

COMMONWEALTH OF MASSACHUSETTS
The Trial Court
PROBATE AND FAMILY COURT DEPARTMENT

MIDDLESEX, SS

No. 07 PO 556EP1

IN RE THE MATTER OF:

THE ESTATE OF ANNETTE VILLENEUVE

AFFIDAVIT IN SUPPORT OF
MOTION TO STRIKE OBJECTION AND APPEARANCE OF
JAMES P. PAZZANESE

I, Richard J. Gabriel, in response to the allegations contained in the Objection of James P. Pazzanese, on oath depose and say:

1. I have never represented Pamela Costanzo in any matter in any capacity. I have never retained her services in order to secure assets of the estate. In March of 2007, Ms. Constanza gratuitously forwarded two rent checks to my office and changed the locks on 141 Howe Street, Marlboro, Massachusetts, in order to prevent Mr. Pazzanese and others from entering the premises.
2. My duties as Temporary Executor require that I collect rents from tenants in the various apartments. The Objector, James P. Pazzanese is a tenant at 154 Howe Street, 2nd floor, Marlboro, Massachusetts. He had not paid any rent since December of 2006. I advised his attorney, Kathleen Summers, by my letter dated March 8, 2007, that he was behind on his rent and that he had to pay rent just like any other tenant. He was not forthcoming and hence I gave him a notice to quit as I did to other tenants that were behind on their rent. The result was he paid his rent and so did the other tenants that had fallen behind. He and other tenants are currently up to date.
3. Objection #3 does not mention any specific facts in accord with Probate Rule #16 as to how I caused the estate to incur any excess legal expenses, and therefore it should be stricken. It does however fail to mention that Mr. Pazzanese had collected and withheld rent checks from two of the tenants after he had been given a copy of my appointment as Temporary Executor. He sent the checks to me by mail on April 20, 2007 after I had sent notices to quit for non-payment to two (2) tenants, at a cost of \$70.00 for the constable, plus my time for the legal work, and in addition he does not mention the additional work required because of his failure to pay his own rent resulting in an additional legal work, plus a constable fee of \$35.00 for the notice to quit that was given to him.
4. I deny the allegations contained in paragraph 4. There are no facts or specifics in Objection #4 upon which I may be able to form an answer to this allegation and

therefore it does not meet the requirements of Probate Rule #2 and should be stricken.

5. I became aware of the Will and Codicil on February 6, 2007 when Attorney Kathleen Summers faxed a copy of the Will and Codicil to my office. After that date, I began looking for a more recent Will in Annette's safe deposit box. The safe deposit box had to be drilled in order to gain access. Upon access to the safety deposit box, I learned that there was apparently no later will in existence. thereafter filed my petition for probate of Will and a motion to be appointed Temporary Executor, which was granted on February 28, 2007.
6. After I was appointed I gave each tenant along including Mr. Pazzanese, a copy of my appointment along with a letter explaining to each tenant what it means. A copy of that letter is attached hereto and marked Exhibit "B". Since that date I have been doing my utmost to collect all past due rent and have deposited ALL rents collected in the estate account for which I am liable under my personal bond.
7. M.G.L.A. Chapter 191 § 2. does not prohibit witnesses to wills from being Executors. It does make a beneficial devise or legacy void. My appointment is neither a devise nor a legacy and therefore this objection should be stricken.

Subscribed and sworn to under the pains and penalties of perjury, this 18th day of May 2007.

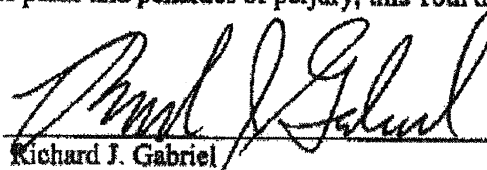

Richard J. Gabriel

Exhibit 10 (Page 2 of 2)