

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

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| OFFICE OF DISCIPLINARY COUNSEL | : | No. 184 DB 2014 |
| Petitioner | : | |
| | : | |
| v. | : | Attorney Registration No. 60160 |
| | : | |
| YVETTE MARY ROGERS | : | |
| Respondent | : | (Delaware County) |

PUBLIC REPRIMAND

Yvette Mary Rogers, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a Public Reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline. We note that you agreed to a Public Reprimand by a joint petition in support of discipline on consent.

Ms. Rogers, by Order dated June 14, 2012, Judge Joseph O'Keefe, of the Court of Common Pleas of Philadelphia County, Orphans' Court Division, adjudged Maria Ciavarelli a totally incapacitated person and appointed you plenary guardian of Ms. Ciavarelli's person and estate. You thereafter established an account at Bryn Mawr Trust titled, "Est. of Maria E. Ciavarelli Incapacitated Yvette M. Rogers Guardian", known as the "BMT account".

On February 15, 2013, you took steps to close out Ms. Ciavarelli's annuity from Jackson National Life Insurance Company. On February 20, 2013, Jackson Life issued a check payable to Maria Ciavarelli and Yvette Rogers, Esq., Guardian, in the amount of \$395,856.16. This check constituted property belonging to the Estate of Maria Ciavarelli Incapacitated, and you were obligated to hold the funds inviolate.

On or about February 27, 2013, you endorsed the Jackson Life check and deposited \$385,866.66 of the \$395,856.16 into the BMT account. You deposited \$9,989.50 of the \$395,856.16 into an account titled, "Yvette M. Rogers, Esq. ITF (in trust for) Tara Garcia, Alfredo Garcia", known as the "Rogers account". This account was a personal account and not a trust account, as it contained your funds and the funds of your husband and daughter. Your rationale for placing the \$9,989.50 in your personal account was that it was an estimate of future fees and expenses and you believed that due to your contentious relationship with Linde Hegestweiler, the executrix and beneficiary of Ms. Ciavarelli's will, you would not be reimbursed for attorney fees and court filings paid. You failed to safeguard Ms. Ciavarelli's funds by not placing them in a trust or IOLTA account. In fact, at the time of the February 27, 2013 deposit, you had neither an IOLTA nor an operating account. We note you have remedied this error. We further note that an audit conducted by Office of Disciplinary Counsel revealed that from the time the \$9,989.50 was deposited into your personal account until the time the funds were properly distributed, the balance of your personal account never fell below \$9,989.50. The audit did not find any evidence of loss to the Estate.

Ms. Ciavarelli died on March 19, 2013. On March 20, 2013, you wrote a check drawn on the BMT account in the amount of \$173,795.53 and exchanged it for a Treasurer's Check payable to "Yvette M. Rogers". The word "Guardian" was apparently

erroneously omitted from the check by the teller. You intended to use the Treasurer's Check to open a new guardianship account for Ms. Ciavarelli at a different bank and safeguard the money until an executor was appointed. You never opened and deposited the Treasurer's Check in a different bank because Ms. Hegestweiler, as the executor and beneficiary, insisted that you send her the money. You sent the check to Ms. Hegestweiler by cover letter dated March 20, 2013 and believed that the correspondence was received as you did not hear anything for two months.

Ms. Hegestweiler claimed she never received the correspondence, so the parties executed a Declaration of Lost Treasurer's Check and ultimately the Estate of Ms. Ciavarelli did receive the \$173,795.03

On May 16, 2013, you filed with the Court a Final Report of Guardian, but the Report failed to account for the \$9,989.50 belonging to the Estate. On August 12, 2013, your attorney, Marie Parrott, filed a First and Final Account of Yvette M. Rogers, which included the \$9,989.50 belonging to the estate, which had not been previously accounted for. The Final Account was confirmed absolutely and the judge approved the amount of guardian's commission, attorney fees and filing fees that you had set aside for that purpose. No exceptions were taken to this adjudication.

Your conduct in this matter has violated the following Rules of Professional Conduct:

1. RPC 1.15(b) – A lawyer shall hold all Rule 1.15(b) funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.

2. RPC 1.15(i) – A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner.
3. RPC 1.15(j) – At all times while a lawyer holds Rule 1.15 Funds, the lawyer shall also maintain another account that is not used to hold such funds.
4. RPC 1.15(l) – All Fiduciary Funds shall be placed in a Trust Account (which, if the Fiduciary Funds are also Qualified Funds, must be an IOLTA Account) or in another investment or account which is authorized by the law applicable to the entrustment or the terms of the instrument governing the Fiduciary Funds.

We note that you have practiced law in Pennsylvania for more than 23 years and have no record of professional discipline. You cooperated with Petitioner and demonstrated remorse by admitting and acknowledging that you engaged in the misconduct upon which this disciplinary prosecution is based.

Ms. Rogers, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and Rules of Disciplinary Enforcement. This Public Reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be mindful that any future dereliction will subject you to disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board's website at www.padisciplinaryboard.org.



Designated Member
The Disciplinary Board of the
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Harrisburg, Pennsylvania, on March 27, 2015.

ACKNOWLEDGMENT

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in her presence and in the presence of the designated panel of The Disciplinary Board at Courtroom #3002, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, on March 27, 2015.



Yvette Mary Rogers