

me. He had been to the house and had taken all that he wanted and told me to "keep me out of it!" Please refer to the notarized letter he signed that is attached.

Mr. [redacted] would become very agitated when I took something from his house and would insist that I return it immediately. This escalated in June of 2008 when Mr. [redacted] locked me out of the house he shared with my mother, changed the locks on the industrial property that my brother and I own with him as part of an L.L.C. and refused me access to my mother's beloved poodles, of which I have paid the veterinarian's and groomer's bills. There are numerous letters and emails that I would be happy to provide.

My grandmother had just passed away and I had spent months traveling to Beaumont, Texas caring for her in home hospice. I returned from her funeral to find that I had lost all of my mother's things along with my father's who had predeceased her. I also discovered that Mr. [redacted] had listed the industrial property held in the L.L.C. for sale and that he had misrepresented himself as the sole owner of this property, which houses a storage container with some of my mother's and father's possessions. Despite my pleas with the agent and broker and faxing a copy of the Assignment Agreement and Assumption Addendum, they refused to cancel the listing. Mr. [redacted] was trying to sell the property out from under us, at a list price of \$795,000.00. Please refer to the copies of the recorded documents showing my ownership of the L.L.C.

I retained Ms. [redacted] at the end of September 2008 to help me in this matter. Shortly thereafter, I had to fire her for unethical conduct and I reported her to the State Bar Association. She met with Mr. [redacted] took keys from him for a storage unit in which he had placed my mother's books, clothes, and a few pieces of furniture. She then charged me quadruple what I owed her, changed the locks on the unit after rifling through it, and refused me the keys unless I paid her. She did however, give the keys to my brother, who claimed to have never bothered to enter it to check on the items and refused to give me the keys as well, but he demanded jewelry and money from our grandmother's estate in exchange for them. She also met with Mr. [redacted] multiple times and

provided him with my case file, which he used at the hearing. She is guilty of four infractions of the Ethics Code and breaking and entering. The matter is pending at the State Bar Association and I am willing to provide anything you want concerning it.

In November of 2008 I received a letter in the mail. The Superior Court had lost my Closing Statement for the estate. I provided them with a certified copy in my defense, but wrote a heartfelt letter pleading Commissioner _____ to keep the estate open because my new attorney, _____ had advised me that it would allow me to enforce probate law. Please refer to the copy of the closing statement and the letter from the court.

The first hearing was on February 19th of this year. We had called Mr. _____ in on contempt of court and my brother, _____ as a friendly witness. To our surprise, _____ appeared with an attorney, _____ . Mr. _____ brought up the point that Mr. _____ had not filed a motion to appear. Commissioner _____ allowed him to appear on _____ behalf anyway and allowed Mr. _____ to speak very little during the rest of the brief hearing. Then Commissioner _____ set a date to remove me as Personal Representative and appoint _____ in my place. We have requested transcripts for this hearing and have yet to receive them.

To remove me as Personal Representative when all we had to do was go through the remaining items at our mother's house and on the industrial property, a task that would take perhaps a full day and a small moving truck made no sense. Mr. _____ and I had approached Commissioner _____ in the hopes that he would order Mr. _____ to turn my mother's and father's belongings over and appoint a neutral third party to be present while _____ and I distributed the personal property. It seemed to be a "no brainer." What I did not know then was that my brother had cut a deal with Mr. _____ He had agreed to allow Mr. _____ to keep our parents' things in exchange for my portion of the proceeds from the sale of the property.

This behavior is a pattern for him. Last summer, my brother lost his job and his chemical dependencies worsened. His lavish lifestyle of boats, motorcycles, expensive trips to Mexico and exorbitant sushi dinners made it difficult for him to pay the mortgage on his new home in Vistancia. In his desperation for money, he tried to empty the trust account from our father's estate and claim all of the funds. Mr. _____ the manager of the Scottsdale Fidelity branch, helped me to distribute the funds as shares equally. He wanted more after he sold his shares at the bottom of the market and squandered the remainder of his inheritance from our father.

What happened at the trial on March 24th was shocking. Commissioner _____ did not fulfill his duty of diligence nor did he fulfill his duty of impartiality. He refused to allow my three witnesses to speak. One of them came all the way from San Antonio, Texas for this court date. All three of them would be delighted to speak with you regarding what they witnessed at this hearing. Commissioner _____ did not look at the evidence, including photographs, that we presented as proof against the false claims made in the petitions. He refused to read a letter from my CPA who could not attend the hearing. It was obvious that he was not familiar with the case and had not read the documentation that he had requested in order to be prepared for this hearing. My brother and his attorney had no proof of their outrageous claims (the Petition is attached along with the response) that I had stolen money from the estate (it was distributed directly), had not paid taxes (they were filed in 2006), had not prepared an inventory or accounting (they had been filed with the court in 2006), and had not provided my brother with copies of estate material (he received no fewer than six copies, one of which was sent via certified mail by our probate attorney), had not secured all of the personal property (I was prohibited from doing so, that's why I had held them in contempt of court) and they had nothing at all except for an email that I had sent asking for prayers. I caught a glimpse of the copy they submitted to Commissioner _____ It was *a lot* longer than the one I had sent. Mr. _____ whispered under his breath, "It's not a good idea to talk badly about the judge...."

During the hearing, Mr. _____ was frequently interrupted with objections from Mr. _____ which were sustained, yet when he objected to Mr. _____ abusive comments, the objections were denied. Both my brother and Mr. _____ lied on the stand, contradicting themselves and each other. When asked about my mother's furniture, Mr. _____ claimed he had bought it with her at auction two years ago. My mother passed away almost four years ago. The photographs of these items with dates from 2005 were under the Commissioner's nose. He pushed them away. I would be happy to provide them to you.

My brother claimed to not have received anything from the storage unit that Ms. _____ had changed the locks on *after admitting that he had the keys and had refused to give them to me*. In order to prevent my mother's possessions from going to auction, I had to pay for the storage unit which I did not know about until a few days before the auction and cut the lock. Two of the witnesses sitting in the back had watched me remove those objects from the storage unit, unpack the boxes, repack more than half of those items into new boxes, and give them to my brother. The Commissioner cut my attorney off. We did not get a chance to address the rest of the issue.

Commissioner _____ clearly favored _____ and Mr. _____. He also appeared to be sleepy, staring at the computer while ignoring my attorney, shaking his head in efforts to wake himself up while Mr. _____ was speaking. At the end, when he declared that it was obvious that Mr. _____ did not have any of my mother's possessions, I nearly fell off my chair. Then he removed me as Personal Representative. I saw the smug look on Mr. _____ face and immediately knew what he had done. There had been a bribe.

One of my friends belongs to a board whose membership includes a few prominent judges. He went to his meeting that week and told them about the hearing. They reiterated the same question: How could she go to such great efforts as to spend thousands of dollars and hire not one, *but three attorneys*, to probate this estate and *not be*

making an effort to close it properly? Each of them suggested that a back room deal was made and advised him to have me request audio recordings of the hearings.

Confirmation came a few days later when I was told that Mr. [redacted] had given Mr. [redacted] \$30,000 *in cash* and of that \$29,000 was passed on to Commissioner [redacted]. Mr. [redacted] was bragging that he had the judge in his pocket, [redacted] where he wanted him, and me "out of the way." My mother's friends that called me are afraid of Mr. [redacted]. He laughed maniacally in my face during a civil standby when I appeared at his doorstep with a Phoenix police officer begging for my mother's ashes, and then called me later to threaten to me. He owns a lot of guns. So does my brother, despite being a felon (possession of methamphetamines). [redacted] also own several weapons and has no compunction against using them. This has been made *abundantly clear* to me, which is why I'm moving out of state as soon as possible.

Additionally, Mr. [redacted] has broken eight laws regarding L.L.C.s, two of which carry mandatory Class 4 and 5 felony penalties. He has had a variety of businesses through the years; including the [redacted] that he ran out of the industrial property we own together with a former "coyote" named [redacted]. There were a lot of illegal immigrants on the property, some of which were *housed* there. We never saw a dime of dividends; he refused to show me the books or any documents, and the more questions I asked about the scores of people going in and out of my property, the nastier he got. I was prohibited from setting foot on my own property and threatened again. I suspect that there is illegal activity still occurring at the property and that both Mr. [redacted] and my brother are involved. Being in an L.L.C. with them, I could be held liable for that which I have absolutely no control over.

I cannot help but think that Commissioner [redacted] stands to gain by cooperating with Mr. [redacted] and [redacted]. Already they have taken bold steps so far as to threaten that I would pay "damages" in an email sent by Mr. [redacted] to Mr. [redacted]. Their confidence suggests that Commissioner [redacted] would continue to acquiesce to their demands. The problem is every time I give them what they want they promptly twist it

around, use it against me, and demand more. Their greed is insatiable. My brother is determined to take everything I have regardless of what estate it may have come from or earned through my own efforts. He has even gone as far as to threaten the Executrix of our grandmother's estate, wielding his power as Personal Representative to make demands for more money and jewelry. Thus far he has not been successful. It is my hope that you can do something positive about this situation and that there can be a peaceful resolution to this matter, I would like to have closure and be able to use my inheritance to live my life and help others through my work as I am developing a nationally-based disaster response system to assist storm victims.

Sincerely Yours,