

**IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI
PROBATE DIVISION**

**LARRY D. HARMAN
JUDGE**

**MEMORANDUM TO GUARDIANS AND CONSERVATORS
AS TO THEIR DUTIES AND RESPONSIBILITIES**

You have been appointed Guardian of a Ward and/or Conservator of a Ward. Thank you for agreeing to serve.

When you qualify for such an office, you become an officer of the Court and assume certain duties and obligations. This memo is intended to give you general information regarding your duties.

The law does not allow Court personnel to give specific legal advice to you. **YOU ARE GENERALLY REQUIRED TO HAVE AN ATTORNEY REPRESENT YOU.** Forms are provided free of charge to help you or your attorney with certain filing requirements. Your attorney is best qualified to advise you regarding these matters but, hopefully this memo will help you understand some of the requirements placed upon you by the law.

An applicant seeking the appointment of a guardian only, may file and appear without counsel, but it is strongly encouraged that the applicant be represented by an attorney. After a judgment is entered creating a guardianship only, representation by an attorney is optional, but strongly encouraged.

IF YOU HAVE BEEN APPOINTED GUARDIAN OF AN INCAPACITATED PERSON

1. As Guardian of an incapacitated person, you must act in the best interest of the Ward. If you have been appointed **limited Guardian** of an incapacitated person, you have the powers and duties as enumerated by the Court's order.
2. If you are a **full Guardian** you should take charge of the person of the ward and provide for the Ward's care, treatment, habilitation, education, support and maintenance. Your powers and duties include but, are not limited to the followings:
 - a. Assure that the Ward resides in the best and least restrictive setting reasonably available;
 - b. Assure that the Ward receives medical care and other services that are needed;
 - c. Promote and protect the care, comfort, safety, health and welfare of the Ward and;
 - d. Provide required consents on behalf of the Ward, exercise all powers and discharge all duties necessary or proper for the benefit of the ward.
3. You are not obligated, by virtue of this appointment, to use your own financial resources for the support of the adult Ward.
4. As Guardian, you **DO NOT** have the authority to seek admission of the Ward to a mental health or mental retardation facility for **more than thirty (30) days** without **FIRST** obtaining a **Court order**.
5. Each year you are obligated to file a report on the personal status of the Ward. This report will include:
 - a. The present address of the Ward;
 - b. Your present address and the address of any other Guardian or Conservators for this Ward;
 - c. The number of times you have had contact with the Ward, the nature of such contacts and the date you last saw the Ward;
 - d. If the Ward is institutionalized, a statement as to whether or not you have been provided a treatment or habilitation plan and, the purpose;
 - e. The date the Ward was last seen by a physician and the purpose;
 - f. Any changes in the physical or mental condition of the Ward that you have observed and;
 - g. Your opinion as to the adequacy of the present care of the Ward.

Please use the Annual Status Report Form provided by this Court for this requirement.

IF YOU HAVE BEEN APPOINTED A GUARDIAN OF A MINOR—

You have the custody and control of the Ward and shall provide for your Ward's education, support and maintenance. You may have a duty to obtain a child support order against the parents. Consult with your attorney.

IF YOU HAVE BEEN APPOINTED CONSERVATOR OF THE ESTATE OF A DISABLED PERSON OR A MINOR:

Any applicant proceeding with an action to create a conservatorship must be represented by an attorney, unless the applicant is an attorney. A conservator must be represented by an attorney for the duration of the conservatorship estate, unless the estate is placed on "No Further Process" status. Conservators are advised that a final settlement is required at the closing of the estate. The statutory requirement for vouchers remains in place for the entire period of administration.

1. Within thirty (30) days after your letters of Conservatorship have been granted, you must file with the Court an **INVENTORY** of all real and personal property owned by the Ward –your attorney will help you with this matter. Forms are provided for this purpose. The inventory should include property owned jointly by the Ward and other persons and any property owned by the Ward even if located outside the State of Missouri. All income including social security, pension payment or, other benefits received by the Ward, should be listed on the inventory.

If interest has accrued after the date of adjudication and before the inventory is filed, the amount of interest accrued for each account can be shown on the first accounting.

Inventory values are established as of the date the Ward was adjudged disabled.

A joint account, which existed prior to the appointment of a conservator, should not be changed or altered without a prior Court order. It should be listed on the inventory exactly like it is titled.

If joint owner/s wants his/their share of the jointly owned property separated from the other assets in the Ward's estate, you will need an attorney to file the appropriate legal action. Joint funds usually are spent only after the Ward's solely owned funds are exhausted.

New investments in Mutual Funds, stocks and, shares of stock acquired through stock reinvestment plans are generally not allowable as investments. If you wish to continue such a reinvestment plan, you should notify your attorney and the Court. If no dividends or additional shares are received for a particular investment, but you believe that the investment is a good one and should be retained, your attorney should be consulted in order to get the appropriate Court orders.

You must protect houses and other buildings with fire insurance and winterize them in cold weather to avoid freezing of pipes, etc.

2. **You must keep the money and property of your Ward separate from you own and must never Co-mingle them with your own.** When you open a bank account for estate funds, the account should be in the name of the conservator, as "Conservator of the Estate of _____". Securities must be held in the same manner. If the Conservatorship includes more than one Ward, you should keep a separate account of what belongs to each Ward.

If your Conservatorship includes money from the Veterans Administration, you must also comply with the requirements of the Veterans Administration.

Investments of the Ward's funds can be made without a Court order in banks and saving and loans institutions to the extent that accounts should not exceed \$250,000.00 in one bank or bank network. No Court order is required for investment in direct obligations unconditionally guaranteed as to principal and interest by the United States (i.e. Treasure bills and notes, U.S. Savings bonds).

All cash accounts over \$1,000.00 should be in interest bearing accounts.

Funds may be invested only according to law. **Your attorney will advise you about legal investments. In no instance should you speculate with your Ward's funds or property. Losses incurred as a result of unauthorized investments may render you personally liable for the amount lost.**

3. As Conservator you must not expend the Ward's money until you have received permission of the Probate Division. As soon as possible after the opening of the estate, the Ward's expenses for the year should be determined and a petition to approve such expenditures, filed with the Court. Expenditures made without obtaining this permission may be disallowed as a credit when you file your accounting and may have to be repaid to the estate.
4. Complete and accurate records **MUST** be kept of all money, interest and, other assets **RECEIVED and DISBURSED** by you as Conservator. A daily ledger of all transaction is advised. You must not purchase items over \$100.00, without prior Court approval. One year after you have qualified as Conservator and annually thereafter, unless the Court otherwise orders, the law requires that you file a

settlement, (an accounting,) showing what assets you received as Conservator, the income earned during the year and expenditures. Income and expense items should be shown by date. Vouchers (i.e. *canceled check, receipt, etc.), for each expenditure, must be filed with the settlement. **DEBIT CARDS SHOULD NOT BE USED.** If a debit card has been used the court requires a bank statement along with a receipt for the debit purchase. The settlement ending balance must list all personal property with institution names and account numbers. Verifications by authorized persons of accounts and securities must also be filed with the settlement. The Court will furnish these forms.

Because proper vouchers are required to support expenditures of estate funds, it is important that you keep accurate records and bills, receipt, canceled checks, etc. A “**proper voucher**” is proof that the amount shown on the settlement was paid and that the expenditure was made on behalf of the Ward.

*When you set up your accounts at the bank, be sure and tell them the **court requires** copies of the front of checks.

5. You must obtain the Court’s permission to sell, lease, mortgage or invest the property of the Ward. These requests are made by petitioning the Court for authority.
6. A closing statement as to the sale of real estate or personal property must be filed no later than **ten (10) days** after the sale.
7. In the event your Ward dies, or you or your Ward move from one address to another, please notify the Court of this fact, in writing, as soon as possible.

Again, thank you for your willingness to serve and for your performance of these obligations. We do hope this memo is helpful to you. Specific questions should be directed to your attorney.

s/Larry D. Harman

Larry D. Harman, Judge
Probate Division, 816-407-3880
Clay County Circuit Court