

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

Paula Carey  
Chief Justice of the Trial Court

Harry Spence  
Court Administrator

February 7, 2017

Hon. Anthony R. Nesi  
Probate and Family Court Justice (ret.)  
15 Pine Rd.  
Mattapoisett, MA 02739

Re: Inquiry into Register's Office of Suffolk Probate and Family Court

Dear Judge Nesi:

Pursuant to authority under M.G.L. c. 211B, §§ 9 and 9A and Chief Justice Paula M. Carey's inherent judicial authority<sup>1</sup>, Chief Justice Carey and Court Administrator Harry Spence hereby appoint you to conduct a thorough inquiry into the Register's Office of the Suffolk Probate and Family Court ("SPFC") during the tenure of Register Felix D. Arroyo, which began on January 7, 2015, and to report your findings, conclusions and recommendations concerning, but not limited to, the following matters in the management and administration of the Register's Office:

The overall objective of the investigation will be to thoroughly examine the operation of the Suffolk Registry under Register Arroyo with consideration of SJC Rule 3:12 Code of Professional Responsibility for Clerks of the Courts and to determine steps the Trial Court must take to assure continuation of the significant management improvements and reforms that Manager of Court Operations Terri Cafazzo has implemented.

Supreme Judicial Court Rule 3:12: Code of Professional Responsibility for Clerks of the Courts, Canon 3(A)(1) provides:

- (1) A Clerk Magistrate shall be faithful to the law and maintain professional competence in it as it relates to the performance of his or her duties.

*Id.*

1. What efforts -- if any -- has Register Arroyo made to maintain professional competence in the law as it relates to the performance of his duties?

<sup>1</sup> See Campatelli v. Chief Justice of the Trial Court, 468 Mass. 455, 475-477 (2014)

Supreme Judicial Court Rule 3:12: Code of Professional Responsibility for Clerks of the Courts, Canon 3(B) provides:

**Administrative Responsibilities.** A Clerk Magistrate should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other court officials. In so doing, a Clerk Magistrate should be cognizant of the need to employ efficient, businesslike methods and sound practices. A Clerk Magistrate should organize and manage the business of the Clerk Magistrate's office with a view to the prompt and convenient dispatch of the business of the court. A Clerk Magistrate should supervise subordinate personnel and arrange for their training. A Clerk Magistrate shall make personnel appointments on the basis of merit, and in compliance with applicable personnel standards.

*Id.*

Has Register Arroyo fulfilled his professional responsibilities as a Register of Probate established by the Code of Professional Responsibility for Clerks of the Courts, including but not limited to, Canon 3(B)? Specifically:

2. Has Register Arroyo demonstrated the ability to maintain professional competence in judicial administration?
3. Has Register Arroyo facilitated the performance of the administrative responsibilities of other court officials, including but not limited to, the Registry staff?
4. Has Register Arroyo organized and managed the business of the Registry with a view to the prompt and convenient dispatch of the business of the court?
5. Has Register Arroyo competently supervised subordinate personnel and arranged for their training?
6. Has Register Arroyo made personnel appointments on the basis of merit and in compliance with applicable personnel standards?

In what specific ways – if any – has Register Arroyo failed to fulfill these professional responsibilities?

Supreme Judicial Court Rule 3:12: Code of Professional Responsibility for Clerks of the Courts, Canon 7 provides:

**Education.** A Clerk Magistrate should seek to improve his or her own magisterial and administrative capabilities. The Clerk Magistrate should also seek to maintain and improve the knowledge, abilities, and skills of all personnel in his or her office.

7. Has Register Arroyo sought to improve his magisterial and administrative capabilities?
8. Has Register Arroyo sought to maintain and improve the knowledge, abilities, and skills of all personnel in his office?

#### Specific Inquiries

9. Has Register Arroyo exercised his managerial authority over Registry employees based upon favoritism or in a manner that would lead a reasonable employee to conclude that the Register favors certain employees over others?
10. Did the Registry function at a professionally acceptable level under the tenure of Register Arroyo from his swearing-in on January 7, 2015 until Manager of Court Operations Cafazzo's arrival on October 17, 2016? If not, in what ways was its performance deficient and over what period of time?
11. What steps, if any, has Register Arroyo taken to overcome his acknowledged lack of the knowledge and skills required to manage the Registry?
12. Has Register Arroyo studied the operation of the Registry sufficiently to train and evaluate Registry staff in the performance of their assigned duties?
13. Has Register Arroyo fulfilled his responsibility to train the Suffolk Registry staff? Has Register Arroyo appropriately disciplined Registry staff when warranted by their conduct and performance?
14. Has Register Arroyo hired individuals qualified to fulfill their assigned duties?
15. On two occasions, Chief Justice Ordoñez and Deputy Court Administrator Linda Medonis assigned Probate and Family Court administrative personnel to try to improve operations in the Suffolk Registry. What happened as a result of those efforts?
16. How do the judges sitting in the SPFC view Registry operation during Register Arroyo's tenure?
17. What has been the Suffolk Probate and Family Bar's experience of Registry operations during Register Arroyo's tenure? What attributes or deficiencies have they observed?
18. Have there been any impediments to the work of Manager of Court Operations Cafazzo in bringing the SPFC Registry to its appropriate operational level? If yes, what are they?
19. Describe what remains to be done to bring the Registry to a fully functioning, high quality registry operation?

20. Has Register Arroyo fulfilled his obligations under his October 7, 2016 letter to Court Administrator Spence, which the Court Administrator accepted in an October 31, 2016 responsive letter to Register Arroyo?
21. Has Register Arroyo interfered, either directly or indirectly, with the agreed-upon reorganization and reformation of Registry operations by Manager of Court Operations Cafazzo and her team?
22. Did Register Arroyo take appropriate steps to ensure the continued improvement in the operations of the Registry Office after the initially anticipated departure of Manager of Court Operations Cafazzo on February 15, 2017?


Should additional issues arise that raise other possible violations of the Code of Professional Responsibility for Clerks during the course of your investigation, you are directed to seek further guidance from us.

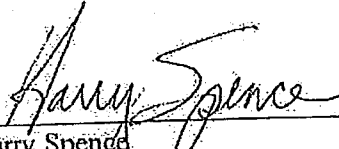
We will require, and hereby direct, all Trial Court employees to cooperate in your work as you may have occasion to direct them.

Barring any unforeseen delay, we would be pleased if you could complete and file your final investigation report no later than April 15, 2017.

Thank you.

Very truly yours,

  
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Paula M. Carey  
Chief Justice of the Trial Court

  
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Harry Spence  
Court Administrator

cc: Hon. Angela M. Ordoñez, Chief Justice, Probate and Family Court Department  
Hon. Joan P. Armstrong, First Justice, Suffolk Probate and Family Court  
Linda Medonis, Deputy Court Administrator  
Felix D. Arroyo, Register