

New Hampshire Supreme Court
Professional Conduct Committee

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4 Chenell Drive, Suite 102
Concord, New Hampshire 03301
603-224-5828 ♦ Fax 228-9511

Richard H. Darling*
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* non attorney member
Holly B. Fazzino, Admin. Coordinator

LD 2007-0008 *In the Matter of Charles F. Perrault*

REPRIMAND

This matter was remanded on September 20, 2007, from the New Hampshire Supreme Court, to issue a Reprimand in accordance with NH S. Ct. Rule 37(12)(d).

FINDINGS AND RULINGS

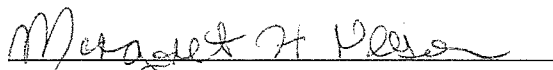
Attached hereto is a summary of the Massachusetts Board of Bar Overseers' Public Reprimand No. 2007-18. The Board accepted the stipulation of the parties and administered a public reprimand to Mr. Perrault on June 21, 2007, for violating Mass. R. Prof. C. 1.1, 1.2(a), 1.3, 1.4(b), 1.7(a) and 1.7(b).

The New Hampshire Supreme Court did not identify any circumstance that would make the imposition of the identical or substantially similar discipline inappropriate.

SANCTION

The Professional Conduct Committee hereby issues a reprimand to Charles F. Perrault, Esquire. This sanction is in accord with the purpose of attorney discipline as described by the ABA Center for Professional Responsibility, Standards for Imposing Lawyer Sanctions (1991). Although the Court has never formally adopted these Standards, the Court has considered them when imposing sanctions.

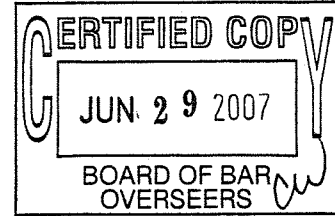
September 27, 2007


Margaret H. Nelson
Chair

Distribution:

James L. DeHart, General Counsel
Landya B. McCafferty, Disciplinary Counsel
Charles F. Perrault, Esquire
File

COMMONWEALTH OF MASSACHUSETTS
BOARD OF BAR OVERSEERS
OF THE SUPREME JUDICIAL COURT



BAR COUNSEL,

Petitioner,

v.

Charles F. Perrault, Esq.,

Respondent

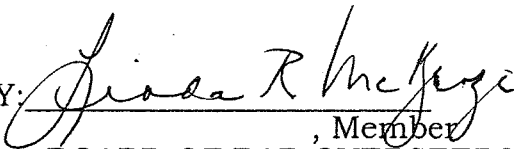
Public Reprimand No. 2007-18

BBO No. C2-2004-0104

ORDER OF PUBLIC REPRIMAND

This matter came before the Board on a Petition for Discipline and a Stipulation of the Parties waiving hearing and requesting that the matter be resolved by the imposition of a public reprimand. On June 11, 2007, the Board voted to accept the stipulation of the parties and their joint recommendation. It is ORDERED and ADJUDGED that Charles F. Perrault, Esq. be and he is publicly reprimanded. A summary of the charges giving rise to the reprimand is attached to this order.

Whereupon, pursuant to Supreme Judicial Court Rule 4:01, Section 8(3), and the Rules of the Board of Bar Overseers, Section 3.56, it is ORDERED AND ADJUDGED that Charles F. Perrault, Esq., be and hereby is PUBLICLY REPRIMANDED.

BY: 
Member
BOARD OF BAR OVERSEERS

DATED: 6-21-07

CHARLES F. PERRAULT

Public Reprimand No. 2007-18

SUMMARY¹

Charles F. Perrault was admitted to the Bar of the Commonwealth on January 18, 1985. Elizabeth A. Morrow was admitted to the Bar of the Commonwealth on December 18, 1992. In 1990, Mr. Perrault began a private practice under the name of Charles F. Perrault and Associates, in Methuen, Massachusetts. In 1996, Ms. Morrow joined the practice as an employee associate. Mr. Perrault and Ms. Morrow (see Public Reprimand No: 2007-19) received public reprimands for their conduct as follows.

In late 2000, Mr. Perrault received a telephone call from a woman (Ann) whom he and Ms. Morrow had represented on some personal matters over the prior three years. Ann told Mr. Perrault that she had two elderly cousins who were sisters and who had recently asked her to become involved in helping them with their affairs and their finances. Ann also told Mr. Perrault that the sisters had no children and were considering leaving their property to her in exchange for her help. This conversation was general, and Ann did not request or receive any specific legal advice or assistance.

On December 26, 2000, Ann telephoned Mr. Perrault's law office. Mr. Perrault was on vacation, and Ms. Morrow took the call. Ann asked Ms. Morrow to prepare powers of attorney for her elderly cousins appointing Ann as their attorney-in-fact. Ann informed Ms. Morrow that one of the sisters, Ida, was hospitalized and apparently did not have long to live, and that both Ida and Julia, the other sister, had asked Ann to help them with their finances. Ann also told Ms. Morrow that the sisters might also want wills prepared and that they owned two pieces of real estate—their house in Methuen and a condominium in New Hampshire.

After discussing Ann's request with Mr. Perrault by telephone, Ms. Morrow prepared two durable powers of attorney, one for each sister and both in favor of Ann. At Ann's request, Ms. Morrow then asked an office paralegal to bring the documents to the hospital to be signed by the sisters on December 27, 2000. The paralegal did so, and each sister signed her power of attorney and the paralegal notarized the sisters' signatures.

On or about December 28, 2000, Ann telephoned Ms. Morrow again and requested that she prepare wills for each of the sisters leaving their estates to Ann. Ann told Ms. Morrow that neither of the sisters had any children and that both sisters wanted to leave their property to her in exchange for her help. All financial accounts and real estate were owned jointly by the sisters, such that Ann would effectively only inherit after the second sister died.

Ms. Morrow prepared wills for the sisters as requested. On December 29, 2000, the paralegal brought the wills to the hospital to be signed. Each sister signed her will, each signature was witnessed by two witnesses and the paralegal signed each will as notary.

On Tuesday, January 2, 2001, Ann called the Perrault office once again. At this point, Ms. Morrow was away on vacation and Mr. Perrault was back in the office and took the call. Ann asked Mr. Perrault to prepare two deeds for the sisters. Mr. Perrault was not aware that the sisters had signed wills leaving their property to Ann at the end of the prior week.

Ann told Mr. Perrault that the sisters wanted to give her two pieces of real estate that they jointly owned because of her continuing help in caring for them and handling their finances. Ann told Mr. Perrault that the sisters wanted to give her their New Hampshire

¹ Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.

condominium outright, and that they wanted to give her their home in Methuen as long as Julia could live there the rest of her life.

Mr. Perrault caused deeds to be prepared transferring the properties as requested. On January 5, 2001, Mr. Perrault asked another office paralegal to bring the deeds to Ida's nursing home to be signed by the sisters. The paralegal did so and notarized the sisters' signatures. Mr. Perrault then caused both deeds to be recorded in the appropriate registries of deeds.

The deeds prepared by Mr. Perrault were significant donative documents affecting the substantial legal rights of the sisters. In preparing the deeds and assisting the sisters in executing them, Mr. Perrault was providing legal services to the sisters. Ann and the sisters had differing interests in connection with the documents.

In preparing the deeds for the signatures of the sisters and assisting in their execution, Mr. Perrault took inadequate steps to assure that each of the sisters understood the import of the documents, agreed to their terms, was competent to sign the documents and was not subject to any undue influence. Mr. Perrault took no steps to assure that the sisters had the advice of independent counsel in connection with the deeds.

In March of 2001, Ann and Julia quarreled. Julia retained a lawyer to assist the sisters in reclaiming their property. She subsequently revoked the will prepared by Ms. Morrow and executed a new will. The sisters filed suit against Ann alleging that the powers of attorney, wills and deeds were procured through undue influence; that they did not understand the documents when they signed them; and that Ida had not been competent to sign the documents.

In July of 2003, the case was settled. Ann waived any right to probate Ida's will (Ida having died shortly after suit had been filed); she relinquished control over joint bank accounts of Julia and Ida that she had transferred as attorney-in-fact to accounts in her and Julia's name or her name only; and she deeded the Methuen property back to Julia. Julia waived her claim to the New Hampshire condominium.

In preparing deeds for the signatures of the sisters at the request of Ann and assisting in their execution, Mr. Perrault violated Mass. R. Prof. C. 1.7(a) and 1.7(b).

In preparing deeds for the signatures of the sisters without taking steps to assure that each of the sisters understood the import of the documents, agreed to their terms, was competent to sign the documents and was not subject to any undue influence, Mr. Perrault violated Mass. R. Prof. C. 1.1, 1.2(a), 1.3 and 1.4(b).

In mitigation, Mr. Perrault had no personal interest in the representation other than modest fees totaling \$966 for the preparation of the documents. In further mitigation, when the paralegal met with the sisters at the nursing home to sign the deeds, she discussed with each sister what she was about to sign and described them as deeds transferring her interest in the properties to Ann. In response to a question from Julia, she explained that Julia was retaining a life estate in the Methuen property, giving her the right to live there. The paralegal believed that each sister understood the purpose and effect of the deeds. She also believed that each sister was competent to sign the deeds and did so freely and voluntarily. The paralegal did not, however, explain the effect of the deeds on the wills the sisters had previously signed.

This matter came before the Board of Bar Overseers on a stipulation of facts and rules violations and a joint recommendation that a sanction of public reprimand be imposed. On June 11, 2007, the Board voted to accept the stipulation of the parties and to administer a public reprimand to the respondent.