



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

SHERRILL SPATZ
INSPECTOR GENERAL

MILTON YU
MANAGING INSPECTOR GENERAL FOR
FIDUCIARY APPOINTMENTS

September 8, 2022

Lawrence M. Gile


Re: Nathaniel Lamar (Kings Co. Index No. 100442/15)

Dear Mr. Gile:

I am writing to address the concerns you raised about Nathaniel Lamar's guardianship matter. Firstly, I wish to acknowledge the meeting on July 26, 2022, between my office and you and Julia Lichtblau, as friends of Mr. Lamar. I was moved by your genuine and sincere concerns for Mr. Lamar's well-being while he was under the care of the guardianship, as well as his legacy after his passing.

I also appreciate the thoroughness in your presentation of the issues and making available relevant documents and records to help with my assessment. I wish to acknowledge receipt of your supporting information, including your complaint to my office dated July 30, 2022; a USB memory device containing images and videos of Mr. Lamar in a nursing facility; and several emails with attachments from you dated July 27, 2022, July 30, 2022, August 4, 2022, August 8, 2022, August 16, 2022, and August 27, 2022.

While I would like nothing more than to help you resolve your issues concerning Mr. Lamar's guardianship, I am bound by my obligations and duties to address only those matters that are within the jurisdiction of my office.

As I understand it, your concerns about Mr. Lamar's guardianship centers on four issues:

1. The way Rene Oppenheimer, the guardian of Mr. Lamar, had managed his affairs.
2. Ms. Oppenheimer's apparent disregard for Mr. Lamar's end-of-life care wishes.
3. The Court appointing Michael Benjamin, a previously disbarred attorney, as Mr. Lamar's real estate broker.

4. The Court approving the sale of Mr. Lamar's property at 138 Pacific Street, Brooklyn, New York, seemingly absent compelling reasons and consideration of the financial impact such sale would have had on Mr. Lamar.

My office's jurisdiction is limited to court appointments made pursuant to Parts 26 and 36 of the Rules of the Chief Judge. Generally, these provisions apply to fiduciary appointments, including guardians, made at the sole discretion of the Court and not by the recommendation of any parties to the matter. Therefore, a guardian who is nominated or proposed by a party to a matter is not subject to Part 26 and 36 rules and is likewise outside of my office's jurisdiction.

In this matter, Mr. Lamar nominated Ms. Oppenheimer as his guardian. Ordinarily, Ms. Oppenheimer's appointment as Mr. Lamar's guardian would have violated Section 36.2(c)(10) of Part 36 of the Rules of the Chief Judge, as Ms. Oppenheimer served as court evaluator in Mr. Lamar's case. However, Judge Michael Pesce found that Mr. Lamar and Ms. Oppenheimer formed an exceptional bond, which in his judgment constituted an extenuating circumstance that obviated the restriction in Section 36.2(c)(10). Having no other statutory prohibition against Ms. Oppenheimer's appointment, the Court allowed Mr. Lamar's nomination. As the Alleged Incapacitated Person and therefore a party to the matter, Mr. Lamar's nomination of Ms. Oppenheimer rendered her appointment outside the reach of Part 36 rules, and outside the jurisdiction of my office.

As to Judge Lisa Ottley's decision to sell Mr. Lamar's property and appointing Mr. Benjamin as the real estate broker, these are matters of judicial discretion. Generally, courts' decisions should be sound and not arbitrary, and any abuse of discretion can be appealed. In Mr. Lamar's case, the proper mechanism to address the concerns would have been to file an appeal contemporaneous with the Court's decisions. As my office has no judicial authority, I cannot review Judge Ottley's decisions.

I realize this is a disappointing outcome for you and Mr. Lamar's friends. I am happy to discuss this in more detail with you.

Sincerely,



Milton Yu

Managing Inspector General
For Fiduciary Appointments