

In The Matter Of:

Re: Ty Clevenger

Philip O'Donoghue, Esquire

Vol. 1

September 26, 2013

Gore Brothers Reporting & Videoconferencing

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Baltimore, MD 21201

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IN THE 380th JUDICIAL DISTRICT COURT
COLLIN COUNTY, TEXAS

COMMISSION FOR LAWYER
DISCIPLINE

Plaintiff

vs.

CASE NO: 380-01407-2013

TY CLEVINGER

Defendant

_____ /

The Teleconference deposition of PHILIP I. O'DONOGHUE, ESQUIRE was held on Thursday, September 26, 2013, commencing at 2:40 p.m., at Gore Brothers Reporting & Videoconferencing, 3 Bethesda Metro Center, Suite 700, Bethesda, Maryland 20814, before Susan M. Liebrecht, a Notary Public.

REPORTED BY: Susan M. Liebrecht, RPR

1 APPEARANCES:

2

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1 PROCEEDINGS

2 Whereupon,

3 PHILIP I. O'DONOGHUE, ESQUIRE,

4 called as a witness, having been first duly sworn to
5 tell the truth, the whole truth, and nothing but the
6 truth, was examined and testified as follows:

7 EXAMINATION BY MR. CLEVINGER:

8 Q Mr. O'Donoghue, could you state your full
9 name for the record?10 A Philip, with one L, L., middle initial,
11 O'Donoghue. That's O, apostrophe, D-O-N-O-G-H-U-E.

12 Q About what is your occupation?

13 A I'm a lawyer.

14 Q Mr. O'Donoghue?

15 A I said, I'm a lawyer.

16 Q Oh, I'm sorry. I think my connection kind
17 of faded out on me there, I apologize.18 Prior to getting involved with this
19 evaluation of William Cartinhour, did you have any
20 prior connections to Judge Huvelle, Judge Ellen
21 Huvelle?

1 A I knew her slightly from two sources.

2 Q Okay. And what were those?

3 A I was an associate at Covington & Burling
4 and her husband, Jeff, was either a senior associate or
5 a young partner and I may have met her there, but I
6 knew her name from that.

7 Then we were in an organization together
8 called The Lawyers Club. I was secretary and she was a
9 member, though I don't think she was a member at the
10 time that she called me on this, but I knew her
11 slightly from there.

12 Other than that, we really haven't had any
13 connection.

14 Q I see. Do you know why she approached you
15 or your firm about evaluating Mr. Cartinhour?

16 A Well, I know what she wanted us to do, but
17 why she chose us, I don't really know, otherwise than
18 she knew me slightly.

19 Q Sure. Did you talk to her personally about
20 the evaluation of Mr. Cartinhour?

21 A I'm sorry, could you repeat that? It

1 didn't quite come through.

2 Q Sure. Did you talk to her personally about
3 or did she tell you personally what she wanted in terms
4 of the evaluation?

5 A She called me by phone and said that she
6 wanted us to consider the standards under Maryland law
7 for appointment of a guardian, I mean, if that were
8 possible. I don't know that we were evaluating -- you
9 know, we're not doctors. We weren't evaluating in that
10 sense.

11 Q Sure.

12 A But whether he met the standards for a
13 guardianship or something like that under Maryland law.

14 Q Okay. I would ask the court reporter to
15 hand you what's previously been marked as Exhibit 1.

16 A I have it.

17 Q And do you recognize that document?

18 A Wait a second. Let me get my reading
19 glasses on.

20 Q I have the same problem.

21 A I do recognize it, yes.

1 Q Could you just briefly describe what it is?

2 A It's an e-mail from me to my law firm,
3 probably just the lawyers, that we do as a standard for
4 a conflict check describing what we had been asked to
5 do.

6 Q Okay. And one of the sentences about
7 midway through mentions \$700,000 that was recovered for
8 him, I guess referring to Mr. Cartinhour, in a
9 proceeding (I believe for fraud) before Judge Huvelle
10 against a Mr. Wade Robertson who had duped
11 Dr. Cartinhour out of about \$3.5 million.

12 I guess all that information came from
13 Judge Huvelle?

14 A Yeah, I mean, as translated by me. I
15 wouldn't want to swear that I got it perfectly right.

16 Q Sure. I understand.

17 A That would have been the only source for
18 that at the time.

19 Q Okay. And there is also a sentence further
20 down that says the attorneys' fees for Mr. Carney,
21 which presumably is Patrick Kearney, I guess; is that

1 correct?

2 A I don't know. I don't recall who he was or
3 what he was and what the correct spelling was, so.

4 Q But I guess Judge Huvelle is the one who
5 told you how he would be paid?

6 A Any information that came on this would
7 have come from her, yes.

8 Q Okay. Did she express any sort of
9 animosity or particular criticism toward anybody in
10 this conversation or was it matter of fact?

11 A It was pretty matter of fact. I don't
12 recall that she expressed any animosity. It was more
13 of a concern for Dr. Cartinhour, you know, that the
14 monies that were coming to him be handled appropriately
15 for him.

16 Q Did she express any concerns about whether
17 others, like his lawyers or perhaps some other people,
18 were manipulating him?

19 A I don't recall that. I think it was more
20 of a concern that he was susceptible to being
21 manipulated, but I don't recall her targeting or

1 mentioning anyone in particular. But I just don't
2 recall that.

3 Q Sure. Do you recall whether she said
4 anything about him having any mental illnesses?

5 A I don't recall other than she was concerned
6 about his abilities, but whether he had a mental
7 illness or not, I don't recall her mentioning that.

8 Q Sure. And has a judge ever asked you to do
9 anything like this before?

10 A Not like this, no. I have occasionally had
11 calls, I think because I do a lot of trusts and estates
12 work, when they had a question, you know, about just
13 sort of a general thing, might not have even mentioned
14 a case, what about this.

15 Q Sure.

16 A And I offered a response.

17 Q So, did you have any meetings or
18 conversations with Mr. Kearney or Mr. Cartinhour or was
19 that all through Rob Grant?

20 A I don't believe I did.

21 Q It was through Rob Grant?

1 A I went and saw Rob about it and he mainly
2 handled the matter. He and I may have talked on
3 occasion about some of it, but he was handling it,
4 really.

5 Q Okay. So, as I understand it, and correct
6 me if I'm wrong, you took the phone call from Judge
7 Huvelle, went through the clearance check and then
8 handed it off to Robert Grant?

9 A I might have handed it off before then
10 saying this had come in. He and I did talk about it a
11 little bit about just standards for a guardianship, and
12 he may have described to me some aspects of it, and I'm
13 quite sure that happened, but I don't recall the
14 specific conversations.

15 Q Do you know if Judge Huvelle is aware that
16 you're being deposed today?

17 A I don't know.

18 Q But you have not had any conversations or
19 communications about it?

20 A No, I haven't talked to her about it. Or
21 really anyone else other than Rob.

1 MR. CLEVINGER: Sure. Sure. I don't
2 believe I have any further questions.

3 THE COURT REPORTER: All right. Mr. Jones?

4 MR. JONES: No questions.

5 MR. CLEVINGER: Mr. O'Donoghue, thank you,
6 again, for your time and I appreciate you showing up
7 and taking the time.

8 THE WITNESS: Okay, sure.

9 (Deposition was concluded at 2:50 p.m.)

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary will be made on the Errata Sheet.

PHILIP I. O'DONOGHUE, ESQUIRE

(If needed, make additional copies of the Errata Sheet on the next page or use a blank piece of paper.)

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ERRATA SHEET

Case:Commission for Lawyer Discipline vs. Clevenger

Witness: Philip I. O'Donoghue, Esquire Date:9/26/13

PAGE/LINE	SHOULD READ	REASON FOR CHANGE

1 State of Maryland

2 City of Baltimore, to wit:

3 I, SUSAN M. LIEBRECHT, a Notary Public of the
4 State of Maryland, Carroll County, do hereby certify
5 that the within-named witness personally appeared
6 before me at the time and place herein set out, and
7 after having been duly sworn by me, according to law,
8 was examined by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this transcript is
11 a true record of the proceedings.

12 I further certify that I am not of counsel to
13 any of the parties, nor in any way interested in the
14 outcome of this action.

15 As witness my hand this 8th day of
16 October, 2013.

17 _____ *Susan M. Liebrecht*

18 Susan M. Liebrecht, RPR
19 Notary Public

20 My Commission Expires:
21 September 8, 2017

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