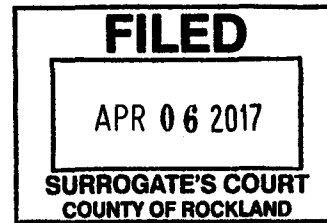


Matter of Davidson, Sochor, Ragsdale & Cohen, LLC (Hart)
2017 NY Slip Op 33370(U)
April 6, 2017
Surrogate's Court, Rockland County
Docket Number: File No. 2014-753B
Judge: Rolf M. Thorsen
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STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF ROCKLAND
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Proceeding by Davidson, Sochor,
Ragsdale & Cohen, LLC to Fix and
Determine Compensation for Services
Rendered to the Administrator, C.T.A.
of the Estate of

DECISION & ORDER

File No: 2014-753B

CLIFFORD J. HART
a/k/a CLIFFORD HART,

Deceased.

-----X

HON. ROLF M. THORSEN, Acting Surrogate

Petitioner, Davidson, Sochor, Ragsdale & Cohen, LLC, is a law firm located in the State of New Jersey, and has petitioned this Court pursuant to SCPA §2110 to fix and determine the fees it claims it is entitled to receive for services rendered to the Estate of Clifford J. Hart. Respondents, the Estate of Clifford J. Hart, Jake Hart, Alex Hart and Naomi Hart, move for partial summary judgment and dismissal of the Petition, for severance of their counterclaims and for dismissal of the individually named Respondents. The Court has considered the following papers on the motion:

1. Notice of Motion, Affirmation in Support and Exhibits 1 through 8 attached thereto;
2. Davidson's Affidavit in Opposition and Exhibits A through D attached thereto, Walsh Affirmation in Opposition and Exhibits A through C attached thereto; and
3. Reply Affirmation and Exhibit 1 attached thereto.

Section 201 of the Surrogate's Court Procedure Act (SCPA) provides, in relevant part, as follows:

3. The court shall continue to exercise full and complete general jurisdiction in law and in equity to administer justice in all matters relating to estates and the affairs of decedents, and upon the return of any process to try and determine all questions, legal or equitable, arising between any or all of the parties to any action or proceeding, or between any party and any other person having

any claim or interest therein, over whom jurisdiction has been obtained as to any and all matters necessary to be determined in order to make a full, equitable and complete disposition of the matter by such order or decree as justice requires.

SCPA §201(3). Moreover, Section 2110 of the SCPA further provides as follows:

that "[a]t any time during the administration of an estate and irrespective of the pendency of a particular proceeding, the court is authorized to fix and determine the compensation of an attorney for services rendered to a fiduciary or to a devisee, legatee, distributee or any person interested or of an attorney who has rendered legal services in connection with the performance of his duties as a fiduciary or in proceedings to compel the delivery of papers or funds in the hands of an attorney.

SCPA §2110(1). Thus, the Surrogate's Court has both the jurisdiction to determine and the authority to fix legal fees for services rendered by an out-of-state law firm in all matters relating to estates and the affairs of decedents. See, e.g., Matter of Askin, 113 A.D.3d 72 (2d Dept. 2013).

Applied here, however, an issue arises due to the fact that Petitioner was not rendering services for the benefit of the estate before a tribunal in the State of New Jersey, but rather in New York where Petitioner admittedly does not have an office as required by Judiciary Law §470.¹ Although Petitioner does not have an office in New York, all services rendered by Petitioner in New York were performed by one of its associates, an attorney duly licensed to practice law in the State of New York.

Contrary to Respondents' contention, Petitioner's non-compliance with Judiciary Law §470 does not, in and of itself, disqualify Petitioner from being compensated for the services it rendered to the estate. See, e.g., Elm Mortgage Corp. v. Sprung, 33 A.D.3d 753 (2d Dept. 2006). Rather, there are numerous factual issues that must be resolved with respect to the relief sought in the Petition.

¹ The crux of Respondents counterclaims revolve around this fact.

Based on the foregoing, it is hereby

ORDERED that Respondents' motion for summary judgment is denied; and it is further

ORDERED that Respondents' motion to sever the counterclaims is denied; and it is further

ORDERED that Respondents' motion to dismiss the individually-named Respondents, i.e., Jake Hart, Alex Hart and Naomi Hart, which Petitioner does not oppose, is granted.

The foregoing constitutes the Decision and Order of this Court.

Dated: April 6, 2017
New City, New York

E N T E R



Hon. Rolf M. Thorsen
Acting Surrogate