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The Journal News (Westchester County, New York)

September 6, 2009 Sunday

SECTION: NEWS; Pg. 1AWP

LENGTH: 1149 words

HEADLINE: Family faults Castro's involvement in will

BYLINE: Jonathan Bandler

BODY:

The law firm of Westchester district attorney candidate Tony Castro was involved in the revision of a Harrison man's will that cut out the man's daughter and grandchildren from his \$4 million estate, named Castro executor and set aside \$200,000 for Castro's children.

George Gouveia's daughter and her children eventually were restored to the will in a settlement, but she and her husband remain convinced that money was improperly steered to Castro's family after they endeared themselves to Gouveia.

"I don't believe he thought he was acting in my dad's best interest," Sheri Gouveia-Marchi of Hartsdale said of Castro. "I don't think his conscience is clear in all this."

Castro has run unsuccessfully for district attorney the past two elections. He is challenging incumbent Janet DiFiore in the Democratic primary Sept. 15 but already has the Independence and Working Families lines in the November election.

He declined to return a reporter's calls about the will. In a statement issued by his campaign, he said he was grateful that "my friend George Gouveia trusted and appointed me as executor [sic] of his estate" and emphasized that Gouveia had been estranged from his daughter.

DiFiore said Castro's behavior in the case was troubling and showed a lack of integrity in someone seeking to become the county's top prosecutor.

"Mr. Castro is a lawyer and every lawyer knows that there are strong admonitions in place warning about the inappropriateness of accepting gifts from clients," DiFiore said in

a statement. "And that is for good reason: to avoid the very real danger that a lawyer may be tempted to exert undue influence over a client with whom he has developed a relationship, particularly with an elderly or infirm client."

Gouveia, who suffered from Parkinson's disease and died in April 2006 at age 84, was a real estate investor with properties in Mount Vernon, Harrison and Arizona; two Rolls-Royces; and a \$500,000 painting by Eastman Johnson.

In 2001, he made a will that left his estate to his wife, Susan, and named his daughter as executrix.

His wife's Alzheimer's disease worsened that year, and Gouveia-Marchi said she was concerned because her father was not taking care of her mother. A heated court battle with her father ended with Gouveia-Marchi being named Susan Gouveia's guardian.

George Gouveia went through several lawyers fighting his daughter's efforts and settled in 2003 on Castro. Gouveia-Marchi's husband, Nick Marchi, said the relationship soon crossed from professional to personal as Castro; his wife, Rose Palermo; and their children would spend holidays with George Gouveia, send him cards on special occasions and bring him baked goods.

"There was still a love for his daughter there that was only severed after Tony became a surrogate son," Nick Marchi said. "Tony should have seen the volatility of the situation, what his running over there with cakes and cookies was doing."

In September 2004, Gouveia and his wife and caretaker were victims of a home-invasion robbery by a gang of Albanians. The robbers stole cash and parts of Gouveia's watch and coin collections. They pulled off another robbery in Harrison and were caught two months later after a similar heist in New City.

In March 2005, Gouveia signed a new will that specified he was leaving nothing to his daughter. It did allot \$100,000 to each of her children as well as \$100,000 each to Castro's children, Anthony and Isabel, now 12 and 9. Once his wife died, any of his assets still remaining in trust would be split between the Parkinson's Disease Foundation and the Westchester chapter of the Alzheimer's Association instead of going to his daughter.

The will was prepared by Paul Amicucci, a lawyer in Purchase. But when two codicils were added, it was Castro's Rye Brook law firm, Gallo, Feinstein & Naishtut, that prepared the documents.

The first, in August 2005, eliminated Gouveia's grandchildren from the will and made Castro and a partner at his firm, Steven Feinstein, the executors. It also detailed why Gouveia was cutting off his daughter and grandchildren.

He complained that she "has caused me great pain and distress in her role as guardian of my wonderful wife." He cited court orders that she sought that put her in control of more of his money than he intended.

The second codicil, in January 2006, replaced Feinstein with Gouveia's brother, John, as Castro's co-executor. Feinstein declined to comment, citing attorney-client privilege.

Gouveia also gave Castro's wife \$18,000, which she collected from a safety-deposit box at his bank two days before his death. In an affidavit, she said she initially turned down the money when he offered it in February 2006. But she accepted when he insisted he wanted her to have it.

After Gouveia's death, his daughter challenged the new will, suggesting it was the product of undue influence by Castro, and asking the Surrogate's Court to recognize the 2001 document.

Gary Munneke, a Pace Law School professor who teaches professional responsibility, said a key element is whether a lawyer's professional judgment is harmed once he becomes more friend than lawyer. "(The lawyer is) walking a fine line," Munneke said when told of the Gouveia case. "He's subject to criticism, but it's not technically a violation of any rule."

The witnesses to the will and codicils indicated that Gouveia appeared to be of sound mind when he signed the documents. Amicucci later gave a deposition in which he said he specifically asked Gouveia about the money for Castro's children and was left with no doubt that Gouveia wanted to make those gifts.

But the Marchis say the witnesses should have been able to tell that Gouveia was a troubled old man.

"It could easily be discerned that he was going off the deep end," Marchi said. "Tony Castro smelled weakness. So was he ignoring it, did he not believe it, or could he use it for something?"

Last year, a settlement was reached in which Gouveia's grandsons, Nicholas and Maximus Marchi, now 9 and 7, would receive up to \$240,000. An additional \$200,000 would go into a trust for Castro's children. Castro is the trustee and can use the money for their educational and other needs. His kids will get whatever is left when they turn 35. The two charities also received \$200,000 each. Susan Gouveia, who died this year, received the Harrison house and belongings, her husband's cars and coins, and the Johnson painting.

Castro agreed to renounce his executorship and tens of thousands of dollars in fees. When the settlement was presented in court, Castro said he did that to keep legal costs down so that the charities would get as much as possible, as Gouveia had wished.

Sheri Gouveia-Marchi said that comment showed how little Castro knew her father - and how the new will made no sense: Her dad was notoriously frugal, she said, and never would have given money away to charity or to someone else's children.