

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

In the Matter of

SYLVIA ROLINSKI, ESQUIRE,

Respondent

**Member of the Bar of the
District of Columbia Court of Appeals
Bar Number: 430573
Date of Admission: November 5, 1991**

Bar Docket Nos. 2015-D231

SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar Rule X and D.C. Bar Rule XI, § 2(b).

Jurisdiction for these disciplinary proceedings is prescribed by D.C. Bar Rule XI. Pursuant to D.C. Bar Rule XI, § 1(a), jurisdiction is found because:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on November 5, 1991, and assigned Bar Number 430573.
2. Beginning in 1996, Respondent began accepting appointments as a member of the Fiduciary Panel for the Superior Court of the District of Columbia Probate Division (Probate Division).
3. Respondent is the founding partner of Rolinski & Suarez and practices international, immigration, personal injury and trusts and estates law.

The conduct and standards that Respondent has violated are as follows:

I. In re: Estate of Ruth M. Toliver-Woody, 1999 INT 257

4. In October 1999, Ruth M. Toliver-Woody became a Ward in the District of Columbia. Ms. Toliver-Woody suffered from dementia, insulin dependent diabetes mellitus, and anemia.

5. Ms. Toliver-Woody's niece, Shirley Riley, was initially appointed to serve as Permanent General Guardian and Permanent General Conservator. In February 2002, the court removed Ms. Riley as conservator and appointed Respondent in her place. Ms. Riley remained Ms. Toliver-Woody's guardian.

6. In October 2004, Ms. Toliver-Woody was moved to a nursing home in the District of Columbia.

7. On January 12, 2005, the court removed Ms. Riley as guardian and appointed Respondent as Successor Guardian.

8. On June 29, 2007, Respondent filed a Petition for Extraordinary Compensation for Fees and Costs from Subject Assets and the Guardianship Fund. This was the first petition for fees and reimbursement of expenditures filed by Respondent and covered the period of September 6, 2001 to June 29, 2007. Respondent's petition sought \$10,088.50 in fees and \$2,138.80 in costs.

9. Respondent had no contact with Ms. Toliver-Woody's case until her appointment in February 2002. In the petition, however, Respondent included claims for services performed on September 6, 2001 and September 9, 2001. The claims were approved but at the time the court did not realize Respondent had not yet entered the case.

10. On July 17, 2007, the court approved the fees but requested an additional

explanation of the expenses itemized by Respondent. The court determined that a reasonable compensation for the services Respondent provided was \$9,800 (computed at \$80 per hour for 122.50 hours), and that the expenses needed further explanation as they appeared high.

11. On November 23, 2007, Respondent filed a supplement to her petition for expenses.

12. On December 21, 2007, the Court granted reimbursement for expenses of \$249 and ordered Respondent to explain the charges for services provided before her appointment.

13. On July 25, 2008, Respondent filed her 7th guardian report and disclosed that she had visited Ms. Toliver-Woody once in the last reporting period.¹

14. On July 30, 2008, Judge Burgess wrote Respondent a letter after his review of the Respondent's Guardianship Report, saying;

I would think that more frequent visitation would be necessary, particularly when the ward is in an institution like a nursing home.

15. Respondent replied to Judge Burgess, and--referring to a staff member at the nursing home--, reported: "we agreed that a visit would be redundant," because of Respondent's other (telephone) calls to the institution about financial matters and other issues.

16. In a letter dated August 11, 2008, Judge Burgess wrote Respondent back and stated:

I do not agree that one visit is redundant. I am of the opinion that at least three and probably four visits are necessary to assure that the ward is well cared for. Please assure that this is done.

17. On September 14, 2009, the court filed an order appointing a student visitor to investigate the fiduciary work of Respondent at the behest of the court.

18. On November 10, 2009, the student visitor filed her report.

¹ The first Guardianship Report is due six months from the date of appointment of the guardian with each succeeding report due at six months intervals. The Final Guardianship Report is due within 60 days of the termination of the guardianship

19. On August 20, 2010, Judge Campbell conducted a hearing to discuss many concerns with Respondent's performance as a fiduciary. One of the concerns continued to be her failure to visit Ms. Toliver-Woody. Judge Campbell decided to appoint a professional visitor for a more in-depth review of the Respondent's performance.

20. At the hearing, the nursing home social worker, Ms. Ruth Mukami, testified that the home's visitor log contained only one personal visit to Ms. Toliver-Woody by Respondent, on July 12, 2010. Ms. Mukami added that everyone who entered the nursing home was required to sign the visitor log located at the security guard's desk.

21. Respondent contended that she often did not sign the visitor log. Respondent also claimed that a partner in her practice, Danielle M. Espinet, Esquire, visited Ms. Toliver-Woody when Respondent was unable to do so.

22. Ms. Mukami disputed this statement pointing out there was no entry of Ms. Espinet's signature for any day in the visitor log.

23. Judge Campbell further questioned whether Respondent had petitioned the court to relax the visitation requirement. Respondent answered, "We did that a long time ago with Judge Burgess." The court file contained no petition for such relief filed by Respondent.

24. Judge Campbell cautioned Respondent, that "the statute—the provision about visiting, for example, every month--doesn't say you or your designee, all right. It does say the guardian."

25. Judge Campbell questioned Respondent concerning whether Respondent's partner visited Ms. Toliver-Woody:

THE COURT: Was there an order? I'm sorry if I don't know.

MS. ROLINSKI: I don't know that there was an order, but I recall that we had communicated, written letters back and forth. And that ultimately he asked that I visit on three occasions, and that--

26. Judge Campbell requested documentation describing the arrangement to have Respondent's partner visit Ms. Toliver-Woody and Respondent insisted to the court, "There is a letter from Judge Burgess that I have."

27. Judge Campbell assigned a court appointed visitor to investigate the issues further and scheduled a follow up hearing with the parties.

28. On October 22, 2010, Judge Campbell reconvened the parties to discuss the court appointed visitor's findings about Respondent's visits to the ward.

29. The court appointed visitor reported that "it's clear from the record at the nursing home that the visits have been infrequent, as I stated . . . the interviews that I had with staff members who attend to Ms. Woody that they rarely saw Ms. --the guardian here, Ms. Rolinski."

30. The court appointed visitor noted that Respondent included dates on her fee petition to reflect visits to the ward, but upon reviewing the nursing home records, those visits did not occur.

31. No correspondence from Judge Burgess granted express or implied permission for Respondent's partner to visit Ms. Toliver-Woody in her stead. The Superior Court determined that no "permission letter" existed, and that Respondent knowingly made a false statement to Judge Campbell. Respondent did not produce any such correspondence to Disciplinary Counsel during its investigation. Respondent never corrected her false statement to Judge Campbell.

32. Ms. Toliver-Woody died on June 20, 2011. Respondent failed to notify the court of Ms. Toliver-Woody's death at that time.

33. Respondent did not advise the Superior Court of Ms. Toliver-Woody's death until August 10, 2011, when she filed her 12th Guardianship Report. Respondent failed to explain why she waited almost two months to file the suggestion of death in violation of the Probate rule SCR-PD 328(d).

34. Respondent's deadline to file her fee petition was August 21, 2011. Respondent filed her fee petition several months late, on January 11, 2012 and did not move for leave to "late file" her petition in violation of SCR-PD 308(c)(1).

35. SCR-PD 308(c)(1)-provides,

A guardian's petition for compensation shall be filed no later than 30 days from the anniversary date of the guardian's appointment, except that a guardian's final petition for compensation shall be filed no later than 60 days after termination of the guardianship.

36. On January 23, 2012, Judge Campbell entered an order terminating the guardianship and specified the very limited duties that Judge Campbell authorized for the closure of the estate.

37. Respondent's fee petition sought compensation in the amount of \$19,315.00, of which \$555 was a claim for reimbursement of expenses. The petition covered the period of January 7, 2011 to August 25, 2011.

38. In her petition, Respondent sought compensation of \$3,688.00 for multi-hour "client meetings". She billed three in-person meetings each purportedly lasting between 4 hours and 5.9 hours, during a period when Ms. Toliver-Woody was on a ventilator.

39. Respondent claimed compensation of \$2,248.00 for time expenditures after Ms. Toliver-Woody's death. Judge Long found that the authorized fiduciary activities outlined in Judge Campbell's Order terminating the Guardianship did not extend to the claimed expenditures listed by Respondent, such as telephone calls and reviewing correspondence from the nursing home. Judge Long found that "much of the fee request did not withstand scrutiny." For example:

a. Respondent claimed excessive and unexplained phone calls to nurses. From mid-April to June 11, 2011, she billed for calls almost daily, and sometimes more than once in a 24-hour period. For each call she billed precisely the same time charge, .30 hours, with a subject matter of "status".

b. Respondent claimed 8.3 hours to prepare a draft motion for court authorization, that she never filed.

40. Judge Long imposed a 75% percentage "discount" on Respondent's fee petition because "the court places great weight on the Guardian's dishonest tactics of claiming that Judge Burgess had granted her permission to use Espinet as a surrogate to visit her Ward" and "the problems with this fee request are so serious..."

41. On June 11, 2012, the court approved the petition as follows: Respondent was awarded the sum of \$3,768.00 for professional services and \$475.00 as reimbursement for expenses for a total fee award of \$4,243.00.

42. Respondent violated the following Rules of Professional Conduct:

a. Rule 1.5 (a), in that Respondent charged an unreasonable fee;

b. Rule 3.3(a)(1), in that Respondent made a false statement of fact to a tribunal;

- c. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, deceit or misrepresentation; and
- d. Rule 8.4(d), in that Respondent engaged in conduct prejudicial to the administration of justice.

II. In re: James H. Williams, 2013 INT 208

43. On May 28, 2013, The George Washington University Hospital filed a petition for the appointment of a temporary health care guardian for James H. Williams, a patient at the hospital. Mr. Williams had dementia and lacked the capacity to make decisions regarding his medical care.

44. Judge Gregory Mize appointed Respondent to serve as Mr. Williams' guardian *ad litem*.

45. On June 3, 2013, Judge Alprin appointed Respondent as Temporary Guardian ending her role as guardian *ad litem*.

46. On or about June 10, 2013, Mr. Williams was transferred to Brinton Woods Nursing and Rehabilitation Facility in the District of Columbia.

47. On July 19, 2013, The George Washington University Hospital filed a petition for an appointment of a permanent general guardian and conservator for Mr. Williams.

48. On August 28, 2013, Judge Fisher appointed Respondent as Mr. Williams' general guardian but declined to appoint her as his conservator. At this hearing, Respondent appeared by telephone and was advised to file her acceptance of the guardian appointment by September 11, 2013.

49. Respondent did not file her acceptance by the due date. As a result, on September 18, 2013, the court issued a summary hearing notice directing her to appear before Judge Gardner on October 11, 2013 to address her failure to file the form.

50. Respondent was not prompted to file the form and did not appear at the October 11th hearing. The court reached her by telephone and Respondent advised the court that she was unable to appear in court because there were trees down and roads were blocked in her area. The hearing last a total of four minutes. Respondent falsely advised the court that she had already filed the Acceptance and Consent Form and the Clerk's office must have made an error. Respondent stated that she would "bring it down on Monday and [the Clerk's Office] can update their records."

51. Judge Gardner continued the matter for a week and ordered that Respondent appear on October 18, 2013, unless the acceptance form was filed prior to that. On October 15, 2013, Respondent filed the acceptance form.

52. On December 2, 2013, the court issued a delinquency notice to Respondent for failing to file the Guardianship Plan by its due date on November 26, 2013. Respondent did not file the Guardianship Plan until December 20, 2013.

53. Mr. Williams died on July 23, 2014. Respondent's fee petition was due no later than September 23, 2014.

54. On December 23, 2014, Respondent filed her initial fee petition for work performed during the three appointments. Although, the petition was filed late, Respondent did not include a motion for leave to "late file."

55. On February 27, 2015, the petition was denied for Respondent's failure to serve the appropriate parties.

56. On March 23, 2015, Respondent filed an Amended Petition for Compensation.

Fee Petition

57. In her fee petition submitted to the Court, Respondent billed three hours for the October 11, 2013 hearing at which she appeared by telephone and stated to the court there were trees down and roads were blocked.

58. Respondent billed one hour on October 11, 2013, for “rewrit[ing] the consent form,” a boilerplate pre-printed document, the same document she advised Judge Gardner she had already filed.

59. Respondent billed 12.5 hours of court hearings; but was only physically present in court for a total of twelve minutes and appeared by telephone for a total of fifteen minutes.

60. Respondent billed three hours for attending a hearing on June 3, 2013, that lasted 11 minutes.

61. Respondent billed three hours for each of two hearings on August 28, 2012, and October 11, 2013. Respondent participated by telephone for the hearings, which lasted seven minutes and four minutes, respectively.

62. The court described Respondent’s entries as gross and intentional overbilling that put into question the validity of all of Respondent’s time entries.

63. In her petition, Respondent billed 3.8 hours for a June 1, 2013 visit with Mr. Williams, who, according to the Guardianship Report, was unconscious at the time. Furthermore, Respondent did not reveal the subject matter of any meetings with Mr. Williams on her invoices.

64. Respondent included entries for telephone calls that were vague and excessive and

did not provide an adequate description of the reason for the calls. Judge Long had previously admonished Respondent for similar conduct in the *Estate of Ruth M. Toliver-Woody*.

65. Respondent invoiced for e-filings on March 4, 2014; August 15, 2014; and November 19, 2014 when in fact Respondent did not actually file documents with the Court on these dates.

66. Respondent invoiced for a “care conference” on August 18, 2014, for approximately 40 minutes, almost three weeks after the Ward passed away.

67. Respondent invoiced 1.1 hours for drafting and filing Mr. Williams’ Notice of Death on August 20, 2014, which the Court found unreasonable given the fact that the notice was a two-sentence document.

68. Respondent invoiced 4.5 hours for “prepar[ing] [a] motion and compil[ing] data.” on November 18, 2014. Respondent did not file any motion with the Court on November 18, 2014 or anytime thereafter.

69. Respondent attempted to invoice for post-death claims notwithstanding that she received notice from Judge Long in *Estate of Ruth M. Toliver-Woody*, that post-death claims were not compensable.

70. Respondent invoiced for reviewing monthly invoices from the Ward’s nursing home, during the months of September, October, and November, after the Ward’s death.

71. On July 28, 2015, the court reviewed the fee petition and imposed an 85% percentage discount on the fee petition claimed by Respondent. “The Court takes into account Ms. Rolinski’s previous misleading interactions with the Court in *Estate of Ruth M. Toliver-Woody*, her unprofessional pattern of tardy fee petition submissions to the Court; the excessive and

ambiguous nature of remaining time entries, and the minimal benefit to the Ward for many of the time claims . . .the problems and overall general questionable nature of this fee petition are so serious that the Court will impose a discount of 85% across-the-board discount.”

72. The court issued an order awarding Respondent the sum of \$761.40 for professional services and \$11.45 as reimbursement for expenses for a total fee award of \$772.85.

73. In its July 28, 2015 Order, the court noted at least six other cases where Respondent had failed to timely file her fee petitions with the court prior to the *Williams* matter.

74. On August 7, 2015, Respondent filed a Motion for Reconsideration, which the court summarily denied on September 14, 2015.

75. On September 25, 2015, Respondent noted an appeal.

76. On July 7, 2017, the Court of Appeals affirmed and reversed in part the order of the Superior Court, and remanded for the court to grant Respondent the amount of \$5,152.30. The Court of Appeals agreed that the judge below acted within her discretion in disallowing much of the amount requested, but reversed the final across-the-board discount.

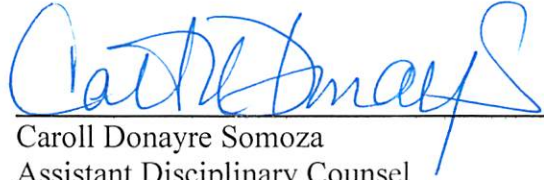
77. Respondent violated the following Rules of Professional Conduct:

- a. Rule 1.5 (a), in that Respondent charged an unreasonable fee; and
- b. Rule 3.3(a)(1), in that Respondent knowingly made a false statement of fact to a tribunal; and
- c. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, deceit or misrepresentation; and
- d. Rule 8.4(d), in that Respondent engaged in conduct that seriously interferes with the administration of justice.

Respectfully submitted,



Hamilton P. Fox, III
Disciplinary Counsel




Caroll Donayre Somoza
Assistant Disciplinary Counsel

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VERIFICATION

I do affirm that I verily believe the facts stated in the Specification of Charges to be true.



Caroll Donayre Somoza
Assistant Disciplinary Counsel

Subscribed and affirmed before me in the District of Columbia this 5th of June 2018.

My Commission Expires: 02-01-2020



Notary Public

