

ESTATE OF JAMES E. FLANAGAN SR.

Submitted on Briefs November 16, 2006
Decided December 7, 2006

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS, and
LEVY, JJ.

MEMORANDUM OF DECISION

Nancy Gerald appeals from a judgment entered in the Penobscot County Probate Court (*Woodcock, J.*) denying her petition to compel an accounting and to remove James E. Flanagan Jr. as co-personal representative of the Estate of James E. Flanagan Sr. Contrary to Gerald's contentions, the court did not commit legal error in concluding that James E. Flanagan Sr. cancelled three promissory notes issued by James E. Flanagan Jr. that were subject to the Uniform Commercial Code, 11 M.R.S.A. § 3-605(1) (1964). *See Estate of Calden*, 1998 ME 140, ¶ 5, 712 A.2d 522, 523 (reviewing statutory interpretation for legal error). Furthermore, we reject Gerald's contention that the cancellation of the promissory notes was prospective

only. *See, e.g., Burchett v. Stephens*, 794 S.W.2d 745, 751 (Tenn. Ct. App. 1990) (holding that cancelled promissory note could not be legally enforced as a debt when “the ‘debt’ and the note were one and the same”). Finally, the court did not abuse its discretion in not removing James E. Flanagan Jr. as co-personal representative of the estate. *See Estate of Voignier*, 609 A.2d 704, 707 (Me. 1992).

The entry is:

Judgment affirmed.

Attorney for appellant:

Bruce C. Mallonee, Esq.
Rudman & Winchell
P.O. Box 1401
Bangor, ME 04402-1401

Attorney for appellee:

Kevin M. Cuddy, Esq.
Cuddy & Lanham
470 Evergreen Woods
Bangor, ME 04401