

COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals**

**Barbara Mobilia (Estate of Julie Enzian),**  
Petitioner

v.

Docket No. CR-22-0602

Date: March 14, 2025

**State Board of Retirement,**  
Respondent

**Appearance for Petitioner:**

Thomas v. Sannicandro, Esq.

**Appearance for Respondent:**

Yande Lombe, Esq.

**Administrative Magistrate:**

Timothy M. Pomarole, Esq.

**SUMMARY OF DECISION**

The Petitioner, the personal representative of a late member's estate, appeals the decision of the State Board of Retirement to disburse the funds in the member's retirement annuity account to the member's designated beneficiary. The Petitioner contends that the member's beneficiary selection was the result of undue influence.

It is not clear that the merits of the Board's decision are properly before this Division. Nevertheless, even if it is, the Petitioner's appeal is unavailing because she has not shown that the late member's beneficiary selection was the result of undue influence.

**DECISION**

The petitioner, Barbara Mobilia, is the mother of the late Julie Enzian and the personal representative for Ms. Enzian's estate.<sup>1</sup> She contests the decision by the State Board of Retirement (Board) to distribute the funds in Ms. Enzian's retirement annuity account to her designated beneficiary.

At Ms. Mobilia's request, and without opposition by the Board, this appeal will be determined on the written submissions pursuant to 801 CMR 1.01(10)(c). I admit Ms. Mobilia's proposed exhibits into evidence as Exhibits P1-P4 and the Board's proposed exhibits as Exhibits R1-R7.

**FINDINGS OF FACT**

Based on the documents in evidence, I make the following findings of fact:

**A. Background**

1. Ms. Enzian was a college-educated mental health coordinator for the Department of Developmental Services and a member of the Massachusetts State Employees' Retirement System. (Exs. R1 & R5).
2. On November 12, 2019, the Board received a retirement option selection form completed by Ms. Enzian. She selected Option A. (Ex. R6).
3. On October 29, 2020, the Board approved Ms. Enzian's application for ordinary disability retirement. (Ex. R7).

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<sup>1</sup> Some of the documents refer to "Barbara Mobilia" and some refer to "Barbara Enzian." Based on contextual details, such as the fact that both names are associated with the same address in the record, I infer that they are the same person. For ease of reference, I will refer to "Ms. Mobilia" throughout.

4. On April 2, 2021, the Board received a retirement option selection form from Ms. Enzian, changing her option to Option B and designating Jeffrey Prada as Ms. Enzian's Option B beneficiary. (Ex. R4). Mr. Prada and Ms. Enzian had some sort of romantic relationship, although, as noted below, the record does not provide much detail about the nature of their relationship. (Ex. P4).

5. On April 4, 2021, at age forty-four, Ms. Enzian died after an illness. (Ex. P4 & R5).

B. The Disposition of Ms. Enzian's Retirement Funds

6. In a May 28, 2021 letter to Mr. Prada, the Board informed him that because Ms. Enzian's retirement allowance was not yet in pay status at the time of her death, it would process the retirement allowance that was due to Ms. Enzian from the effective date of her retirement to the date of her death. This money would be paid to Ms. Enzian's estate. The Board evidently provided this information to Mr. Prada in the mistaken belief that he was the personal representative of her estate. (As noted above, Ms. Mobilia is the personal representative.) The Board also informed Mr. Prada that it would pay the remaining funds in Ms. Enzian's retirement annuity account (\$44,475.56) to him as her Option B beneficiary. The letter included a notice concerning rights of appeal for "any party aggrieved" by the Board's decision. Ms. Mobilia was "cc'd" on the letter. (Ex. R3). No one appealed this decision.

7. The Board sent the remaining \$44,475.56 from Ms. Enzian's annuity retirement account to Mr. Prada, but designated the payee as "Jeffrey Prada as personal representative to the Estate of Julie Enzian," or words to similar effect. (Ex. P2).

8. On April 27, 2022, Ms. Mobilia’s attorney informed the Board that Ms. Mobilia was the personal representative of the estate. Counsel requested that any funds remaining in Ms. Enzian’s retirement annuity account be forwarded to him on Ms. Mobilia’s behalf as personal representative. (Ex. R2).

9. In a letter dated May 19, 2022, Ms. Mobilia’s attorney informed the Board that “[w]e have come upon evidence that Jeffrey Prada exerted undue influence over Julie Enzian in her very sickened condition [to] change her beneficiary to him a few weeks before her death.” Counsel requested that the Board make no further distributions to Mr. Prada “until this matter is resolved.” (Ex P3).

10. At some point thereafter, counsel for Mr. Prada asked the Board to reissue the \$44,475.56 check to Mr. Prada personally, rather than as personal representative. (Ex. P2). Based on the course of communications, including the November 22, 2022 letter referenced below, I infer that the Board did, at some point, reissue the check as requested.

11. In a letter dated November 22, 2022, the Board responded to the May 19, 2022 letter by Ms. Mobilia’s attorney, stating that “[b]ased on the information provided to the Board through May 2021 there do not appear to be grounds for the Board to reconsider its decision at this point.” (I assume the reference to “May 2021” is a typographical error and that the letter was intended to refer to May 2022, which was when Ms. Mobilia, through her attorney, alerted the Board to her concerns about undue influence.). The letter contained a notice of appeal rights. (Ex. P2).

12. On December 9, 2022, Ms. Mobilia’s attorney received the Board’s November 22, 2022 letter and later that day mailed a notice of appeal to the Division of

Administrative Law Appeals on Ms. Mobilia's behalf. Attached to the notice is a copy of the Board's November 22, 2022 letter. (Ex. R1). The appeal was received by this Division on December 12, 2022.

C. The Evidence Relating to the Claim of Undue Influence

13. The sole support for Ms. Mobilia's claim of undue influence is an affidavit by Lisa Sherman. In her affidavit, Ms. Sherman states that she was Ms. Enzian's uncle's companion for several years. Ms. Sherman considered Ms. Enzian to be family and took her in when Ms. Enzian became ill. Ms. Enzian lived with Ms. Sherman for about a year. Ms. Sherman was fond of Ms. Enzian and had a good relationship with her. (Ex. P4).

14. At some point, when Ms. Enzian's condition worsened, Mr. Prada asked Ms. Enzian to move in with him. She did so. This occurred weeks before her death. (Ex. P4). The record does not reveal how Mr. Prada and Ms. Enzian knew each other or provide any meaningful details concerning their relationship (romantic or otherwise) prior to their cohabitation.

15. A couple of weeks before her death, Mr. Prada asked her to marry him. (Ex. P4). Her response is not reflected in the record.

16. Ms. Sherman states that Mr. Prada and Ms. Enzian "were not boyfriend and girlfriend." (Ex. P4). It is not obvious from the context, however, what Ms. Sherman means by "boyfriend and girlfriend." The fact of their cohabitation and Mr. Prada's proposal suggests that they had *some* kind of romantic relationship. The record does not furnish any further details.

17. Ms. Enzian told Ms. Sherman that Mr. Prada had asked her for money. Ms. Sherman witnessed Mr. Prada asking Ms. Enzian for money. (Ex. P4).<sup>2</sup>

### **CONCLUSION AND ORDER**

Before turning to the substantive merits of this appeal, it is first necessary to address the Board's argument that this appeal is untimely because it was filed more than one year after the Board's May 2021 letter.

An appeal from a retirement board's decision must be filed "within fifteen days of notification of such . . . decision." G.L. c. 32, § 16(4). The statutory deadline is "jurisdictional," meaning that this Division has no authority to extend it. *Lambert v. Mass. Teachers' Ret. Sys.*, CR-09-74 (Contributory Ret. App. Bd. Feb. 17, 2012).

I note first that Ms. Mobilia did not appeal the decision conveyed in the Board's May 2021 letter. Accordingly, the Board's assertions about the appeal's timeliness relative to the May 2021 letter are inapposite.

What Ms. Mobilia appealed is Board's November 22, 2022 letter, in which the Board concluded that there did not "appear to be grounds for [it] to reconsider its [May 2021] decision." Ms. Mobilia's attorney received that letter on December 9, 2022 and filed an appeal on her behalf that same day. The appeal was received by this Division on

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<sup>2</sup> The affidavit states "Julie Enzian told me on numerous occasions he asked [] her [to] give him her money." (Ex. P4). It is not clear whether "numerous occasions" refers to the number of times Ms. Enzian told Ms. Sherman about a request for money or the number of requests made by Mr. Prada. The affidavit also references a request "for her money," which I infer is intended to refer to all, or substantially all, of Ms. Enzian's money. Although I can credit the assertion that Mr. Prada asked for money, I cannot, on the limited record before me, draw the conclusion that Mr. Prada essentially asked for all of Ms. Enzian's money.

December 12, 2022. Because Ms. Mobilia's appeal was filed within fifteen days of receiving the November 2022 letter, it was timely as to that letter.

It is not clear that an appeal of the Board's November 2022 letter revives the underlying merits of the earlier May 2021 decision, but even assuming that it does, Ms. Mobilia's claim is unavailing.

I first acknowledge the Board's argument that its fiduciary duties are limited in scope and do not encompass a duty to investigate claims of undue influence. (Board's Memorandum, at p. 6 (citing *Belsito v. State Bd. of Ret.*, CR-10-735 (Div. Admin. Law App. April 27, 2012) and *Barrus v. State Bd. of Ret.*, CR-08-118 (Div. Admin. Law App. Aug. 3, 2012))). The scope of the Board's fiduciary duties, however, does not resolve the question of whether Ms. Enzian's designation of Mr. Prada as a beneficiary should be set aside. Prior decisions by this Division have recognized that option elections and/or beneficiary designations may be set aside where the member was not able to make a knowing and voluntary choice in the matter. See *McGeary v. Webster Ret. Bd.*, CR-20-0261, 2022 WL 16921437, at \*5-6 (Div. Admin. Law App. Sept. 9, 2022) (considering claim that member's option selection could be changed because it had been the result of fraudulent inducement); *Durham v. State Bd. of Ret.*, CR-12-514, at \*9 (Div. Admin. Law App. July 13, 2018) (considering claim that member's beneficiary selection should be changed because member lacked mental capacity to make selection); *Millar v. State Bd. of Ret.*, CR-12-634, at \*6-7 (Div. Admin. Law App. June 29, 2018) (considering challenge to option election on ground that member was incompetent). Undue influence, as explained below, subverts an individual's judgment and wishes and thus arguably belongs among the potential bases for challenging a member's choice of option and/or

beneficiary. Moreover, in at least one relatively recent decision, a magistrate of this Division reviewed the substantive merits of a claim that the member's beneficiary designation was the result of undue influence, ultimately concluding that there had been no undue influence. *Weymouth v. Mass. Teachers' Ret. Sys.*, CR-16-423, 2020 WL 13584374, at \*13-14 (Div. Admin. Law App. March 13, 2020).

In any case, Ms. Mobilia's claim fails because she has not established that Ms. Enzian's designation was the product of undue influence.

Undue influence is a "species of coercion, whether physical, mental, or moral, which subverts the sound judgment and genuine desire of the individual." *Neill v. Brackett*, 234 Mass. 367, 369 (1920). A successful claim of undue influence generally requires a showing "that an (1) unnatural disposition has been made (2) by a person susceptible to undue influence to the advantage of someone (3) with an opportunity to exercise undue influence and (4) who in fact has used that opportunity to procure the contested disposition through improper means" *O'Rourke v. Hunter*, 446 Mass. 814, 828 (2006) (citation and internal quotation marks omitted). "In many instances a finding of undue influence rests largely on circumstantial evidence, since direct evidence of such influence is often difficult to establish." *Maimonides School v. Coles*, 71 Mass. App. Ct. 240, 256 (2008) (citation and internal quotation marks omitted). Nevertheless, "[m]ere suspicion, surmise or conjecture are not enough to warrant a finding of undue influence. There must be a solid foundation of established facts upon which to rest an inference of its existence." *Neill*, 234 Mass. at 370. Conclusory statements will not suffice. *Ware v. Stanton*, 72 Mass. App. Ct. 1115, 2008 WL 4130956, at \*2 (2008) (unpublished



disposition under Rule 1:28); *Knight v. Plouffe*, 56 Mass. App. Ct. 1101, 2002 WL 31119073, at \*1 (2002) (unpublished disposition under former Rule 1:28).

In this case, Ms. Mobilia’s claim of undue influence is based entirely upon an affidavit by Lisa Sherman. This affidavit does not establish that Ms. Enzian’s April 2, 2021 beneficiary selection was the product of undue influence.

With respect to the first consideration identified in the case law, an unnatural disposition, I assign no weight to the affidavit’s conclusory assertion that it “was very unnatural that Julie Enzian would have changed her beneficiary to Jeffrey Prada.” The remaining averments bearing on the disposition can be summarized as follows:

- Mr. Prada and Ms. Enzian were not boyfriend and girlfriend, did not spend holidays together, and rarely saw one another the year Ms. Enzian lived with Ms. Sherman;
- When Ms. Enzian became sick, Mr. Prada did not ask her to move in with him;
- Mr. Prada never came to see Ms. Enzian until he was told she was terminally ill;
- Mr. Prada asked her to move in with him weeks before her death, when she became extremely sick. They had never spent a night together before she moved in with him; and
- Mr. Prada asked Ms. Enzian to marry him a couple of weeks before her death. (Ex. P4).<sup>3</sup>

The fact that Ms. Enzian named a friend (platonic or otherwise) rather than a relative or her estate as the beneficiary does not, itself, render the disposition unnatural.

*Heinrich v. Silvernail*, 23 Mass. App. Ct. 218, 224 (1986). Moreover, although the

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<sup>3</sup> This is a summary of what the affidavit states, not what I have found. My findings are recited in the Findings of Fact section above.

affidavit appears designed to depict Ms. Enzian's and Mr. Prada's cohabitation and Mr. Prada's proposal as abrupt and shocking, it omits critical information, such as how Mr. Prada and Ms. Enzian knew each other, their relationship (romantic or otherwise) prior to Ms. Enzian falling ill, and what Ms. Enzian may have said to Ms. Sherman about how *she* viewed her relationship with Mr. Prada.

As for susceptibility to undue influence, there are many factors that may tend to make an individual vulnerable to the domination of another. For example, advanced age – when coupled with other circumstances, such as a rudimentary education or profound dependency on the person exerting the undue influence – is a common factor. *Estate of Sharis*, 83 Mass. App. Ct. 839, 844 (2013) (observing that testator's "advanced age, lack of familiarity with wills, and seventh grade education, coupled with [will beneficiary's] nearly complete control of her finances, among other factors, permit the inference that she was susceptible to his influence"); *Heinrich v. Silvernail*, 23 Mass. App. Ct. 218, 223 (1986) (noting that decedent was susceptible to undue influence based on his age, weakened physical condition, and total dependency on others). Another circumstance suggesting susceptibility is isolation from loved ones who could stand in the way of an attempt to exert undue influence. *Hernon v. Hernon*, 74 Mass. App. Ct. 492, 497 (2015).

Here, Ms. Enzian was only forty-four when she died. She was a college-educated mental health professional. Neither her age, level of education, or background would suggest a vulnerability to undue influence. Moreover, although the affidavit implies that Ms. Enzian was to some extent dependent on others for a place to live, it does not indicate a unique dependence on Mr. Prada, specifically, or that he exercised control over

her affairs. Nor does it suggest that Mr. Prada restricted her communications or relationships with friends and family.

Ms. Mobilia's theory appears to be that Ms. Enzian was susceptible because she was terminally ill when she changed her beneficiary designation. Ms. Sherman writes: "She was very sick at the time and was extremely vulnerable" and "A few weeks before her death she was extremely sick. She was extremely susceptible to undue influence, to the advantage of Jeffrey Prada." These conclusory remarks do not establish susceptibility. The affidavit does not describe Ms. Enzian's illness, let alone indicate how it rendered her vulnerable to domination by Mr. Prada.

Turning to the final two considerations, the affidavit perhaps provides sufficient detail to establish Mr. Prada's opportunity to exercise undue influence over Ms. Enzian. But it falls short with respect to evidence that such influence was, in fact, exercised.

I disregard the affidavit's conclusory remarks about Mr. Prada's conduct and intentions.<sup>4</sup> More probative is Ms. Sherman's statement that Ms. Enzian told her that "on numerous occasions [Mr. Prada] asked her to give him her money" and that Ms. Sherman "witnessed Jeffrey Prada asking Julie Enzian to give him her money." *See Erb v. Lee*, 13 Mass. App. Ct. 120, 125 (1982) (noting that will beneficiary's "harassing requests for money and property" were, among other circumstances, evidence of undue influence). What these threadbare statements omit, however, is any account of the circumstances and manner of Mr. Prada's requests or what Ms. Enzian thought about them. The affidavit

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<sup>4</sup> These conclusory assertions include: "He was playing the game to get her money" and "I believe he was trying to build a façade that they were close so he could get her money." (Ex. P4).

does not establish the sort of “unceasing importunity,” *Emery v. Emery*, 222 Mass. 439, 441 (1916), that might support a finding of undue influence.

All told, the affidavit omits critical information and, with respect to some topics, such as the history and nature of Ms. Enzian’s and Mr. Prada’s relationship, gives rise to more questions than it answers. Many of its assertions are wholly conclusory, and even with respect to its non-conclusory assertions, I find it difficult to assay the basis of Ms. Sherman’s knowledge or gauge the reliability of her statements.

Based on the record before me, I cannot say that Ms. Enzian’s beneficiary selection was the product of undue influence.

For the foregoing reasons, the Board’s decision is AFFIRMED.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

*/s/ Timothy M. Pomarole*

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Timothy M. Pomarole  
Administrative Magistrate

### **Appendix – Exhibit List**

#### **Respondent’s Exhibits**

1. Petitioner’s appeal letter
2. April 27, 2022 letter to the Board from Attorney Thomas V. Sannicandro.
3. May 28, 2021 letter to Jeffrey Prada and Barbara Mobilia from the Board.
4. Retirement option selection form designating Jeffrey Prada as Option B beneficiary
5. Death Certificate
6. Retirement option selection form selecting Option A
7. October 29, 2020 and December 18, 2020 letters approving application for Non-Veteran Ordinary Disability (Voluntary) Retirement.

Petitioner's Exhibits

1. Appointment of Personal Representative.
2. November 22, 2022 letter to Attorney Thomas V. Sannicandro from the Board.
3. May 19, 2022 letter to the Board to Attorney Thomas V. Sannicandro.
4. Affidavit of Lisa Sherman.