

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF THE TRIAL COURT
John Adams Courthouse
One Pemberton Square, Floor 1M
Boston, Massachusetts 02108
617-878-0203

Harry Spence
Court Administrator

February 3, 2017

Felix D. Arroyo, Register
Suffolk Probate and Family Court
Edward W. Brooke Courthouse
24 New Chardon Street
Boston, MA 02114

Re: Notice of Investigation of Suffolk Registry of Probate

Dear Register Arroyo:

On Friday, January 27, 2017, I received the enclosed Suffolk Probate and Family Court Assessment and Business Plan ("Assessment") from Manager of Court Operations Terri Klug Cafazzo. I drafted my January 27, 2017 letter to you before I received the Assessment. Based on the Assessment and your continuing interference in the work of Ms. Cafazzo and her team, I am writing to inform you that I am ordering an investigation by a third-party investigator of the operation of the Suffolk Registry of Probate. Among other subjects, the investigator will determine and make findings on whether you have fulfilled your obligations under your October 7, 2016 letter to me, which I accepted in my October 31, 2016 responsive letter to you. Additionally, said investigator will make findings regarding the past and current operation of the Registry and what needs to be done to solidify stability of operations.

During the pendency of this investigation, in accordance with G.L. c. 211B, § 9A(xii) and Section 16.600 C. of the Trial Court Personnel Policies and Procedures Manual, I am placing you on paid administrative leave. During that period, you shall stay away from the Suffolk Family and Probate Court and the Suffolk Registry of Probate and shall refrain from contacting any employees at the Court or the Registry.

The attached Assessment outlines the disarray and dysfunction that Ms. Klug-Cafazzo discovered and recorded upon her arrival in the Suffolk Registry in October 2016. The Assessment further outlines the time-and-labor-intensive work that Ms. Cafazzo and her colleagues, Vincent Procopio and Yenny Hornedo, accomplished to transform the Registry from dysfunctional chaos into a working operation during the first three weeks of her tenure. Ms. Cafazzo also notes the changes that she implemented during November and December 2016 and includes a Business Plan that she has developed for 2017.

As I noted in my January 27, 2017 letter, you stated to the assembled Registry staff in introducing Terri Cafazzo on October 17, 2016:

As of today Terri has oversight of the administration and operations of the Registry. She has been asked to take any and all measures to ensure that the users of this Registry receive the services they deserve.

Register Arroyo's Remarks to the assembled Suffolk Registry of Probate staff on October 17, 2016. You further stated "each one of you now fall under her authority" and expressed your "hope that she will report that everyone is accepting her authority and working with her to move forward." *Id.*

That statement expressed our agreement to which you had unequivocally committed yourself. You have reportedly expressed the belief that, if your favored employees can just wait a little longer, you will be in charge again. My concern with your offering this counsel is that, upon Ms. Cafazzo's departure, the Suffolk Registry will return to the dysfunction and lack of employee accountability that Ms. Cafazzo found when she arrived. Your reassuring Registry staff in this way also inevitably causes divided loyalties, which undermine the commendable progress that Ms. Cafazzo and her colleagues have made in reforming the operation of the Registry and the performance of its staff.

An example of your willful neglect of specific responsibilities will illustrate my point. When you met with Chief Justice Carey, Chief Justice Ordoñez and Linda Medonis on Thursday, January 19, 2017, you were advised, and agreed, to meet with Domenic DiCenso during the following week, the week of January 23, 2017. You had requested such a meeting so that Mr. DiCenso could apprise you of the changes that Ms. Cafazzo and her team had implemented in the Registry. Despite having committed to make that effort to understand the operation for which you are statutorily responsible, you did not meet with Mr. DiCenso as promised during the week of January 23. In fact, you only called to schedule that meeting on February 2, two weeks after the January 19 meeting and after my January 27 letter had outlined deficiencies in your performance. This failure was symptomatic of your consistent indifference, and even resistance to, efforts to train you in Registry operations. You have been offered numerous opportunities to learn the operations of the Registry from experienced professionals but you have not meaningfully availed yourself of any of them. For example, despite having been instructed by knowledgeable staff in the use of MassCourts and the electronic Registry files, you have made no effort to learn those basic aspects of Registry operation.

An example of your indifference to the Probate and Family Court's legitimate interest in maintaining a productive relationship with the Suffolk Probate and Family Bar occurred on January 23, 2017. At least ten days earlier, Judicial Case Manager Daniel J. Gibson informed you of the date of the Probate and Family Court's Bench-Bar Conference and that you were welcome to attend. Despite having been informed of the date of the Conference again by Chief Justice Ordoñez on January 19, you not only failed to attend but also did not inform anyone in the Administrative Office or any Justice of the

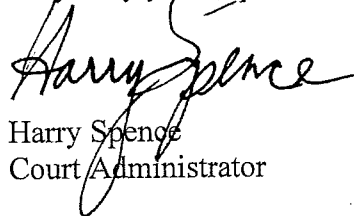
Court that you would not attend. Your failure to attend demonstrated your indifference to supporting Ms. Cafazzo's work, despite the fact that many Bar members and others have told you how much Registry operations have improved since her arrival. An important purpose of the Bench-Bar conference is to hear the concerns of practicing counsel and to explain how the Register's Office has worked to improve operations based on previous complaints. You deliberately ignored this opportunity to mitigate some of the distrust and ill will that the operational failure of the Registry under your supervision have caused. If you had told Ms. Cafazzo that you would not attend, she would have planned to address the conference. However, she considered it inappropriate to do so because she reasonably believed that, as the elected Register, you would welcome this opportunity to communicate with the Suffolk Bar. Consequently, she only spoke when Chief Justice Ordoñez asked her to address a question from a member of the Bar.

In view of the foregoing, the many problems outlined in my January 27, 2017 letter and your ongoing disruption and undermining of Ms. Cafazzo's efforts, I am initiating the above-described investigation and placing you on paid administrative leave pending its completion. I will give serious consideration to any response you may choose to make to my January 27, 2017 letter, to this letter or to the enclosed Assessment. However, I am firmly committed to preventing the undermining or reversal of the critical management and operational gains in the Suffolk Registry that Ms. Cafazzo and her colleagues have achieved.

Your reported intention to re-establish the preferential treatment of your favored employees and return to the lack of staff accountability that prevailed before Ms. Cafazzo arrived seriously threatens the continued successful operation of the Registry. For that reason, you must absent yourself from the Registry and have no contact with any of its staff beginning forthwith and throughout the pendency of the investigation.

Upon my receipt and review of the investigative report on the Registry, I will provide you with a copy and an opportunity to respond in writing and be heard on the report's findings and conclusions. I will take any action that the report and your response may warrant as soon as possible thereafter.

Very truly yours,



Harry Spence
Court Administrator

Enclosure

cc: Hon. Paula M. Carey, Chief Justice of the Trial Court
Hon. Angela M. Ordoñez, Chief Justice of the Probate and Family Court Department
Linda Medonis, Deputy Court Administrator
John L. Diaz, Esq.