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Investigation Report
Case Number 2016-003
Status: Open

Division of Inspector General

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Reissued Date: December 8, 2017
Originally Issued: March 10, 2017
Subject: Elizabeth Savitt (Palm Beach County)
Case Number: OPPG Guardian INV 2016-003
OPPG Complaint: 00003
Reference: Investigation Report
Disposition: OPEN

A. Overview of Investigation

Background:

The Clerk and Comptroller for Palm Beach County, Division of Inspector General ("Clerk's IG") as a member of the Clerks' Statewide Investigations Alliance provides independent, objective, and expert investigative services to the Florida Department of Elder Affairs, Office of Public and Professional Guardians ("OPPG") through a Memorandum of Understanding ("MOU").

Investigations by the Clerk's IG will reach one of the following three conclusions of fact per allegation:

- **Substantiated** means there is sufficient information to justify a reasonable conclusion that the allegation is true.
- **Unsubstantiated** means there is insufficient information to either prove or disprove the allegation.
- **Unfounded** means there is sufficient information to indicate the allegation is false.

The Clerk has a contractual obligation to provide investigative services to OPPG, which buttresses the Clerk's statutory duties outlined in Florida Guardianship Law. The Clerk has the statutory duty to audit guardianship reports and advise the Court pursuant to Section 744.368(3), Fla. Stat.; and the Clerk has the statutory authority to perform enhanced audits and investigations of guardianship proceedings, pursuant to Section 744.368(5), Fla. Stat., and Section 744.102(2), Fla. Stat.

In fulfilling these duties, the Clerk administratively audits all guardianship reports, including the initial verified inventory, annual accounting, initial plan, and annual plan in Palm Beach County, through a Level 1 audit review process. Level 1 audit reviews are more ministerial in nature and satisfies the statutory requirement to ensure accountings and plans comply with Florida Statute and Generally Accepted Accounting Principles (GAAP). Additionally, Level 1 audits ensure that reports are filed timely and are mathematically accurate. Based on an escalation of a Level 1 audit, and/or a concerned citizen lodging a report to the Clerk's Guardianship Fraud Hotline,

and/or a judicial request, the Clerk's IG scrutinizes guardianships by selectively performing Level 2 (limited scope) or Level 3 (full scope) audits and investigations. Level 2 and Level 3 audits are considerably more in depth; transactions are closely examined. Additionally, Level 2 and Level 3 audits utilize advanced audit and investigative procedures such as third party verifications, subpoenas, inspections, and interviews. The Clerk's IG is accredited by the Commission for Florida Law Enforcement Accreditation, Inc. which demonstrates compliance with investigative standards and processes. In addition, the Clerk's IG conducts audits in compliance with the professional standards promulgated by The Institute of Internal Auditors (IIA).

Investigative Summary:

On March 10, 2016, Florida Senate Bill 232 (2016) became law; the OPPG was statutorily created and charged with monitoring, educating, and regulating professional guardians.

On March 16, 2016, the OPPG received a complaint about a registered professional guardian, Elizabeth "Betsy" Selden Savitt ("Savitt"), who practiced in Palm Beach County. **The OPPG complaint alleged that Savitt was involved with corruption and collusion of judges and lawyers in Delray Beach for financial gain (OPPG Complaint 00003).**

The OPPG determined that there was a legally sufficient basis to believe Savitt may have violated a provision of Florida Guardianship Law or Florida Criminal Code requiring the Clerk's IG to investigate pursuant to the MOU. The Clerk's IG concurs that the complaint was legally sufficient.

On September 30, 2016, the OPPG referred the complaint to the Clerk's IG.

On October 11, 2016, the Clerk's IG initiated an investigation on behalf of the OPPG about the allegation.

Given Florida Senate Bill 232 became law on March 10, 2016 and the complaint was lodged on March 16, 2016, the Clerk's IG scope of the OPPG investigation under Section 744.2004, Fla. Stat., comparing the guardian's conduct to Florida Guardianship Law and Florida Criminal Code was six days.

The Clerk's IG concluded that the overall allegation is substantiated based on a preponderance of the evidence standard. Savitt was involved with corruption and collusion of judges and lawyers in Delray Beach for financial gain. Regardless of the incipience or termination of Savitt's conduct, the continuum of her actions endured through the six-day period from March 10, 2016 through March 16, 2016.

In making this conclusion, the Clerk's IG relied on findings from two investigations (PBC GDN-12-22 and PBC GDN-14-55), pursuant to Section 744.368(3), Fla. Stat. and Section 744.368(5), Fla. Stat. The conclusion of fact for the Clerk's OPPG investigation was reached based on findings of the Clerk's earlier statutory investigation. The reliance on the Clerk's statutory investigations were consistent with Section 744.2004, Fla. Stat., in that, the statutory directive to OPPG was to coordinate, to the greatest extent possible, with the clerks of court to avoid duplication of duties with regard to the financial audits prepared by the clerks pursuant to Section 744.368, Fla. Stat.

The investigation identified 12 areas of concern: 9 of the concerns were *substantiated*, 2 of the concerns were *unsubstantiated*, and 1 concern was *unfounded*.

Substantiated concerns:

- Savitt was subsequently appointed as an Emergency Temporary Guardian (ETG) and then Guardian in a case adjudicated by Judge Gillen under less than customary guardianship proceedings (Area of Concern 1, page 6).
- Savitt was subsequently appointed as guardian in two cases after Judge Colin first appointed Attorney Hazeltine to be counsel, and the cases were transferred to other judges (Area of Concern 3, page 9).
- Attorney Hazeltine's involvement in 11 guardianship cases ultimately steered the appointment of Savitt as guardian (Area of Concern 4, page 10).
- Six court orders in three of Savitt's guardianship cases and one non-guardianship case were adjudged by her husband, Judge Colin (Area of Concern 5, page 15).
- Sherri Norton, a Florida state courts employee and Judicial Assistant to Judge Colin, was involved with six documents either as a notary or personal reference for Savitt (Area of Concern 6, page 16).
- Savitt petitioned the Court, nunc pro tunc, to taking retainers or fee advances totaling \$21,500 for guardian services in seven guardianship cases (Area of Concern 7, page 16).
- The involvement of Attorney Hark in two guardianship cases ultimately steered the appointment of Savitt as guardian and curator (Area of Concern 8, page 18).
- Savitt attempted to improperly take a retainer, advancement, or "in trust" fees for curator services totaling \$20,000 and/or unreasonable curator fees totaling \$55,221 (Area of Concern 10, page 18).
- Savitt gained financially from being a guardian and curator in the Florida 15th Judicial Circuit Court System because of her husband, Judge Colin (Area of Concern 12, page 22).

Unsubstantiated concerns:

- Savitt's appointment as guardian and curator and Savitt not objecting to Attorney Hark's legal fees was quid pro quo (Area of Concern 9, page 18).
- Savitt traveled internationally with Judge Colin and Judge French to the Commonwealth of the Bahamas on an airplane piloted by Judge French (Area of Concern 11, page 21).

Unfounded concerns:

F.S. 744.2111(1)(a)

- Savitt used F ██████ B ██████'s guardianship assets to satisfy a large debt of mortgage in a foreclosure action (Area of Concern 2, page 7).

B. Relevant Investigations

The Clerk's IG has had the statutory authority to audit and investigate guardianship proceedings in Palm Beach County since 2011 well before the enactment of Florida Senate Bill 232 in 2016. To date, two investigations (PBC GDN-12-22 and PBC GDN-14-55), involving approximately 20 guardianship cases in Palm Beach County, have been initiated by the Clerk's IG related to Savitt.

Palm Beach County Clerk IG Investigation GDN-12-22 – "CLOSED"

1. Inception: The Clerk's IG investigation (PBC GDN-12-22) started upon an anonymous report to the Clerk's Guardianship Fraud Hotline on May 10, 2012. The allegation reported to the Clerk's IG was that Savitt had a significant conflict of interest, she was married to a Guardianship/Probate Circuit Court Judge and practicing guardianship in the Circuit Court.
2. Findings:
 - Circuit Court Judge Martin Howard Colin ("Judge Colin") and Savitt were in a relationship as early as 2004.
 - Judge Colin was married to Savitt on March 15, 2008.
 - Judge Colin was elected to the circuit court bench in 2004. It should be noted that Judge Colin retired from the bench prior to January 1, 2017.
 - During his tenure, Judge Colin was assigned to the (Guardianship/Probate) IY Division and the (Family) FX Division in the South County Courthouse (Delray Beach).
 - Savitt was administratively registered with the OPPG (formerly the Statewide Public Guardianship Office) effective January 1, 2012.
 - Savitt provided guardian services to numerous wards and did not adequately disclose the conflict.
 - Savitt did not disclose in a petition for appointment of guardian to the Court that she had a conflict that may interfere with the proper discharge of the guardian's duties.
 - Savitt did disclose that she was married to "Martin H. Colin" in guardianship applications filed in guardianship cases.
3. Major Violations of Florida Guardianship Law:
 - Savitt violated Section 744.446, Fla. Stat. Savitt had a significant conflict of interest, she is the spouse of a then Circuit Court Judge assigned to the Guardianship/Probate Division, and did not disclose to the Court in a petition for appointment of guardian that she had a conflict that may interfere with the proper discharge of the guardian's duties pursuant to Section 744.446, Fla. Stat.
 - Savitt violated Section 744.361(3), Fla. Stat. and Section 744.361(4), Fla. Stat. The significant and undisclosed conflict of interest was contrary to the ward's best interest under the circumstances pursuant to Section 744.361(3), Fla. Stat. and Section 744.361(4), Fla. Stat.
 - Savitt did not satisfy the conflict of interest statutes in Section 744.446, Fla. Stat., by disclosing that she was married to "Martin H. Colin" in guardianship applications.
4. Final Disposition in the Circuit Court: The allegation that Savitt had a significant conflict of interest was **substantiated**. The matter was referred to then Chief Judge Peter D. Blanc with various recommendations. The Clerk's IG investigation was closed on May 15, 2012.

Palm Beach County Clerk IG Investigation GDN-14-55 – “OPEN”

1. Inception: A Clerk’s IG investigation (PBC GDN-14-55) was initiated based upon three confidential reports to the Clerk’s Guardianship Fraud Hotline on December 8, 2014, April 16, 2015, and June 16, 2015. The allegations reported to the Clerk’s IG involved an elderly person under guardianship, significant family discord, and issues related to a Durable Power of Attorney in Palm Beach County. Savitt was not the subject, per se, of the allegations. Since the allegations centered on conduct prior to the adjudication of the guardianship, the allegations were referred to the Palm Beach County Sheriff’s Office (“PBSO”) and the Office of the State Attorney for the Florida 15th Judicial Circuit Court (“SAO”) on December 9, 2014. The Clerk’s IG received another report to the Clerk’s Guardianship Fraud Hotline on June 16, 2015 from an alleged family victim about Savitt and collusion between the court and lawyers. The Clerk’s IG initiated an investigation based on the confidential report. Approximately 20 guardianship and other division cases were reviewed during the investigation.
2. Findings: There are 12 areas of concern, which are summarized in the “Overview of Investigation” (page 1-3) and described in further detail in “Section C.” The areas of concern are listed in order of potential significance.
 - 9 areas of concern were substantiated.
 - 2 areas of concern were unsubstantiated.
 - 1 area of concern was unfounded.
3. Major Violations of Florida Guardianship Law:
 - Savitt violated Section 744.446, Fla. Stat. Savitt had a significant conflict of interest, she is the spouse of a then Circuit Court Judge assigned to the Guardianship/Probate Division, and did not disclose in a petition for appointment of guardian to the Court that she had a conflict that may interfere with the proper discharge of the guardian’s duties pursuant to Section 744.446, Fla. Stat.
 - Savitt violated Section 744.361(3), Fla. Stat. The significant and undisclosed conflict of interest was contrary to the ward’s best interest under the circumstances pursuant to Section 744.361(3), Fla. Stat. and Section 744.361(4), Fla. Stat.
 - Savitt did not satisfy the conflict of interest statutes in Section 744.446, Fla. Stat., by disclosing that she was married to “Martin H. Colin” in guardianship applications.
 - Savitt appointment as the Emergency Temporary Guardian and Guardian was contrary to Section 744.312, Fla. Stat. (2014).
 - Savitt violated Section 744.108(2), Fla. Stat., Section 744.108(5), Fla. Stat., and Section 744.108(7), Fla. Stat. by disbursing guardianship assets for advanced fees or retainers
4. Final Disposition in the Circuit Court: When this OPPG investigation is “Closed,” the Clerk’s IG will submit the report to the Chief Judge pursuant to Administrative Order 6.310 (professional guardian registry and rotation wheel) for the Florida 15th Judicial Circuit Court and also filed in the docket in all of Savitt’s open and on-going guardianship cases in Palm Beach County. Thereafter, the Clerk’s IG will close this investigation.

C. Details of Investigative Findings

Details of the investigative findings regarding the 12 areas of concern from Clerk's IG investigation (PBC GDN-14-55), listed in the "Overview of Investigation" are provided below, which are listed in the order of potential significance to the investigation.

1. Area of Concern: Savitt was subsequently appointed as an Emergency Temporary Guardian and then Guardian in a case adjudicated by Judge Gillen under less than customary guardianship proceedings. This concern was *substantiated*.

a. Investigative Findings:

Guardianship of F [REDACTED] B [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- A "Petition for Appointment of Emergency Temporary Guardian" was filed by Webb Millsaps, Esq. ("Millsaps") on December 3, 2014 at 2:10 PM.
- Upon case initiation, the Clerk assigned both the guardianship and mental health cases to Circuit Court Judge Jeffrey Gillen ("Judge Gillen") in the FZ Division (South County Courthouse in Delray Beach).
- An email from a Clerk Courtroom Administrator II in South County was sent to a distribution list including Judge Colin, Sherri Norton, Judge Gillen and the Judicial Assistant ("JA") for Judge Gillen on December 3, 2014 at 4:34 PM. Sherri Norton is an employee of the Florida 15th Judicial Circuit Courts assigned to Judge Colin as a JA since December 2006. The email stated, "SOUTH COUNTY IS ALL CLEAR...(except ETG with Judge Gillen div FZ)." This email notification from the Clerk to the Court is customary and within ordinary procedures established by the Clerk and the Court. It should be noted that "ETG" stands for "Emergency Temporary Guardian." The email from the Clerk Courtroom Administrator II is significant because it gave Judge Colin and/or Sherri Norton an opportunity to discuss the case with Judge Gillen or Judge Gillen's JA. The Clerk's IG has not substantiated whether Judge Colin and/or Sherri Norton actually read the email from the Clerk.
- An "Order Appointing Emergency Temporary Guardian" and "Letters of Emergency Temporary Guardian" was adjudicated by Judge Gillen and stamped on December 4, 2014 at 12:34 PM. The Order and Letters appointed Savitt as the ETG.
- According to the ETG petitioner, Millsaps, the court *sua sponte* ("on its own accord") appointed Savitt as the ETG. Millsaps verified with the Clerk's IG that he did not recommend or suggest Savitt.
- According to the Court-Appointed Attorney, Edward Shipe, Esq. ("Shipe"), there was no explanation for the appointment of Savitt as the ETG; but Shipe did not express any concerns or objection to the Court. Shipe verified with the Clerk's IG that he did not recommend or suggest Savitt. Further, Shipe offered to the Clerk's IG, "...And I don't think Judge Gillen did <recommended Savitt> either..." Shipe stated that he assumed that Millsaps recommended Savitt to Judge Gillen. It should be noted that the Clerk's IG did not expressly ask Shipe for the further information offered.
- An "Order Appointing Limited Guardian of the Person and Property" was adjudged by Judge Gillen on January 7, 2015; Savitt was appointed the limited guardian. According to Shipe, Judge Gillen discussed the conflict with Savitt and Shipe at the hearing to appoint Savitt as the guardian. Again, Shipe did not object to the appointment of Savitt.

b. Analysis:

- At the time, pursuant to Section 744.312, Fla. Stat. (2014), the Court could appoint any person who is fit and proper and qualified to act as a guardian. However, the Court had to follow Section 744.309, Fla. Stat. which disqualifies persons with a conflict of interest. Savitt had a significant conflict of interest, did not disclose the conflict of interest in the petition to appointment of guardian pursuant to Section 744.446, Fla. Stat. Judge Gillen was aware that Savitt was the wife of then a sitting Guardianship/Probate Circuit Court Judge. The appointment of Savitt as the guardian violated Section 744.446, Fla. Stat., because Savitt had a conflict that may interfere with the proper discharge of the guardian's duties. As such, the appointment of Savitt as the guardian was not in the ward's best interest under the circumstances pursuant to Section 744.361(3), Fla. Stat. The appointment of Savitt as the ETG and guardian was a driving-factor behind guardianship proceedings legislation, Florida House Bill 5, in 2015. Pursuant to Section 744.312(4)(b), Fla. Stat., effective July 1, 2015, an ETG who is a professional guardian may not be appointed as the permanent guardian of a ward unless one of the next of kin of the alleged incapacitated person of the ward requests that the professional guardian be appointed as permanent guardian. The Court may waive the limitations of this paragraph if the special requirements of the guardianship demand that the Court appoint a guardian because he or she has special talent or specific prior experience. The Court must make specific findings of fact that justify waiving the limitations of this paragraph. The legislative intent of this subsection of Florida Guardianship Law was to prevent professional guardians from "trolling" to find incapacitated persons and forcing them into court-ordered guardianships. There were no written findings of fact identified to adequately waive the limitations and support Savitt's appointment as the guardian.
- Pursuant to Section 744.312(4)(a), Fla. Stat. (2015), another provision of Florida House Bill 5, when the court appoints a professional guardian and does not use a rotation system for such appointment, the court must make a specific finding of fact stating why the person was selected as guardian in the particular matter involved. The findings must reference factors that are listed in Section 744.312(2), Fla. Stat., and Section 744.312(3), Fla. Stat.
- There were no written findings of fact identified to adequately support Savitt's appointment. It should be noted that a rotation system for appointing professional guardians was not formalized by the Florida 15th Judicial Circuit Court until January 15, 2017.
- The concern was **substantiated**.

F.S. 744.2111(1)(a)

2. **Area of Concern: Savitt used the F [REDACTED] B [REDACTED]'s guardianship assets to satisfy a large debt of mortgage in a foreclosure action. This concern was unfounded.**

a. Investigative Findings:

F.S. 744.2111(1)(a)

Citibank v. Savitt (2009CA033674) and Guardianship of F [REDACTED] B [REDACTED]

- A "Complaint to Foreclosure Mortgage" was filed by Citibank, the plaintiff, against Savitt in Florida 15th Judicial Circuit Court Case Number 2009CA033674 on October 5, 2009. Judge Colin was listed as a co-defendant.
- A "Final Judgment of Foreclosure" was adjudged by the Court on July 16, 2010; the final judgment ordered that \$268,211.23 was due.

- A "Notice of Foreclosure Sale" was filed by the Clerk on July 16, 2010. The foreclosure sale was scheduled for November 9, 2010.
- An "Agreed Order Granting Savitt's Motion to Vacate Judgment and Cancel Sale" was adjudged by the Court on September 17, 2010.
- A "Mediators Report" was filed by a certified mediator on November 24, 2010. The report stated that "no agreement was reached; impasse" and "Borrower will submit complete HAMP Application within 7 days; bank (attorney) agreed to place litigation on hold pending 30 day review." It should be noted that HAMP is an acronym for "Home Affordable Modification Program."
- A "Motion to Reopen Closed Case" was filed by the plaintiff on April 15, 2014.
- A "Foreclosure Case Status Form" was filed by the plaintiff on November 17, 2014; the amount of indebtedness was \$308,328.04.
- A "Consent Final Judgment of Foreclosure" was adjudged on November 17, 2014; the amount due was \$308,328.04.

F.S. 744.2111(1)(a)

- In the Guardianship of F [REDACTED] B [REDACTED] (Case Number [REDACTED]), an "Order Appointing Emergency Temporary Guardian" and "Letters of Emergency Temporary Guardian" was adjudicated by Judge Gillen on December 4, 2014; the order and letters appointed Savitt as the ETG.
- An "Order Appointing Limited Guardian of the Person and Property" and "Letters of Limited Guardian" was adjudged on January 7, 2015; the order and letters appointed Savitt as the guardian.
- A "Notice of Sale" was filed by the plaintiff on February 20, 2015; the foreclose sale was schedule for March 17, 2015. The notice of sale was published in the Palm Beach Daily Business Review March 2, 2015 through March 9, 2015.
- A "Joint Stipulation and Notice of Dismissal and Release of Lis Pendens" was filed by Savitt and the plaintiff on March 18, 2015; the foreclosure action was dismissed in its entirety with prejudice.
- The Clerk's IG received documentation from Savitt that traced the funds used to satisfy the foreclosure mortgage to the original source of the funds and prior to December 4, 2014 when the Letters of Guardianship were issued. The mortgage was satisfied on March 10, 2015 using funds that were not ever guardianship assets. The documents were provided to the State's Attorney Office for the Florida 15th Judicial Circuit Court in response to a "State Attorney Subpoena" (Case Number 16PI00003A99) to the Clerk's IG.

F.S. 744.2111(1)(a)

- b. Analysis: There was a perception that the timing of the satisfaction of mortgage and the F [REDACTED] B [REDACTED] guardianship proceedings were related. However, the Clerk's IG traced the source of funds used to satisfy the large debt of mortgage without exceptions. The concern was *unfounded*.

3. **Area of Concern: Savitt was subsequently appointed as guardian in two cases after Judge Colin first appointed Attorney Hazeltine to be counsel, and then the cases were transferred to other judges. This concern was *substantiated*.**

a. Investigative Findings:

Guardianship of J [REDACTED] K [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- An "Order on Petition for Authorization to Represent Ward" was adjudged by Judge Colin on December 4, 2009. Sheri Lynn Hazeltine, Esq. ("Hazeltine") was ordered to represent the Ward.
- An "Order of Transfer" was adjudged by Judge Colin on October 13, 2010, requesting Circuit Court Judge Charles E. Burton ("Judge Burton") to hear the case. The "Order of Transfer" was improper and bypassed a random reassignment of a new judicial division by the Clerk. In essence, this is a strategy or process that could be an attempt to ensure the guardianship case would remain in South County Courthouse (Delray Beach).
- A "Request for Voluntary Resignation of Guardian and Appointment of Successor Guardian or Petition to Remove Guardian and Appointment of Successor Guardian" was filed by Hazeltine on October 12, 2010. The Petition proposed Savitt as the Successor Guardian.
- A "Clerk's Notice of Reassignment" was filed on October 26, 2010; the case was reassigned from Judge Burton to Circuit Court Judge Jack Cook ("Judge Cook") located at the Main Courthouse (West Palm Beach). It should be noted that Judge Cook is currently retired from the bench.
- A "Successor Letters of Limited Guardianship of the Person and Property" was issued by Judge Cook on December 8, 2010. The Letters appointed Savitt as the Successor Limited Guardian of the Person and Property. The legal counsel for Savitt was Stephen Ward Hall, Esq. ("Hall").
- An "Order Discharging Counsel" was entered by Judge Cook on December 17, 2010. Hazeltine was discharged as counsel representing the ward.
- A "Stipulation and Substitution of Counsel" was filed by Hazeltine and Hall.
- An "Agreed Order on Stipulation and Substitution of Counsel" was adjudged by Circuit Court Judge Diana Lewis ("Judge Lewis") on August 15, 2011. Hall was permitted to withdraw as counsel for Savitt; Hazeltine was substituted as counsel in place of Hall. It should be noted that Judge Lewis is retired and currently no longer on the bench.
- A "Motion to Transfer Case to South County Courthouse" was filed on February 15, 2012. The motion was withdrawn on February 17, 2012.
- An "Agreed Order of Discharge of Guardian of Person and Property" was adjudged on October 21, 2014. The guardianship was administratively closed.

Guardianship of I [REDACTED] S [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- An "Order Appointing Counsel of the Emergency Temporary Guardian" was adjudged by Judge Colin on December 1, 2011, appointing Hazeltine as the attorney for the ward.
- An "Order Appointing ETG" was adjudged by Circuit Court Judge James Martz ("Judge Martz") on December 2, 2011, appointing Savitt as the ETG. Hall is the attorney for Savitt.
- An "Order of Reassignment" was adjudged on December 7, 2011 by Judge Colin; the order transferred the case to Judge Martz.

- A "Report of Court Appointed Attorney on Behalf of I [REDACTED] S [REDACTED]" was filed by Hazeltine on December 16, 2011. The report stated that if the ward had survived, Hazeltine would have recommended Savitt as the permanent guardian.
- The guardianship case was administratively closed on March 19, 2012.
- b. Analysis: The Clerk's IG identified two guardianship cases in which Judge Colin appointed Hazeltine and then Hazeltine steered the appointment as guardianship to Savitt. The concern was **substantiated**.

4. Area of Concern: Attorney Hazeltine's involvement in 11 guardianship cases ultimately steered the appointment of Savitt as guardian. This concern was *substantiated*.

a. Investigative Findings:

Guardianship of C [REDACTED] S [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- An "Order Appointing Counsel on the Emergency Temporary Guardian" was adjudged by Judge Gillen on July 2, 2014; the Order appointed Hazeltine as the attorney of record for the alleged ward.
- An "Interim Report of Court Appointed Attorney on Behalf of C [REDACTED] S [REDACTED] Regarding Petition to Appoint [REDACTED] as Emergency Temporary Guardian" was filed by Hazeltine on July 8, 2014.
- A "Final Report of Court Appointed Attorney on Behalf of C [REDACTED] S [REDACTED]" was filed by Hazeltine on August 18, 2014. The report stated, "...4. we discussed appointment of a professional guardian or professional co-guardian to serve with Mr. [REDACTED]" and "...9. In light of the foregoing, this attorney recommends that a professional guardian be appointed as the co-guardian with Mr. [REDACTED] or a professional guardian appointed as the plenary guardian of the person and property, with Mr. [REDACTED] remaining as the trustee..."
- A "Letters of Guardian of Person and Property" was adjudged by Judge Gillen on August 26, 2014; the Order appointed Savitt.

Guardianship of D [REDACTED] P [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- A "Petition for Guardian Advocate" was filed by Lisa Swift through Hazeltine, her attorney of record on September 10, 2010. The Petition recommended Savitt as the guardian.
- An "Order Appointing Counsel on the Petition for Appointment of Guardian Advocate and Setting Hearing" was adjudged by Judge Colin on September 15, 2010.
- An "Order of Transfer" was adjudged by Judge Colin on September 21, 2010, transferring the case to Judge Burton.
- An "Order Appointing Guardian Advocate" was adjudged by Judge Burton on October 29, 2010; Savitt was appointed.
- A "Verified Inventory of Guardian Advocate" was filed by Savitt on January 5, 2011; Hazeltine is the attorney of record for Savitt.
- An "Order Approving Verified Inventory of Guardian of Property" was adjudged by Judge Colin on June 7, 2011. It should be noted that Judge Colin's signature appears above Judge Burton's printed name. While Judge Colin may have been covering cases for Judge Burton for legitimate reasons, Judge Colin had a conflict in entering any Orders in this case with Savitt (his wife) serving as Guardian Advocate. It was improper for Hazeltine to not bring this improper order to the attention of the court.

- An “Annual Guardianship Plan of the Guardian Advocate of the Person” for the period of November 1, 2011 through October 31, 2012 was filed by Savitt on January 19, 2012. An “Order Approving Annual Plan of Guardian of Adult Person” was entered by Judge Colin on February 17, 2012. It should be noted that Judge Colin’s signature appears above the name of Circuit Court Judge Rosemarie Scher (“Judge Scher”). Similarly, Judge Colin had a conflict to enter any orders in this matter due to his wife’s involvement. It was improper for Hazeltine to not bring this improper order to the attention of the court.

Guardianship of C [REDACTED] D [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- An “Order Approving Initial Plan of Guardian of Adult Person” was adjudged by Judge Colin on June 10, 2011. The guardian was Angela White Kraemer and Hazeltine was the attorney of record for the guardian.
- According to “Petition for Discharge of Guardian Advocate and Appointment of Successor Guardian Advocate; Request to Transfer Matter to the Honorable Circuit Judge Charles Burton” filed on June 10, 2011, the former guardian, Angela White-Kraemer, was “currently ill and cannot continue to serve at this time as the guardian...” The Petition states that “...Savitt should succeed petitioner as the new successor guardian in this matter.” At this point of the proceedings, Judge Colin was assigned to the case. Hazeltine knowingly filed an improper petition or she should have known the petition was improper because Judge Colin was assigned to the case without simultaneously filing a Motion for Disqualification.
- A “Petition for Appointment of Successor Guardian” was filed by and through Hazeltine on June 10, 2011. The petition stated, “Both Angela White Kraemer and the Ward agree that Elizabeth Savitt, a professional guardian, may succeed Angela White Kraemer as the new successor guardian in this matter.” At this point of the proceedings, Judge Colin was assigned to the case. It was improper for Hazeltine to file this petition (See R. Regulating Fla. Bar 4-3.3).
- An “Application for Appointment of Elizabeth Savitt as Guardian Advocate” was filed and the application was co-signed by Hazeltine on June 10, 2011. It was improper for Hazeltine to file this application (See R. Regulating Fla. Bar 4-3.3).
- An “Oath of Guardian Advocate Elizabeth Savitt and Designation of Resident Agent and Acceptance” was filed and the oath was co-signed and certified by Hazeltine on June 10, 2011. It was improper for Hazeltine to file this oath (See R. Regulating Fla. Bar 4-3.3).
- A “Notice of Hearing” was filed by Hazeltine on June 17, 2011. The notice stated that Judge Burton was to hear the matter “Petition for Discharge of Guardian Advocate and Appointment of Successor Guardian Advocate; Request to Transfer Matter to the Honorable Circuit Judge Charles Burton.” This was procedurally improper as the case was not assigned to Judge Burton and there first needed to be an Order of Recusal entered by Judge Colin that instructed the Clerk to randomly reassign the case to another division.
- An “Agreed Order Appointing Successor Guardian Advocate” was adjudged by Judge Burton on June 30, 2011. The Order appointed Savitt as the successor guardian advocate. It should be noted that the order did not transfer the matter to Judge Burton; Judge Colin was still assigned the case. For the reasons set forth immediately above, this was done improperly.
- A “Petition for Order Authorizing Payment of Attorney’s Fees and Expenses” was filed by Hazeltine on June 18, 2011. It was improper for Hazeltine to file this petition knowing Judge Colin was assigned to the case. The itemized description of legal services indicated that Hazeltine prepared the oath and application for Savitt on May 24, 2011 and Savitt and

Hazeltine met for 6 minutes on May 29, 2011. It was improper for Hazeltine to file this petition (See R. Regulating Fla. Bar 4-3.3).

- A "Verified Inventory" was filed and the inventory was signed by Hazeltine on September 21, 2011. It was improper for Hazeltine to file this inventory (See R. Regulating Fla. Bar 4-3.3).
- An "Initial Guardianship Plan of the Guardian Advocate" for the period of June 29, 2011 through June 30, 2012 was filed by Savitt and signed by Hazeltine on September 21, 2011. It was improper for Hazeltine to file this plan (See R. Regulating Fla. Bar 4-3.3). An "Order Approving Initial Plan of Guardian of Adult Person" was adjudged by Judge Colin on October 17, 2011. Copies of the order were furnished to Savitt and Hazeltine. It was improper for Hazeltine to file and not bring the conflict of interest to the attention of the court (See R. Regulating Fla. Bar 4-3.3).
- An "Order Approving Verified Inventory of Guardian of Property" was adjudged by Judge Colin on September 28, 2011. The verified inventory was filed by the former guardian, Angela White Kraemer, on May 27, 2011. It was improper for Hazeltine to file and not to bring the conflict of interest to the attention of the court (See R. Regulating Fla. Bar 4-3.3).
- A "Petition to Waive Accounting" was filed by Savitt and signed by Hazeltine on September 30, 2011. The petition stated, [REDACTED] " It was improper for Hazeltine to file this petition (See R. Regulating Fla. Bar 4-3.3). An "Order Waiving Annual Accounting" was adjudged by Judge Scher on November 21, 2011.
- A "Petition for Order Authorizing Payment of Compensation and Expenses of Guardian" was filed by Savitt and signed by Hazeltine. The petition stated, "...that reasonable compensation for the services performed by (Savitt)...is: Fees: \$510..." It was improper for Hazeltine to file this petition (See R. Regulating Fla. Bar 4-3.3).
- The following documents were filed in guardianships cases, it was improper for Hazeltine to file and/or sign these documents (See R. Regulating Fla. Bar 4-3.3):
 - Petition for Order Authorizing Payment of Attorney's Fees and Expenses, filed November 3, 2011.
 - Notice of Hearing, filed November 14, 2011
 - Annual Guardianship Plan of Guardian of Person, August 2, 2012
 - Annual Guardianship Plan of Guardian of Person, October 8, 2013
 - Annual Guardianship Plan of Guardian of Person, August 21, 2014
- A "Clerk's Notice of Reassignment" was filed by the Clerk on March 23, 2015; the Clerk requested reassignment of the case to Division IX to Circuit Court Judge David Elwood French ("Judge French").

Guardianship of W [REDACTED] S [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- F.S. 744.2111(1)(a)
- A "Petition to Appoint [REDACTED] and Elizabeth Savitt as Successor Co-Guardians" was filed on March 22, 2012 by the alleged ward's mother and Savitt; Hazeltine was the attorney of record for Savitt and [REDACTED] (" [REDACTED] ").
 - An "Agreed Order Appointing Successor Plenary Co-Guardians" was filed on April 27, 2012. The Order stated, "The co-guardians agree that they will serve without compensation."
 - A "Motion to Transfer Case to South County Courthouse" was filed by Hazeltine on July 18, 2012.
 - An "Order Authorizing Motion to Transfer Case to South County Courthouse" was entered by Judge Lewis on July 24, 2012.

- F.S. 744.2111(1)(a)
- A "Petition to Waive Verified Inventory and Annual Accounting" was filed by Savitt and [REDACTED] on August 22, 2012.
 - An "Agreed Order Waiving Verified Inventory (sic) and Annual Accounting" was adjudged by Judge Martz on August 30, 2012.
 - A "Petition for Order Authorizing Payment of Compensation and Expenses of Co-Guardian" was filed by Savitt on November 9, 2012. The petition sought guardian fees and costs totaling \$903.84. It was improper for Savitt and Hazeltine to petition the Court for guardian fees because of the Agreed Order on April 27, 2012. It was improper of Hazeltine to petition the Court for guardian fees because she knew or should have known about the Agreed Order on April 27, 2012 (See R. Regulating Fla. Bar 4-3.3).
 - An "Agreed Order Authorizing Payment of Compensation and Expenses of Guardian" was adjudged by Judge Martz on November 14, 2012. The Order approved guardian fees and costs totaling \$903.84. It was improper of Hazeltine to petition the Court for guardian fees because she knew or should have known about the agreed Order on April 27, 2012 (see R. Regulating Fla. Bar 4-3.3).
 - A "Petition to Waive Verified Inventory and Annual Accounting" was filed on August 22, 2012 and states, [REDACTED] F.S. 744.2104(2); See also F.S. 744.2111(1)(b)

- F.S. 744.2111(1)(a)
- An "Annual Guardianship Plan (Guardianship Report) of the Guardians of the Person" for the period of May 1, 2013 through April 30, 2014 was filed by Savitt and [REDACTED] on January 16, 2014; Hazeltine was the attorney of record for Savitt and [REDACTED]
 - An "Order Approving Annual Plan of Guardian of Adult Person" was adjudged by Judge Colin on February 10, 2014. Again, Judge Colin had a conflict of interest in making any rulings on a case involving his wife (Savitt).

Guardianship of S [REDACTED] G [REDACTED] F.S. 744.2111(1)(a)

- A "Petition to Appoint Guardian Advocate" was filed by Savitt on October 26, 2012; Hazeltine is the attorney of record for Savitt.
- An "Agreed Letters of Guardian Advocate" was entered by Judge Martz on November 29, 2012.
- An "Order of Recusal" was adjudged by Judge Colin on April 17, 2015.

Guardianship of R [REDACTED] C [REDACTED] F.S. 744.2111(1)(a)

- F.S. 744.2111(1)(a)
- A "Petition for Appointment of Emergency Temporary Co-Guardian" was filed by [REDACTED], the alleged ward's sister, and Savitt on October 25, 2012; Hazeltine was the attorney of record for [REDACTED] and Savitt. The petition was the result of [REDACTED] F.S. 744.2104(2); See also F.S. 744.2111(1)(b)

- F.S. 744.2111(1)(a)
- An "Order Denying the ETG Petition" was adjudged by Judge Martz on October 26, 2012.
 - A "Petition to Re-Open Case and Amended Petition for Appointment of ETG" was filed by [REDACTED] and Savitt on November 16, 2012.

- F.S. 744.2111(1)(a)
- A "Letters of Emergency Temporary Guardianship" was adjudged by Judge Martz on November 19, 2012.

- F.S. 744.2111(1)(a)
- A "Letters of Limited Co-Guardians" was adjudged by Judge Martz on January 3, 2013; the letters appointed [REDACTED] and Savitt as the co-guardians.
 - Judicial assignments were rotated; Judge French was assigned the case by February 7, 2013.

Guardianship of S [REDACTED] L [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- A "Petition to Appoint Guardian Advocate" was filed by Savitt on November 28, 2012; Hazeltine was the attorney of record.
- A "Letters of Guardian Advocate" was adjudged by Judge French on February 12, 2013.

Guardianship of L [REDACTED] H [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

F.S. 744.2111(1)(a)

- A "Petition for Voluntary Guardianship" was filed by L [REDACTED] H [REDACTED] on January 24, 2013; Hazeltine was the attorney of record. The petition states, "Mrs. [REDACTED] requests that Elizabeth Savitt be appointed as her guardian over all matters regarding her property."
- A "Letters of Guardian of the Property" was adjudged by Judge French on March 20, 2013; Judge French appointed Savitt as the voluntary guardian of the property.

Guardianship of D [REDACTED] T [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

F.S. 744.2111(1)(a)

- A "Petition for Appointment of Emergency Temporary Co-Guardians" was filed by [REDACTED] the alleged ward's husband, on May 28, 2013; Hazeltine was the attorney of record for the husband. The petition stated, "The proposed emergency temporary co-guardians, [REDACTED] who is not a professional guardian, and Elizabeth Savitt, a profession (sic) guardian, who are sui juris and otherwise qualified...to act as emergency temporary co-guardians of the incapacitated person."
- A "Letters of Emergency Temporary Guardianship" was adjudged by Judge French on May 29, 2013; Savitt was appointed co-ETG.
- A "Petition to Determine Incapacity" was filed by Savitt on July 16, 2013; Hazeltine was the attorney of record for Savitt.
- A "Letters of Limited Guardian" was adjudged by Judge French on July 16, 2013; Savitt was appointed guardian.

Guardianship of B [REDACTED] H [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

F.S. 744.2111(1)(a)

- A "Petition to Determine Incapacity" was filed (in [REDACTED]) by the daughter of the alleged ward on January 28, 2014; Hazeltine is the attorney of record for the daughter.
- A "Letters of Emergency Temporary Guardian" was adjudged by Judge French on January 29, 2014; the daughter and Savitt were appointed as co-ETGs.
- A "Petition for Appointment of Permanent Co-Guardians" was filed by the daughter of the alleged ward and Savitt on February 27, 2014; Hazeltine is the attorney of record for the daughter and Savitt.
- A "Letters of Plenary Guardianship of the Person and Property" was adjudged by Judge French on March 4, 2014; the order appointed Savitt as the guardian of property.

Guardianship of S [REDACTED] G [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

- A "Suggestion of Restoration of Rights" was filed by the alleged ward on February 22, 2013; Hazeltine was the attorney of record for the ward.
- An "Amended Letters of Guardian Advocate of Person and Property" was adjudged by Judge Lewis on April 26, 2013; the letters appointed Savitt as the guardian advocate of the property.

b. Analysis:

- Hazeltine’s involvement as an attorney of record in guardianship proceedings ultimately steered the appointment of Savitt as the guardian.
- Hazeltine acted improperly by failing to file motions for disqualification and failing to bring numerous conflicts of interest to the Court’s attention.
- Hazeltine filed motions and petitions in cases that were improperly assigned to Judge Colin.
- Hazeltine’s actions are subject to Rules Regulating the Florida Bar.
- Attorneys have a duty to disclose and a duty of candor towards the tribunal pursuant to Florida Rules of Professional Conduct (See R. Regulating Fla. Bar 4-3.3).
- A lawyer shall not knowingly fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.
- A lawyer shall not knowingly fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel.
- Judge Colin improperly transferred guardianship cases and bypassed a random reassignment of a new judicial division by the Clerk. In essence, this is a strategy or process that could be an attempt to ensure the guardianship case would remain in South County Courthouse (Delray Beach).
- It was improper for Judge Colin to sign orders in cases involving his wife.
- The concern was **substantiated**.

5. **Area of Concern: Six court orders in three of Savitt’s guardianship cases were adjudged by her husband, Judge Colin and one court order in a non-guardianship case involving Savitt was adjudged by Judge Colin. This concern was substantiated.**

a. Investigative Findings: There were six court orders identified in three guardianship cases and one non-guardianship case involving Savitt that were adjudged by her husband, Judge Colin. The following is a list and description of the orders:

	Guardianship Case	Order	Filed
F.S. 744.2111(1)(a)	D [REDACTED] P [REDACTED] [REDACTED]	Order Appointing Counsel on the Petition for Appointment of Guardian Advocate and Setting Hearing	9/15/10
		Order Approving Verified Inventory of Guardian of Property	6/7/11
		Order Approving Annual Plan of Guardian of Adult Person	2/17/12
F.S. 744.2111(1)(a)	C [REDACTED] D [REDACTED] [REDACTED]	Order Approving Initial Plan of Guardian of Adult Person	10/17/11
		Order Approving Verified Inventory of Guardian of Property	9/27/11
F.S. 744.2111(1)(a)	W [REDACTED] S [REDACTED] [REDACTED]	Annual Guardianship Plan of the Guardians of the Person	2/10/14

F.S. 744.2111(1)(a)

Guardianship Case	Order	Filed
In Re: Estate of G [REDACTED] K [REDACTED] ([REDACTED])	Agreed Order Discharging Curator (Savitt)	7/18/14

- b. Analysis: There were six improper court orders in three guardianship cases and one non-guardianship case involving Savitt that were adjudged by her husband, Judge Colin. This concern was **substantiated**.

6. Area of Concern: Sherri Norton, a Florida state courts employee and Judicial Assistant to Judge Colin, was involved with six documents either as a notary or personal reference for Savitt. This concern was substantiated.

- a. Investigative Findings: There were six official records and court documents that reference a Florida state courts employee and Judicial Assistant to Judge Colin. Here is a list and description of the official records and orders:

Description	Case Number/O.R.	Date
Performed marriage ceremony between Judge Colin and Savitt as a notary public	Palm Beach Co. Official Record Book 22515/Page 128	3/15/08
Personal reference for Savitt; guardianship application	J [REDACTED] K [REDACTED] ([REDACTED])	12/2/10
Personal reference for Savitt; guardianship application	I [REDACTED] S [REDACTED] ([REDACTED])	12/7/11
Notarized affidavit for Hazeltine	I [REDACTED] S [REDACTED] ([REDACTED])	2/28/12
Notarized oath for Savitt	D [REDACTED] P [REDACTED] ([REDACTED])	9/10/10
Notarized Confidential Compromise, Settlement and Release Agreement for Judge Colin and Savitt	Citibank, NA v. Savitt (2009CA033674)	11/14/14

- b. Analysis: There were six official records and court documents that improperly referenced a Florida state courts employee and Judicial Assistant to Judge Colin as the notary or personal reference for Savitt. The concern was **substantiated**.

7. Area of Concern: Savitt petitioned the Court subsequent, nunc pro tunc ("now for then"), to taking retainers or fee advances totaling \$21,500 for guardian services in seven guardianship cases. This concern was substantiated.

- a. Investigative Findings: Savitt was taking retainers or fee advances totaling \$21,500 for guardian services in seven guardianship cases. Here is a list and description of the advanced fees:

Guardianship Case	GA Fees Petition	Amt of Retainer	Fee Approved By/Date
H O ()	5/18/12	\$1,000	Judge Scher on 6/14/12
L H ()	4/30/13	\$2,000	Judge French on 5/14/13
D T ()	9/6/13	\$1,000	Judge French on 9/18/13
B H ()	9/30/14	\$1,000	Judge French on 10/1/14
A V ()	3/17/15	\$3,000	Judge French on 4/1/15
R W ()	7/9/15	\$8,000	Judge Marx on 8/27/15
C S ()	7/30/15	\$2,500	Judge Ticktin on 8/26/15
A V ()	2/19/16	\$3,000	Judge Coates on 12/16/16
TOTAL		\$21,500	

b. Analysis:

- The practice of taking retainers or advanced fees violates Florida Guardianship Law and is a practice not typically performed by other professional guardians.
- The Clerk's IG has audited and investigated over 1,000 guardianship cases; no other professional guardian, to the Clerk IG's knowledge, has disbursed guardianship assets for retainers or an advancement on fees in any of the cases reviewed.
- Florida Guardianship Law cites elements that the court must consider to approve guardian fees.
- All of the statutory elements are in the past-tense, indicating that services were already performed for the ward; before the Court approves and the guardian ultimately receives fees for the guardian's services.
- When awarding fees to guardians, the court must consider the following criteria: (1) the time and labor required; (2) the novelty and difficulty of the questions involved and the skill required to perform the services properly; (3) the likelihood that the acceptance of the particular employment will preclude other employment of the person; (4) the fee customarily charged in the locality for similar services; (5) the nature and value of the incapacitated person's property, the amount of income earned by the estate, and the responsibilities and potential liabilities assumed by the person; (6) the results obtained; (7) the time limits imposed by the circumstances; (8) the nature and length of the relationship with the incapacitated person; and (9) the experience, reputation, diligence, and ability of the person performing the service (see Section 744.108(2), Fla. Stat.).
- Further, Florida Guardianship Law states, "all petitions for guardian... fees and expenses must be accompanied by an itemized description of the services performed for the fees and expenses sought to be recovered" (see Section 744.108(5), Fla. Stat.) and "a petition for fees shall include the period covered and the total amount of all prior covered and the total amount of all prior fees paid or costs awarded to the petitioner in the guardianship proceeding currently before the court (see Section 744.108(7), Fla. Stat.).
- One of Savitt's attorneys, Ellen S. Morris, Esq. ("Morris"), presented legal arguments that the taking of retainers or advanced fees in guardianships are acceptable by professional guardians. Morris' argument is based on Section 744.444(13), Fla. Stat. The statute states a guardian may "...when reasonably necessary, employ persons, including attorneys, auditors, investment advisers, care managers, or agents, even if they are associated with the guardian, to advise or assist the guardian in the performance of his or her duties" (see Section 744.444(13), Fla. Stat.). A guardian may "...pay or reimburse costs incurred and reasonable fees or compensation to persons, including attorneys, employed by the guardian pursuant to subsection (13) from the assets of the guardianship estate, subject

to obtaining court approval of the annual accounting” (see Section 744.444(16), Fla. Stat.). Although all retainers or advanced fees have been retroactively court-approved and ratified, at least one judge admonished Savitt by stating (paraphrasing), “...it seems you are asking for forgiveness rather than permission...” (Circuit Court Judge Krista Marx, Case Number [REDACTED]).

F.S. 744.2111(1)(a)

- Based on the Clerk IG’s expertise and experience, Morris’ argument ignores Florida Guardianship Law and local customs. It should be noted that the Clerk’s IG was not able to identify any other professional guardians who were represented by Morris as an attorney of record that took advanced fees or retainers in guardianship proceedings.
- The concern was **substantiated**.

8. **Area of Concern: The involvement of Attorney Hark in two guardianship cases ultimately steered the appointment of Savitt as guardian and curator. This concern was substantiated.**

9. **Area of Concern: Savitt’s appointment as guardian and curator and Savitt not objecting to Attorney Hark’s legal fees is quid pro quo (“this for that”). This concern was unsubstantiated.**

10. **Area of Concern: Savitt attempted to improperly take a retainer, advancement, or “in trust” fees for curator services totaling \$20,000 and/or unreasonable curator fees totaling \$55,221. This concern was substantiated.**

NOTE: To avoid duplication of information, the “Investigative Findings” and “Analysis” were combined for Area of Concern #8, Area of Concern #9, and Area of Concern #10.

a. Investigative Findings:

Guardianship of A [REDACTED] V [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

F.S. 744.2111(1)(a)

- A “Petition to Appointment of Guardian” was filed by [REDACTED] the alleged ward’s son, on July 24, 2015; Clifford “Cliff” Barry Hark, Esq. (“Hark”) is the attorney of record for the son. The petition requests Savitt be appointed as guardian.
- A “Letters of Limited Guardianship of the Person and Property” was adjudged by Judge French on September 9, 2014; Savitt was appointed as the limited guardian.

Guardianship of H [REDACTED] M. O [REDACTED] ([REDACTED]) F.S. 744.2111(1)(a)

F.S. 744.2111(1)(a)

- A “Petition for Appointment of Emergency Temporary Guardian of the Person and Property” was filed by a son on January 11, 2012; Hark was the attorney of record for the son. The petition states, “the proposed Guardians are... [REDACTED] is her Son and Elizabeth Savitt is a professional guardian.”
- An “Order Appointing Emergency Temporary Guardian of the Person and Property” was adjudged by (Acting) Circuit Court Judge Leonard Hanser on January 11, 2012.

F.S. 744.2111(1)(a)

- A “Petition for Appointment of Guardian of the Person and Property” was filed by [REDACTED] the son of the alleged ward, on January 11, 2012; Hark was the attorney of record

F.S. 744.2111(1)(a) for the son. The petition states, "...the petitioner, ██████████ proposes that the court appoint a professional guardian, Elizabeth Savitt...as Guardian of the Person."

- An "Application for Guardian" was filed by Savitt on January 17, 2012; Hazeltine is the attorney of record for Savitt.
- A "Letter of Emergency Temporary Guardianship of the Person and Property" was adjudged by Judge Scher on February 9, 2012.
- A "Letters of Limited Guardian" was adjudged by Judge Scher on April 2, 2012; Savitt is appointed the guardian of person and property.
- A "Petition for Payment of Emergency Temporary Guardian's Attorney's Fees and Costs" was filed by Hark on May 22, 2012. The petition sought legal service fees totaling \$33,011.31 for services from January 11, 2012 through May 14, 2012.
- An "Objection to Petition for Payment of Emergency Temporary Guardian's Attorney's Fees and Expenses" was filed by Savitt and Hazeltine on June 13, 2012.
- A "Final Petition for Payment of Emergency Temporary Guardian's Attorneys' Fees and Costs" was filed by Hark on January 30, 2013. The petition sought legal service fees totaling \$14,689.43 which included for services, costs, and credits from May 14, 2012 through January 11, 2013. The total amount due and owed to Hark was \$10,345.23.
- An "Order of Recusal" was adjudged by Judge Colin on January 31, 2013; the order stated, "All matters on this case will be heard by Judge Edward A. Garrison due to the fact that his division is already handling the Probate case ██████████"
- A "Clerk's Notice of Reassignment" was filed by the Clerk on February 1, 2013.
- An "Order on Final Petition for Payment of Emergency Guardian's Attorneys' Fees and Costs" was adjudged by Circuit Court Judge Edward A. Garrison ("Judge Garrison") on April 3, 2013; the Order awarded payments totaling \$14,689.43. The total amount due to Hark was \$9,021.09.

F.S. 744.2111(1)(a)

Estate of H ██████████ O ██████████ (██████████) F.S. 744.2111(1)(a)

- Savitt was the court-appointed guardian for the ward:
 - An "Application for Guardian" was filed by Savitt on January 17, 2012; Hazeltine is the attorney of record for Savitt.
 - A "Letter of Emergency Temporary Guardianship of the Person and Property" was adjudged by Judge Scher on February 9, 2012.
 - A "Letters of Limited Guardian" was adjudged by Judge Scher on April 2, 2012; Savitt is appointed the guardian of person and property.
 - It should be noted that Savitt's billed rate was \$75 per hour as the guardian.
- A "Petition for Appointment of Curator" was filed by the petitioner, ██████████, the son of the decedent and beneficiary of the estate on August 17, 2012. The petition stated the, "...value of the assets...estimated in the approximate amount of ██████████"
- An "Order of Recusal" was adjudged by Judge Colin on January 31, 2013. The order stated, "All matters on this case will be heard by Circuit Court Judge Edward A. Garrison due to the fact that his division is already handling matters on this case." The "Order of Recusal" was improper and bypassed a random reassignment of a new judicial division by the Clerk. In essence, this is a strategy or process that could be an attempt to ensure the guardianship case would remain in South County Courthouse (Delray Beach).
- An "Order on Petition for Appointment of Curator" was adjudged by Judge Garrison on March 20, 2013; Savitt was appointed the curator and Hazeltine was her attorney of record.
- A "Petition for Order Authorizing Payment of Compensation and Expenses of Curator Elizabeth Savitt" was filed by Savitt and Hazeltine on July 17, 2013. The petition sought

F.S. 744.2111(1)(a)

F.S. 733.604(1)(b); See also

F.S. 744.2111(1)(b); See also F.S. 744.2104(2)

fees for curator services from March 20, 2013 to July 10, 2013 totaling \$6,674. It should be noted that Savitt's billed rate was \$150 per hour as the curator which was double that of her guardianship fees.

- A "Final Accounting of Curator of Property" was filed by Savitt and co-signed by Hazeltine on August 30, 2013. On "Schedule B – Disbursement and Distributions," Savitt listed the following:
 - On April 4, 2013, Check #1050 (Wells Fargo Checking account [REDACTED]), payable to "Elizabeth Savitt (fees)," and totaling \$ [REDACTED] was listed. F.S. 119.071(5)(b)
 - On August 12, 2013, Check #114 (Wells Fargo Checking account [REDACTED]), payable to "Elizabeth Savitt – Guardian Fees c/o dtd 8/18/13," and totaling \$ [REDACTED] was listed. F.S. 119.071(5)(b)
 - On August 14, 2013, Check #1053 (Wells Fargo Checking account [REDACTED]), payable to "E. Savitt (held in trust)" and totaling \$ [REDACTED] was listed. F.S. 119.071(5)(b)
 - On August 14, 2013, Check #115 (Wells Fargo Checking account [REDACTED]), payable to "Elizabeth Savitt (Held in Trust)" and totaling \$ [REDACTED] was listed. F.S. 119.071(5)(b)

F.S. 733.604(1)(b); See also

F.S. 744.2111(1)(b); See also

F.S. 744.2104(2)

F.S. 733.604(1)(b); See also

F.S. 744.2111(1)(b); See also

F.S. 744.2104(2)

F.S. 733.604(1)(b); See also

F.S. 744.2111(1)(b); See also

F.S. 744.2104(2)

F.S. 733.604(1)(b); See also

F.S. 744.2111(1)(b); See also

F.S. 744.2104(2)

F.S. 733.604(1)(b); See

also F.S. 744.2111(1)(b);

See also F.S. 744.2104(2)

A "Petition for Curator Elizabeth Savitt's Fees and Costs" was filed by Savitt and Hazeltine on September 2, 2013; the petition stated, "FS 733.617 provides that the reasonable rate of compensation for personal representative shall be based on the inventory value of the estate, plus income earned during administration determined at 3% of the first million dollars and 2.5% (two and one-half percent) of the amount between \$1 million dollars and \$5 million dollars. The inventory value of this estate is [REDACTED] and as a result, the presumed reasonable fee for this Curator is [REDACTED]."

- A "Notice of Final Accounting of Curator and Petition for Discharge" was filed by Savitt and Hazeltine on September 3, 2013.
- A "Notice of Withdrawal of Petition for Order Authorizing Payment of Compensation and Expenses of Curator Elizabeth Savitt Filed on July 17, 2013" was filed on September 5, 2013.
- A "Joint Stipulation for Substitution of Counsel" was filed on October 7, 2013; Hazeltine was being substituted for Morris as the attorney of record. An "Order Granting Joint Stipulation for Substitution of Counsel" was adjudged by Judge Garrison on October 18, 2013.
- An "Order on Curator, Elizabeth Savitt's Petition for Discharge of Curator and on Personal Representative, [REDACTED] Objection to Elizabeth Savitt's Notice of Final Accounting of Curator and Petition for Discharge" was adjudged by Judge Garrison on November 14, 2013. The Court ordered Savitt, "...to turn over all of the assets of the estate (including the \$20,000.00 sum presently held by the Curator in trust...to the Personal Representative...").
- A "Petition for Fees and Costs of Curator, Elizabeth Savitt" was filed by Savitt and co-signed by Morris on November 15, 2013. The petition was for curator services from March 20, 2013 through November 11, 2013 and fees totaled \$20,193.91. The petition stated, "At the hearing held on October 31, 2013, the Court ruled that Petitioner is entitled to reasonable hourly compensation for services rendered as Curator."
- On November 25, 2013, a special set hearing for the fee petition was scheduled for January 22, 2014. On January 7, 2014, the special set hearing was cancelled.
- The Personal Representative was ordered to make final distributions on April 23, 2015.

F.S. 744.2111(1)(a)

b. Analysis

- Savitt violated Florida Probate Code by attempting to collect an unreasonable fee as a curator. Section 733.501, Fla. Stat. mandates that curator fees be reasonable but does allow the court to consider Section 733.617, Fla. Stat.
- Section 733.501(3), Fla. Stat. states, "Curators shall be allowed reasonable compensation for their services, and the court may consider the provisions of s. 733.617."
- Section 733.617, Fla. Stat. states:
 - (1) A personal representative shall be entitled to a commission payable from the estate assets without court order as compensation for ordinary services. The commission shall be based on the compensable value of the estate, which is the inventory value of the probate estate assets and the income earned by the estate during administration.
 - (2) A commission computed on the compensable value of the estate is presumed to be reasonable compensation for a personal representative in formal administration as follows:
 - (a) At the rate of 3 percent for the first \$1 million.
 - (b) At the rate of 2.5 percent for all above \$1 million and not exceeding \$5 million.
- Hark's involvement as an attorney of record in a guardianship proceedings ultimately steered the appointment of Savitt as the guardian. The concern was **substantiated**.
- There was information that Savitt was appointed to a guardianship case because of Hark; and Savitt did not object to Hark's legal fees on one occasion. There was no information to determine if there was a "this for that" intent or mens rea ("guilty mind"); therefore, the concern was **unsubstantiated**.
- Savitt did attempt to take improper retainer, advancement, or "in trust" fees for curator services totaling \$20,000 and/or unreasonable curator fees totaling \$55,221. Savitt seemingly ignored Section 733.501(3), Fla. Stat. that mandates that curator fees be reasonable and she focused instead on Section 733.617, Fla. Stat., which courts can consider because the latter statute financially benefited her more. The concern was **substantiated**.

11. Area of Concern: Savitt traveled internationally with Judge Colin and Judge French to the Commonwealth of the Bahamas on an airplane piloted by Judge French. This concern was unsubstantiated.

a. Investigative Findings:

- F.S. 744.2111(1)(a)
- On June 16, 2015, [REDACTED] was voluntarily interviewed by the Clerk's IG. During the interview, [REDACTED] stated that Savitt and Judge Colin traveled with Judge French to the Bahamas. [REDACTED] refused to reveal the source of the information.
 - The Clerk's IG confirmed that Judge French was certified by the U.S. Department of Transportation, Federal Aviation Administration ("FAA") as a private pilot and rated as a private pilot for an "airplane single engine land," "airplane multiengine land" and "instrument airplane" on May 20, 2010, and as early as January 2001.
 - Publicly and commercially available records indicated that Judge French owned a Cessna model 337G (nose/tail number N53708). However, the Cessna was likely sold because it was certified by another owner on November 14, 2007.

- The Clerk's IG requested international passenger manifests from the U.S. Homeland Security, U.S. Customs and Border Protection and maintenance records from the Federal Aviation Administration (FAA). No information was provided to the Clerk's IG.
- On October 3, 2017, Jay Gordon, the ex-husband of Savitt was voluntarily interviewed by the Clerk's IG. Sergeant Diana Burfield and Detective Eric Hutchinson with the Public Corruption Unit at the Office of the State Attorney for the Florida 15th Judicial Circuit Court observed the interview. Gordon stated that he was contacted via telephone by Savitt approximately 14 years ago about an issue involving their son, [REDACTED]. According to Gordon, Savitt and Colin acknowledged traveling to the Bahamas, specifically Paradise Island, with Colin and French on an airplane owned and piloted by French.
- There were 12 guardianship and 4 non-guardianship cases in which Judge French provided court-oversight of Savitt.

F.S. 119.071(4)(d)2.e.

F.S. 744.2111(1)(a)

Guardianship Case		
W	S	([REDACTED])
D	P	([REDACTED])
C	D	([REDACTED])
H	O	([REDACTED])
R	C	([REDACTED])
S	G	([REDACTED])
S	L	([REDACTED])
L	H	([REDACTED])
D	T	([REDACTED])
B	H	([REDACTED])
A	V	([REDACTED])
V	B	([REDACTED])
M	E	S ([REDACTED])

b. Analysis:

- There was insufficient information to determine whether Savitt traveled internationally with Judge Colin and Judge French. The concern was **unsubstantiated**.

12. Area of Concern: Savitt gained financially from being a guardian in the Florida 15th Judicial Circuit Court System because of her husband, Judge Colin. This concern is *substantiated*.

- a. Investigative Findings: There were 13 cases identified where Savitt received guardianship fees totaling \$191,754 from October 5, 2010 through January 24, 2017 (6.3 years):

F.S. 744.2111(1)(a)

Guardianship Case	Amount
R [REDACTED] C [REDACTED] ([REDACTED])	\$32,897
D [REDACTED] T [REDACTED] ([REDACTED])	\$28,230
R [REDACTED] P [REDACTED] W [REDACTED] ([REDACTED])	\$27,032
F [REDACTED] B [REDACTED] ([REDACTED])	\$26,569
A [REDACTED] V [REDACTED] ([REDACTED])	\$16,070
C [REDACTED] S [REDACTED] ([REDACTED])	\$15,471

F.S. 744.2111(1)(a)

H	O	()	\$13,283
B	H	()	\$11,837
V	B	()	\$10,179
L	H	()	\$6,440
J	K	()	\$1,494
C	D	()	\$1,348
W	S	()	\$904
TOTAL			\$191,754

- b. Analysis: Savitt profited and received financial gain from 13 guardianship cases in Palm Beach County. The concern was **substantiated**.

Conclusions:

The Clerk's IG has concluded that the allegation that "Savitt was involved with corruption and collusion of judges and lawyers in Delray Beach for financial gain," during the period of March 10, 2016 through March 16, 2016 based on a preponderance of the evidence ("more probable than not") is **substantiated**.

Recommendations:

The Clerk's Inspector General is responsible for establishing and maintaining independence so that the inspector general opinions, conclusions, judgments, and recommendations will be impartial and viewed by others as impartial. A cornerstone and guiding principle for inspector generals is the essential and fundamental boundary of independence; independence both in appearance and in fact. As a professional standard, the Clerk's Inspector General should make necessary and appropriate recommendations to the OPPG in the body of an investigative report. The Clerk IGs' recommendations are based on the scope, observations, and findings of the investigation. The recommendations are suggestions of professional opinions. The scope of the Clerks IG's investigation may not necessarily include information derived from administrative proceedings such as interrogatories, subpoenas, discovery, or hearing testimonies. The investigation reports are issued prior to the completion of the administrative and entire investigative process.

The Clerk IG suggests that the OPPG has an obligation to reasonably consider the recommendations and take all necessary actions pursuant to statute and rules to satisfactorily resolve any and all issues. The OPPG's actions or inactions are made at its sole discretion, and may correctly differ to the Clerk's recommendation.

Since Section 744.2004(2) Fla. Stat. delineates the actions that the OPPG must take, additional recommendations for OPPG action would be redundant and potentially contradictory to Florida statute. Therefore, no additional recommendations are suggested. The Clerk's IG investigation is "open" and ongoing.

D. Status of Investigation

The status of this Clerk's IG investigation is "OPEN."

Law enforcement

The Clerk's IG investigation was referred to Sergeant Diana Burfield with the Public Corruption Unit at the Office of the State Attorney for the Florida 15th Judicial Circuit Court ("SAO").

On November 21, 2016, the SAO issued a memorandum and concluded, "This investigation focused on whether the relationship between Judge Colin and Elizabeth Savitt resulted in Savitt receiving an unfair financial advantage assigned to her or if she or her associated attorneys received unfair favorable rulings from Judge Colin. Based on my investigation, there is no evidence to support any of the allegations."

It was unclear whether the criminal standard of proof for the SAO's investigation was a "beyond of reasonable doubt" or a "probability of obtaining a conviction" standard; nevertheless, the SAO's standard of proof was, undoubtedly and correctly, a higher evidentiary threshold.

The Clerk's IG concurs with the SAO conclusion. While circumstantial and anecdotal information of criminal corruption and collusion of the guardian and the judges, court staff, and lawyers in Delray Beach for financial gain exists, utilizing a higher evidentiary threshold, there was insufficient information to prove the criminal allegation was true.

The Florida Bar

The Florida Supreme Court created The Florida Bar as its investigating arm to enforce the standards of ethical conduct of lawyers. When lawyers enter the practice of law in Florida, they obligate themselves to uphold the law and to abide by the Rule Regulating The Florida Bar. Those who violate these professional standards are subject to discipline.

The Florida Bar accepts complaints against attorneys, and investigates those complaints and prosecutes attorneys who engage in unethical conduct. The investigative findings of this report involving Sheri Lynn Hazeltine, Esq. (Florida Bar Number 674567) and Martin H. Colin, Esq. (Florida Bar Number 187700) should be analyzed and investigated by The Florida Bar.

The Clerk & Comptroller for Palm Beach County, Division of Inspector General, on behalf of the Clerks' Statewide Investigation Alliance, continues to be available for further consultation and direction.



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Deputy Inspector General & Chief Guardianship
Investigator
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