

INTRODUCTION

We the Grand Jury have heard testimony concerning a matter involving financial exploitation of elderly citizens of Lackawanna County, Pennsylvania. The matter involves the theft of over \$196,000.00 by a local attorney who was granted power of attorney or "guardian" for the affairs of elderly individuals and used his profession to extract, unlawfully, monies from their estate. Testimony regarding this theft included documentary evidence showing that checks were signed as either power of attorney or guardian that were cashed for personal benefit by the payee. The record indicates that the money that was depleted through the personal efforts and/or joint efforts of attorney Ronald J. Worobey and Philip Bosha from the estates of numerous elderly citizens do not in any way serve the best interests of these citizens as mandated by the fiduciary responsibility of such powers granted. And, that through the use of his professional status, Worobey depleted, unlawfully, sums of money without any record or accounting for the purpose of such withdrawal. Critically, the monies that were depleted by Worobey and Bosha were not used for the upkeep of the citizen's estates or for their well being. The evidence is clear that attorney Ronald J. Worobey acting as guardian and having the power of attorney in some cases, wrongfully depleted money from the bank accounts of numerous elderly citizens for his own financial gain. In addition, testimony

and documentary evidence showed that Worobey submitted, on at least one occasion, a grossly false document to the Lackawanna County Court of Common Pleas in violation of the laws of Pennsylvania relating to unsworn falsifications to authorities.

DISCUSSION

During our investigation, we heard from two witnesses. First, Charles Grubert, testified that he is a special agent with the Federal Bureau of Investigation and became involved in this investigation in January 1996 after meeting with the ~~Lackawanna County District Attorney's Office~~ Special Agent Kevin Colgan of the Attorney General's Bureau of Criminal Investigations. The initial information was obtained by a Cooperating Witness (C.W.) who is interviewed in connection with this case on January 26, 1996. The C.W. had advised that she had worked for the law offices of Ronald J. Worobey, Suite 201, Brooks Building, N. Washington Avenue, Lackawanna County, Pennsylvania, beginning in late August of 1995 and ending in November 1995. Special Agent Grubert testified that the C.W. was asked by Attorney Worobey to work on the guardianship files that he handled. Specifically, the C.W. was to compile the accountings for the various files in which Attorney Worobey had been appointed guardian. We learned that a guardian for an incapacitated person, must, within three months of being appointed by the court, file an initial report pursuant to State Law. This report must list the value of the principal assets of the incapacitated person the

amounts and sources of income and the expenditures made by the guardian since the court appointment. Importantly, Special Agent Grubert testified that the guardian verifies that the information contained in the initial report is correct to the best of his knowledge, information and belief and that verification is subject to the penalties of 18 Pa. Const. Stat. §4904 relative to falsification to authorities. Thereafter, a guardian must file at least one report annually as directed by state law.

Through the evidence we learned that Attorney Worobey held a position as Lackawanna County Assistant Solicitor with the Area Agency on Aging and/or the Elder Law project wherein he was appointed by the Court to look after the affairs of incapacitated persons either by way of guardian of the estate or guardian of the person. In exchange for his duties, Attorney Worobey was paid approximately \$17,000.00 plus benefits by Lackawanna County.

We also heard testimony regarding the duties and the limitations, if any, of a "power of attorney". Unbelievably, we learned that a "power of attorney" had virtually no checks and balances and has unlimited authority to access any and all assets of an incapacitated person.

1-A

Special Agent Grubert testified that he was advised by the C.W. that she worked on the Julia Hutchy guardianship file and prepared a list indicating Ms. Hutchy's assets in a way of checking and savings accounts as well as a burial account and any real property that she might own. Further, the C.W. listed expenses,

specifically, legal fees, utilities, nursing home fees and medical expenses. It was learned that Julia Hutchy is an 80 year old incapacitated woman who resides at the Taylor Nursing and Rehabilitation Center. The initial documents provided by the C.W. were her work papers as well as a copy of the initial report that was publicly filed at the Lackawanna County Courthouse on October 12, 1995. This document is entitled Guardian of Estate initial report In Re: Estate of Julia Hutchy. Special Agent Grubert stated that the C.W. worked together with Attorney Worobey's secretary to obtain the numbers for the initial report. She was later informed by Attorney Worobey's secretary that Attorney Worobey had changed the numbers as compiled by the C.W. in the Hutchy guardianship file. The initial reason provided for the change was that attorney Worobey said the numbers were too large and that he would report them over a number of years rather than within the three month time period that was used.

Critical to our investigation, Special Agent Grubert testified that the work papers of the C.W. reflected that Attorney Worobey collected legal fees in the amount of \$17,000.00 over the three month period and listed on the initial report only \$5,000.00. Further, maintenance fees for the estate were listed to the court as \$2,226.00 when in actuality the maintenance expended by Attorney Worobey was \$6,226.84. It is clear from this evidence that Attorney Worobey not did claim approximately \$12,000.00 and underestimated the maintenance fees on the estate on the initial report listed filed with the court. Critically, Agent Grubert testified that

Attorney Worobey attached his signature to the initial report wherein he verified that the foregoing information was correct to the best of his knowledge, information and belief and the verification is subject to the penalties of 18 Pa. Const. Stat. §4904 relative to unsworn falsifications to the authorities. This document was dated by Attorney Worobey on October 11, 1995.

1-B

Special Agent Grubert testified regarding another estate that of Helen Muksavage. He stated that approximately \$22,500.00 was paid from the estate account without any supporting documentation. Additionally, the initial report was not filed within three months after guardianship was assumed by Attorney Worobey and as of February 5, 1996, there had been no accounting of the Muksavage estate since 1993.

We heard testimony from Agent Grubert that Attorney Worobey's secretary, Susan Tucker, was interviewed in connection with the investigation. Ms. Tucker verified to Special Agent Grubert all the information provided by the C.W. Thereafter, a search warrant was executed by the Federal Bureau of Investigation and the United States Attorney's Office seizing all the guardianship files of Attorney Worobey. Thereafter, an interview was conducted with attorney Worobey whereby he admitted that the reports were falsified and to fiscal wrongdoing in the guardianship files.

Special Agent Colgan

2-A

We next heard testimony from Special Agent Kevin Colgan of the Attorney General's Office. Agent Colgan reiterated the specifics of the initial investigation as well as provided specific documentary evidence for our review. In particular Agent Colgan provided a copy of the initial report in the Estate of Julia Hutchy. Again, Agent Colgan pointed out that Attorney Worobey filed the document with the court under-estimating \$12,000.00 in legal expenses as well as approximately \$4,000.00 in maintenance expenses performed by his brother, Joseph Worobey. Agent Colgan presented for our review copies of the work papers provided by the C.W. which was a break down of legal fees and other such expenditures. The work papers confirmed the testimony of Special Agent Grubert concerning the information obtained by the C.W. and clearly showed the inconsistencies with the initial report.

2-B

Agent Colgan next presented copies of the transactions as taken from the checkbook of Delores Glenn. Additionally, copies of cancelled checks showed that attorney Worobey listed himself as the payee on three checks from the period of November 16, 1995 through November 30, 1995, totalling \$11,500.00 in deductions from Delores Glenn's account. This transaction occurred within a two week period. Copies of the backs of the checks showed that attorney Worobey endorsed and cashed all of the aforementioned checks.

2-C

We heard testimony from Agent Colgan regarding the Helen Muskavage Estate. Specifically, Agent Colgan presented copies of

cancelled checks that were drawn on a temporary account opened up by attorney Worobey within days of his appointment of the guardian of the estate. Interesting, Attorney Worobey listed himself as the payee on temporary check number 3 in the amount of \$5,000.00 purportedly for guardianship services. Agent Colgan also presented the copy of the record of the transaction from Ms. Mucksavage's checkbook evidencing attorney Worobey's withdrawal on check number 102 in the amount of \$9,000.00, check number 105 in the amount of \$2,500.00, check number 106 in the amount of \$2,000.00 and check number 108 in the amount of \$3,500.00. We also saw a copy of a Dean Witter Reynolds, Inc. check in the amount of \$1,670.91 paid to the order of Ronald Worobey guardian of Helen Muksavage. Out of that amount, \$171.91 was paid cash to Ron Worobey and \$1,500.00 was deposited into an escrow account. Agent Colgan testified that Attorney Worobey did not make any filings with the court on the Muksavage estate at the time of this investigation.

2-D

Agent Colgan presented copies of cancelled checks as well as a bank statement from PNC Bank regarding the estate of Helen Lynch Murphy. Through his testimony, we learned that attorney Worobey was appointed emergency guardian on December 6, 1995. And emergency guardian is temporarily appointed by the Court when a special need arises. Thereafter, the emergency guardian is appointed by the Court as the permanent guardian. Two days later, Attorney Worobey withdrew \$2,500.00 from Ms. Murphy's checking account and that same day, withdrew another \$2,500.00 for himself on

that same account. Approximately one week later, Attorney Worobey withdrew \$2,500.00 from the Citizen's bank account and finally on January 3, 1996, Worobey withdrew \$9,000.00 from the PNC account. In total, Attorney Worobey withdrew \$16,500.00 in less than one month.

Agent Colgan testified that the report was compiled by Special Agent with the Federal Bureau of Investigation compiling of the total number of assets missing from estates involving Attorney Worobey. Specifically, it was learned through the testimony that approximately \$195,749.32 was taken by Attorney Worobey from various estates without itemized invoices. This figure represents approximately 84% of all payments made by Attorney Worobey to himself through his position as guardian of the estates. This figure represents the approximately 20 guardianships files that Attorney Worobey was responsible for the files as follows:

Brynarski, Victoria

Caruso, Carmella

Cook, Wallace

Dipierto, Helen

Eisenhart, Charles

Forish, Anna

Glen, Dorlores

Gutt, Michael

Hawes, Ray

Hutchey, Julia

Labas, Mary Mayme

Larnerd, Mary
Matulevich, Nell Ann
Matulevich, Sally
McCabe, Regina
Mucksavage, Ellen
Muller, Louis
Murphy, Helen
Parant, Catherine M.
Pazel, Fabiana
Robert, Walter
Schoeneberg, LeRoy
Schoot, Ruth Ann
Solack, Pauline C.
Supinski, Anthony
Weber, Lorraine
Whalley, Robert
Wilson, Victoria T.

In light of the testimony of Special Agent Charles Grubert and Special Agent Kevin Colgan along with the documentary evidence presented, we the investigative Grand Jury believe that Attorney Ronald Worobey deliberately misrepresented the true facts of the accounting of the Estate of Julia Hutchy when he filed the initial report to the Court. Attorney Worobey signed this document specifically directing his secretary to change the figures as complied by the C.W. The fact that Attorney Worobey deliberately

misrepresented the numbers to the court as well as signing the verification pertaining to the unsworn falsification to authorities, we believe that there is enough evidence to bring the appropriate criminal charges. Furthermore, the evidence demonstrated that attorney Worobey by and through his position as guardian of the estates and through his position with the Elder Law Project, did unlawfully take assets from the various estates under his guardianship for himself. We believe this to be contrary to the laws of the Commonwealth of Pennsylvania and against the standards of decency in our community. It is clear from the evidence presented that this money was not used in any way towards the well being of the elderly citizens who entrusted Worobey with their care.

RECOMMENDATION

We, the Investigating Grand Jury of Lackawanna County, after carefully considering all testimonial and documentary evidence, which was put before us, recommend that appropriate charges be brought against Ronald J. Worobey, Esq., of Scranton, Pennsylvania. Upon reviewing all the testimony it is clear that Ronald J. Worobey, acting as power of attorney and guardian of numerous estates, wrongfully took at least \$195,749.32. by using his position to gain access to the elderly citizens assets. Furthermore, it is clear that the money was not used in any way was was intended by the unwitting incapacitated citizens.

It is also clear that Attorney Worobey manipulated the Court system by filing false documents with the court in such a blatant and disrespectful manner in attaching his signature following a verification that the information contained in the report is correct and that such a verification was subject to the penalties to the laws of the Commonwealth which he took an oath to uphold. Furthermore, we find that Attorney Worobey's refusal or failure to file the appropriate documents with the court is further evidence of his blatant disrespect of the system designed to protect our elderly citizens.

Once again this Investigative Grand Jury is faced with the intolerable abuse of elderly and/or incapacitated citizens by

individuals who lack the ethical and moral scruples to carry out such a privilege. Accordingly, the Investigative Grand Jury in this case, C-5, involving the actions of Ronald J. Worobey, believe that he should be prosecuted by the Office of the District Attorney of Lackawanna County in the hopes that this type of abuse will bring about legislative changes with respect to the powers of a guardian and power of attorney and more importantly, to deter this outrageous behavior.

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
vs. : OF LACKAWANNA COUNTY
DANIEL MORAN : CRIMINAL DIVISION
: 95 CR 806
: :

OPINION AND ORDER

Eagen, J.

FINDINGS OF FACT

1. On May 12, 1994, Grace Kearney granted the Defendant, Daniel Moran, the ex-husband of her granddaughter, a Power of Attorney.

2. The Power of Attorney stated that the Defendant was "On my behalf generally to do and perform all matters and things; transact all business; and to make, and acknowledge all contracts, orders, deeds, writings, assurances, and instruments which may be requisite or proper to effectuate any matter or thing pertaining to or belonging to me, with the same validity as I could, if personally present; hereby ratifying and confirming whatsoever my said attorney shall may do, by virtue hereof."

3. In the spring or summer of 1994, Mrs. Kearney's account at First Eastern Bank was closed, and the funds were transferred into a new account with PNC Bank under the names of Mrs. Kearney and the Defendant by virtue of his Power of Attorney.

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4. Mrs. Kearney had not made any withdrawals from her old account since at least March 31, 1992.

5. After the money was transferred to the new account, the Defendant made twenty-six (26) withdrawals, reducing Mrs. Kearney's account from Twenty-Three Thousand Seven Hundred Forty-Two and Ninety Three Cents (\$23,742.93) to Two Dollars and Thirty-Nine Cents (\$2.39) from June of 1994 until December of 1994.

6. None of the money was used for house repairs, appliances, medical care or other such expenses.

7. There were no changes to the household whether in the nature of remodeling or any repairs requiring a large expenditure.

8. There were twenty-six withdrawals slips bearing the signature of Defendant Daniel Moran.

CONCLUSIONS OF LAW

1. The Defendant, Daniel Moran, made numerous monetary gifts to himself from the assets contained in Mrs. Grace Kearney's savings account.

2. The Power of Attorney did not grant the Defendant the power to make gifts to himself.

DISCUSSION

Title 20, Pa. C.S.A. §5602(a)(1), contains the following language: "A principal may, by inclusion of the language

quoted in any of the following paragraphs, or by inclusion of other language showing a similar intent on the part of the principal, empower his attorney-in-fact to do any or all of the following, each of which is defined in Section 5603."

(Regarding to Implementation of Power of Attorney):

(i) "to make gifts"; or (ii) "to make limited gifts."

To construe a power of attorney as including any of the powers listed in this section, the general language, according to its common uses, must make it clear that the language encompasses the powers sought to included, Estate of Reifsneider, ___ Pa. ___, 610 A.2d 958 at 962 (1992). The power of attorney in the instant case did not expressly or implicitly delegate to the Defendant the power to make any type of gift. The power of attorney does not use the words "gift" or "donation" anywhere. For these reasons, the instant case is distinguishable from Brenner vs. Manmiller, ___ Pa. Super. ___, 560 A.2d 822 (1989) as cited by the Defendant. In Brenner, the power of attorney expressly stated that the attorney-in-fact was to have all powers listed in Section 5602(a), while the power of attorney signed by Grace Kearney does not mention Section 5602(a) at all.

Furthermore, it is clear that the principal Grace Kearney did not intend to empower the attorney-in-fact to make gifts. Not only does the language in the Power of Attorney leave one to conclude this, but also the fact situation. It is incon-

ceivable that an elderly woman would give an attorney-in-fact the power to virtually clean out her life savings without giving any benefit to herself or to her heirs at law. See Taylor vs. Vernon, ___ Pa. Super. ___, 652 A.2d 912 (1995).

Accordingly, Defendant's Writ of Habeas Corpus is hereby denied.

BY THE COURT,



7-29-96

For Commonwealth: Eugene M. Talerico, Jr., Esq.
For Defendant: Charles Witaconis, Esq.