

In the matter of: _____

File # _____

INSTRUCTIONS TO CONSERVATORS
APPOINTED BY THE SAGINAW COUNTY PROBATE COURT

You have been appointed as a conservator by the Saginaw County Probate Court. This is a very important position that you have been appointed to which involves a high level of trust that you have assumed. You are asked to read the following carefully, and sign a copy and leave it with the Court, acknowledging that you understand your duties and are willing to comply with the Court's directives and the laws of the State of Michigan.

As conservator, you have broad powers to handle all assets held on behalf of the protected individual and to make payments from the assets for the health, benefit, and welfare of the protected individual. A list of specific powers that you may exercise without court authorization or confirmation unless the Court otherwise provides, is set forth in MCL 700.523(2). These powers include the following:

DUTIES & POWERS

1. To invest or reinvest funds in accordance with the Michigan Prudent Investor Rule.
2. To retain assets in which the conservator has a personal interest.
3. To exercise powers and duties relating to stock ownership.
4. To hold stock in the name of a nominee.
5. To continue and participate in the operation of the protected individual's business.
6. To open a bank account.
7. To acquire or lease real estate.
8. To repair, erect, or demolish real estate improvements
9. To purchase insurance
10. To borrow money to be repaid from estate property.
11. To pay or settle claims by or against the estate (but note – if you are to share in a settlement, a guardian ad litem must be appointed to represent the protected individual's interest and must consent to the settlement in writing on the record or else the Court must approve the settlement over any objections)
12. To employ professionals.
13. To respond to environmental concerns.

Your account may be restricted. This means that you cannot withdraw any funds or do anything without Court approval.

You may also petition the Court for instructions concerning your fiduciary responsibility and after notice and hearing; the Court may give instructions to you or make an appropriate order. You can also petition for authority to sell a protected individual's real property, which cannot be sold or otherwise disposed of without Court approval after a hearing with notice to interested persons.

INVENTORY

You must gather and secure all of the protected individual's assets and you must file an inventory with the Probate Court within 56 days after your appointment. The property that the protected individual owns jointly or in common with others must be listed on the inventory along with the type of ownership.

The name and addresses of all financial institutions must also be included on your inventory and the branch name you frequently utilize.

You should also include with the inventory a tax assessor record showing the current state equalized value for any real estate in the inventory. You must also include copies of bank statements, account statements, investment accounts, and stocks and bonds, showing the value of the assets at the time the inventory is filed. Vehicles must have a Kelly-Blue Book value attached or other reliable documentation.

A Court staff member will confirm that the property listed on the inventory matches that shown on the assessor's record and that the account balances shown on the inventory match the supporting documentation.

You must serve a copy of the inventory on all interested persons and file a proof of service with the Court. The interested persons are the protected individual, if he/she is 14 years of age or older, a protected individual's presumptive heirs and claimants.

You are to include a current list of all interested parties on an annual basis.

ANNUAL ACCOUNTINGS

You are required to file an annual account of all receipts and disbursements from a conservatorship estate and Developmentally Disabled Estate 56 days after the end of the accounting period. You are to use either form PC 583 or PC 584, Account of Fiduciary, short form and long form respectively. The only substantive difference between the forms is that PC 584 contains a schedule on which to indicate gains and losses on the disposition of assets. Both forms provide a section for fiduciary and attorney fees separate from the actual account.

You are to file a copy of the corresponding financial statement or a verification of funds on deposit which must reflect the value of all liquid assets held by the financial institution dated within 30 days after the end of the accounting period.

The accounts will cover a fiscal year beginning with the date of the appointment of yourself, and that date is the date located on the Letters of Conservatorship that you are given on the day you were appointed. If this account is not filed within 56 days after the close of the accounting period, we will send you a Notice of Deficiency giving you 28 days in which to file the account. If you cannot file timely, you are entitled to two separate 28 day extensions not to exceed a total of 56 days before your powers may be suspended.

A copy of the account must be served on all interested persons and proof of service filed with the Court. The interested persons are the same as that for the inventory.

Saginaw County requires all accounts be allowed on an annual basis. The Petition to Allow Account must be filed using PC 585a. The matter then must be scheduled for a hearing before the Probate Judge and a notice of hearing must be served on all interested persons. A hearing is necessary even if a waiver and consent (PC 561) can be obtained from all interested persons, since the protected individual cannot provide a valid waiver and the conservator cannot waive and consent on the protected individual's behalf due to an inherent conflict of interest.

If no one objects to the account at the hearing, the Probate Court may enter the order allowing accounts

If an objection is filed, you are required to schedule a hearing.

All interested persons have a right to review all data to confirm the income and disbursements at a time and place convenient to them and the conservator and that they may object to all or part of the account. This means that you are required to keep receipts for all disbursements listed on an account.

COMPENSATION FOR SERVING AS A CONSERVATOR

As Conservator, you are entitled to reasonable compensation for services rendered to the protected individual in his/her fiduciary capacity.

If you are charging, you should submit a statement of the services rendered indicating the amount of time spent in performing his/her duties on behalf of the protected individual. A common method of determining an appropriate fee is to multiply the hours worked by a reasonable hourly rate. A reasonable hourly rate for conservatorship services is \$10 per hour. The Court may consider the relationship of the conservator to the protected individual, whether the conservator has an accounting degree that is being used in providing services or whether the conservator is a professional fiduciary such as an

attorney or a bank when setting an hourly rate. Attorneys that serve as conservators must separate the services rendered into two bills listing time spent on behalf of the protected individual on services requiring a specialized legal knowledge on one bill and time spent on the individual's affairs that could have also been performed by a lay person on another bill. The hourly rates for the two different bills will reflect the difference in the types of services performed.

If a fee is deemed excessive, the Court has the power to reduce the conservator and attorney fees that are determined to be excessive, particularly when compared to the total assets and income of the estate.

DELINQUENCY

If you fail to timely file your inventory and account, you will receive notices from the Court. These notices will consist of a show cause, which means you will be brought before the Court to explain why you are delinquent. You may also be suspended by the Court with or without notice. The Court may also appoint a successor conservator if you are consistently delinquent and receiving delinquent notices. The Court may also issue a bench warrant if you fail to show for the show cause or any conferences set up with the Court or Register.

As you can see, a great deal of trust has been placed in you by the Saginaw County Probate Court. A violation of this trust placed in you can result in severe sanctions. You have been asked to read the above, agree to follow the laws pertaining to conservators, and agree to act in a fiduciary capacity. You are now asked to sign this document, indicating that you have read, understood, and agree to comply with the duties placed upon you.

The Court looks forward to a good relationship with you during the time that you serve as conservator.

ATTESTATION

I, _____ (name of conservator) have read the above instructions to conservators as prepared by the Saginaw County Probate Court. I agree to comply with my fiduciary duties as conservator and faithfully comply with all requirements that have been imposed upon me by the Statutes of the State of Michigan and the Saginaw County Probate Court.

CONSERVATOR