

Turnabout

Attorneys recoup \$500,000 for sons in probate squabble

BY SHEILA PURSGLOVE
Legal News

Ukraine hit the headlines in March — this time not for political unrest or Russian troop movements, but a civil lawsuit that sounds like a movie or novel — a wife taking advantage of a wealthy, elderly, sick husband, and feuding with her stepsons; an overturned prenup; an illegitimate will; a massive family rift; and allegations of civil fraud, unjust enrichment, undue influence, breach of contract and conversion.

The two sons of Iwan (“John”) Hlywa, an 84-year-old Warren man who died in 2011, accused his 74-year-old widow of pilfering up to \$550,000 of her husband’s money during five years of marriage, and transferring \$340,000 of that loot to her native Ukraine; and of acquiring title to two of his six properties, including the family homestead, through quit-claim deeds.

Attorney Nina Korkis of Korkis Law Firm PLLC in Dearborn, along with Clinton Township attorney Patrick McQueeney, tried the case, representing the estate in front of a seven-person jury and Judge Carl Marlinga in Macomb County Probate Court. The plaintiffs received a verdict in the amount of \$499,414, which included damages for fraud, conversion and unjust enrichment involving wire transfers to Ukraine.

“We’re thrilled, and the family is very happy that the defendant did not get away with what she did,” Korkis says. “Mr. Hlywa trusted the defendant with everything and she clearly abused that trust to the detriment of Mr. Hlywa by placing his assets out of his reach by sending them to Ukraine.”

The jury also found that Hlywa’s act of signing his name to six deeds on June 15, 2011 was the result of fraud by the defendant.

“The jury’s verdict regarding the deeds was advisory, meaning that the judge is the one that will decide the title to the real estate - therefore, the judge still has to make some equitable rulings regarding the deeds,” Korkis explains.

Hlywa came to this country from Ukraine in his early 20s — and over the years, accumulated about \$1.5 million in assets.

“Iwan Hlywa, was a very unique individual,” Korkis says. “He came from very humble beginnings as a child in Ukraine and was able to build a sizeable estate for himself here in the U.S.”

A workaholic, Hlywa worked at two full time jobs when his sons were growing up, and was extremely frugal.

“He never went out to eat, never went on any vacations and used everything he had until it was falling apart,” Korkis says. “He had large pickle vats outside of his home that he used to collect rainwater to wash his clothes and flush the toilets. He had a wood-burning stove. He had a very large garden where he grew his own vegetables. He had a vehicle with worn out floorboards where you could actually see the road underneath. He dug out the basement of one of his homes himself and used to pretty much handle all repairs himself. It was very important to him to own real estate because growing up in a communist country, he was used to the government taking property away from individuals and no one being able to do anything about it.”

Widowed in 1993, Hlywa met Mariya Wintoniw in 1999 at a Ukrainian church in Hamtramck; a widow, she had emigrated from Ukraine the previous year. The couple started living together a year or so later. Wintoniw returned to Ukraine in 2004 when her green card expired; and Hlywa traveled to Ukraine in 2006 to marry her.

Steve and Nick Hlywa accused their stepmother of exercising undue influence over their father, and of shunting \$340,000 of his money to her children in Ukraine from 2006 to 2011; and also that on September



Nina
Korkis



Patrick
McQueeney

6, 2011 — two weeks prior to Hlywa’s death and within 24 hours of signing a DNR order at St. John’s Hospital — Wintoniw went to the Self Reliance Credit Union and transferred \$96,723 from her husband’s account into her own.

The lawsuit claimed Wintoniw violated a 2006 prenuptial agreement to keep the couple’s money separate. In court, Wintoniw’s attorney, Walter Czechowski, said the prenup was done improperly — and even if legitimate, was circumvented by Hlywa and revoked by his immigration attorney — and was overridden by a will written three months before Hlywa’s death, splitting \$270,000 in cash three ways between his wife and two sons; and Wintoniw would receive two of Hlywa’s properties, his sons the rest.

McQueeney said Wintoniw wrongly influenced her husband to create the June 2011 will; that it was

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illegitimate because of Hlywa’s mental state; that Wintoniw didn’t deserve any of the properties, and that the monetary amount indicates a total far less than what should be available.

“The defendant denied her husband had heart issues despite the fact he suffered a heart attack and was treated by a cardiologist,” McQueeney says. “At the time he had executed the invalid will and ante-nuptial revocation, he was already determined to be in grave condition and the person who benefitted from the will and revocation of the ante-nuptial agreement said he was fine!”

According to McQueeney, no one questioned Mr. Hlywa as to his health status when he signed the will and the ante-nuptial revocation document, even when his wife knew her husband’s physician had advised them of the grave prognosis only a few weeks earlier.

Czechowski said in court that Hlywa agreed to send money to Ukraine to help his new wife’s family fix a barn and buy farm equipment, a tractor and combine; help pay for college education for her grandchildren; and to repair roofs on two churches.

“Under cross-examination, the defendant could not come up with the names of the churches, but rather made up the name, St. God Mother Church — our research discovered there is no such church in Ukraine,” McQueeney says.

Wintoniw’s testimony was “very inconsistent,” Korkis says.

“It happened several times. When she was on the stand she would be asked the same exact question three or four different times and she would give three or four different answers. For example, she was asked if Mr. Hlywa was at the credit union with her when she made the wire transfers to Ukraine. One time she said he was sitting right next to her for every single one and knew about them. The next time she said he was in the lobby reading the paper. The next time she said sometimes he was with her and sometimes he wasn’t.”

According to McQueeney, the defendant never offered any valid explanation as to why Hlywa would not sign wire transfers if he were truly present at the time.

“She described Mr. Hlywa as ‘the boss’ and yet, ‘the boss’ never signed a single wire transfer to send money to people who he met once in his life,” McQueeney says.

Those weren’t the only inconsistencies.

“There was no dispute that Mr. Hlywa was a sick man; after his heart attack in 2007, he had many health problems — congestive heart failure, COPD, and renal failure, and had an oxygen tank at home,” Korkis explains. “Yet, the defendant would say he was in perfect health or that he just had some breathing problems.”

According to Korkis, the defendant told at least one of the sons and some neighbors that she planned to go to Ukraine after Hlywa died.

“What she also testified to - that was just preposterous — was that Mr. Hlywa, who was 83 years old and very sick, wanted to sell all of his property and belongings and move to Ukraine with her to become a farmer,” Korkis says. “There was ample testimony that Mr. Hlywa never discussed going back to Ukraine and that he thought the country was backwards.”

During the trial, the jurors submitted 100 questions, according to Korkis.

“The jurors asked excellent questions of all of the witnesses,” Korkis says. “They hung in there for three weeks and we were grateful for their attentiveness. It was a long trial with a lot of information to process.”

The use of an interpreter for Wintoniw added extra days to the trial, Korkis says.

“What was obvious was that the widow understood English — she was answering questions before the interpreter even had a chance to interpret,” she says. “At one point, the judge even asked her if she really needed an interpreter. She said yes, so the interpreter stayed on.”

Steve and Nick Hlywa should now be able to access more than \$200,000 in bank accounts that were frozen since 2011 when the lawsuit was filed pending the outcome of the case, McQueeney says. Additional money is also available in the form of bonds; the family can try to pursue money or assets in Ukraine.

“Our clients wanted justice for their father,” Korkis says. “Mr. Hlywa could have done whatever he wanted with his money — the key being that he could do what he wanted with it. The sons knew their father would never have just given away hundreds of thousands of dollars of his hard earned money to people he had only met once and never had any further type of relationship with - no phone calls, or cards. They were happy the jury recognized what happened and that the defendant did not get away with it.”

While protecting assets through a pre-nup is a good idea, “Even the best prenup in the world can’t protect you from being betrayed by a spouse in whom you place all of your trust, which was very much the case here,” Korkis says.

“Mr. Hlywa relied on the defendant to do everything for him — bathe him, give him his medications, cut his hair, shave him, and handle his banking, and she clearly abused that trust.”