

Roadmap for Conservator of Property (aka “Fiduciary Things to Know from the Get-Go”)

Your appointment as Conservator of Property becomes effective when (1) an Order Appointing Conservator is entered*; (2) you post the required Bond; (3) the Clerk administers the Fiduciary Oath. After the Oath is administered, the Clerk will issue to you your certified *Letters of Conservatorship*, the only effective evidence of your appointment.

Your “*Letters*” empower you to **immediately** marshal, manage and protect the Respondent’s assets. You are now officially a conservator tasked with (1) establishing a conservatorship checking account; (2) arranging for the Respondent’s Social Security, Pension, and any other Income to be deposited into the conservatorship checking account; and, (3) properly titling all the Respondent’s accounts.

Order Appointing Conservator

The Order should specify your fiduciary reporting requirements (i.e. Inventory, Property Management Plan, Accountings). The Order tells you what actions you are authorized to take for the benefit of the Respondent. The Order should also indicate that any and all POA’s or DPOA’s previously executed by the Respondent are revoked upon the entry of the Order Appointing Conservator.



Bond

The Order Appointing Conservator should specify the Bond amount or state that Bond is reserved pending a future review hearing. The Bond amount is determined by the fair market value of the Respondent’s personal property and projected income for one (1) year. A Freeze Agreement may be considered for certain assets to reduce the bond amount.



Fiduciary Oath

The Oath affirms that you will properly exercise your fiduciary duties, you will timely file each required report as determined in the Order, and, you will spend the Respondent’s money *only* as approved by the Court in the Property Management Plan and *only* for the benefit of the Respondent.



****Accountings****

Pay particular attention to (1) your reporting period and reporting due date*; (2) bank/credit card statements and receipts must be included; (3) images or actual cancelled checks ARE REQUIRED; (4) the Respondent must be listed on the Certificate of Service; (5) if a Tax return is due, you must file all supporting forms, schedules and 1099’s. Please review the *Accounting Forms Packet* in detail.

* **IMPORTANT DATE**: Six (6) months from the date the Order was entered, your Interim Accounting is due. (30-day grace period) The date your Interim Accounting is due is the date your subsequent Annual Accounting is due. (60-day grace period) Costs are incurred if you fail to timely file your required reports.

TIPS FOR CONSERVATOR OF PROPERTY

A conservatorship checking account should be established immediately upon the issuance of your Letters.

Jointly owned accounts are prohibited because comingling of funds is not allowed.

Cash transactions, ATM withdrawals of cash, and cash payments to caregivers are not allowed unless specifically court approved. If certain cash transactions are approved by the Court, you are required to provide supporting documentation (receipts, statements) that clearly demonstrate that the expense was for the benefit of the Respondent and in the Respondent's best interest.

You must obtain Court approval to sell real property or other assets of the conservatorship estate.

Avoid using a credit union for a conservatorship checking account. Credit union statements usually do not include check copies and usually do not provide the necessary detail required for Court reporting purposes. Since check copies must be filed with accountings, you could have to pay a lot more.

Evaluate the Respondent's expenses for cost/benefit to the Respondent.

- Is it in the Respondent's best interest to pay life insurance policy premiums if the Respondent is not the beneficiary? Should the policy beneficiary pay the policy premiums?
- Is it in the Respondent's best interest - and for how long - should the fiduciary maintain a storage unit when the value of the contents is less than the total fees paid to date?

Unless there is evidence that the Respondent established a gift program prior to becoming a person with a disability, it is highly unlikely that you will be authorized to use the Respondent's money to gift to yourself or other family members.

You must obtain Court approval prior to paying any attorney fees, tax preparation fees, investment management fees or fiduciary compensation fees.

Here is the link to the OCM website: <https://officeofconservatorshipmanagement.nashville.gov/>.

The OCM Conservatorship School training is highly recommended for all conservators.

OCM Educational Videos 4 (accountings) and 5 (How to set up a conservatorship account) should greatly assist you in properly fulfilling your fiduciary duties. You may also click on "Resources" then select "Annual Accounting – Example Guide" to help you prepare your accounting.

Here is the link to the Probate Court Forms which contains *Accounting Forms Packet/Conservatorship: Interim/Annual Accounting* "Interim/Annual Conservatorship Accounting Instruction Sheet and Checklist" to help you prepare your accounting: <https://circuitclerk.nashville.gov/probate-forms/>

Here is the link to set up an account to efile: <https://efile.nashville.gov/>

Conservator = fiduciary = YOU

Respondent = person with a disability/incapacity