

CHANCERY COURT OF RUTHERFORD COUNTY

**GUARDIANSHIP/CONSERVATORSHIP
HANDBOOK**

JOHN A. W. BRATCHER, CLERK AND MASTER
Revised: April 28, 2009

CHANCERY COURT OF RUTHERFORD COUNTY, TENNESSEE

“SO NOW YOU ARE A GUARDIAN OR CONSERVATOR”

INFORMATION FOR GUARDIANS AND CONSERVATORS:

To help you perform your guardianship or conservatorship duties properly, described below are the general duties and obligations of a guardian or conservator. This document is **not** intended to be an exhaustive list of possible requirements or situations that you might encounter. Please consult your attorney for details.

1. If you fail to meet your obligations as a guardian or conservator, under the law, you may be personally liable. If in doubt, **consult your attorney**.

2. Your appointment as a conservator or guardian becomes effective upon the entry of an order appointing you, and the administration of the statutory oath in addition to the posting of any required bond. The only effective evidence of your appointment are letters of guardianship or conservatorship duly issued by the Clerk and Master. (See T. C. A. §34-1-109).

3. Checking accounts, saving accounts, and certificates of deposit should be in your name as guardian or conservator for your ward (the person for whom you are guardian or conservator). All of your ward's funds must be kept separate and apart from your own.

4. Within sixty (60) days after your appointment as conservator or guardian, you must file a sworn inventory containing a list of the property of the minor or disabled person, together with the approximate fair market value of each property and a list of the source, amount, and frequency of each item of income, pension, social security benefits, or other revenue. If the required information was included in the petition but not separately stated as an inventory, the inventory shall repeat the information provided in the petition and add any later discovered property or income sources. Forms for completing the inventory are provided by the Clerk and Master's Office. (See T. C. A. § 34-1-110).

5. You must take possession of all of your ward's assets and determine which should be retained and which should be disposed of. The ward's funds should be invested to earn income, but may be invested only according to law. **Losses from unauthorized or imprudent investments may render you personally liable.** (See T. C. A. § 34-1-115).

6. As guardian or conservator, you may not spend the ward's money, even for the ward's benefit, without Court approval. This applies even if your ward is your child or another relative. Court approval may be on a continuing

basis allowing you to spend a budgeted sum each month. (See T. C. A. § 34-1-122).

7. Complete and accurate records must be kept of all money or other assets received and disbursed by you as guardian or conservator. A running list of receipts and expenses may be helpful. (See T. C. A. §34-1-111 and § 34-1-122).

8. Each year you will be required to file an accounting showing in detail all receipts and expenditures during the preceding year. Each item must be explained, and accountings must be accompanied by verifications of banks or depositories confirming the assets on hand. **Failure to timely file accountings could result in removal of a guardian or conservator.** The accounting must be provided within sixty (60) days after each anniversary date of your appointment or any other end of an accounting period selected by the fiduciary not to exceed twelve (12) months. See the guardian or conservator's accounting checklist for detailed accounting requirements. This is attached as Exhibit A. (See T. C. A. § 34-1-111).

9. Except in certain enumerated circumstances, you may not **sell, trade, lease, mortgage, transfer or discard your ward's property without Court approval,** even though the ward is your child or other relative. (See T. C. A. § 34-1-116).

10. In the event your ward dies or you or your ward move from one address to another, you have a duty to **notify the Court in writing of such death or new address, as soon as possible.** (See T. C. A. § 34-3-108).

11. If you are a guardian or conservator for more than one ward, be sure to keep separate accounts for each ward.

12. Bond premiums may be paid out of the estate. You may reduce the costs by placing excess funds in restricted deposits subject to withdrawal only on Court order, or at the Court's discretion. Bond arrangements must be reported to the Clerk and Master. (See T. C. A. § 34-1-108). Bonds are subject to increase or decrease after each year's accounting or at anytime upon order of this Court.

13. In certain cases when assets will not be needed for the ward's support, they may be restricted and no annual accounting may then be required until the guardianship or conservatorship is terminated. **Consult your attorney.** (See T. C. A. § 34-1-111).

14. If you are a guardian or conservator for an incompetent person, a most important duty will be to place your ward where he or she will receive care and treatment appropriate to his or her condition, and in the least restrictive environment. A Court order may be required. (See T. C. A. § 34-1-127).

15. You may use your ward's funds to pay for your attorney's services, in regard to the guardianship/conservatorship, after obtaining court approval. If your public ward has only very limited funds and/or receives public assistance (welfare), you may qualify for free legal aid.

16. Your compensation. You may receive reasonable compensation for your services as a guardian or conservator. However, the Court shall set the actual compensation to be paid and no compensation shall be paid without **prior** court approval. (See T. C. A. §34-1-112).

17. Payments by the conservator or guardian. The conservator or guardian is entitled to pay from the property of the minor or disabled person the costs of any required medical examination, the guardian ad litem fee, bond premium, court costs, attorney's fees, fees for income tax preparation and court accountings, investment management fees, taxes or governmental charges for which the minor or disabled person is obligated and such other expenses as the Court determines are necessary for the fiduciary. The fiduciary shall not pay any attorney's fee, guardian ad litem fee, fees for income tax preparation and court accountings or investment management fees until the amount of such fees is approved by the Court. (See T. C. A. §34-1-113).

18. Investments. A management plan must be approved by the Court. A conservator or guardian is limited in its investments to the investments permitted by law. **Consult your attorney.** All funds held by a fiduciary shall be invested within forty-five (45) days of receipt of the funds unless otherwise allowed by the Court. The proposed guardian or ward must present an outline of the proposed management plan for the ward's property prior to appointment. If the proposed property management plan cannot be presented at the appointment hearing, the conservator or guardian shall submit the proposed property management plan to the Court for approval before any property is invested. **Consult your attorney.** Court permission must be obtained before changing the nature of the conservator or guardian's investments. This does not mean if the change in the investment is of the same type such as changing from one certificate of deposit to another but changing the type of investment such as from a certificate of deposit to a savings bond. (See T. C. A. §34-1-115).

19. Once a guardian or conservator has been appointed, he or she serves until relieved by order of the Court. Death or the reaching of the majority by the ward **does not** automatically terminate the guardianship or conservatorship. **Consult your attorney.** (See T. C. A. §34-2-108 and §34-3-108).

NEW GUARDIANSHIP/CONSERVATORSHIP FORMS INDEX

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IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: CONSERVATORSHIP

OF

CASE NO. _____

IMA OLDPERSON, Respondent.

**PETITION FOR APPOINTMENT OF CONSERVATOR
T.C.A. § 34-3-104**

**TO THE HONORABLE CHANCELLOR OF THE CHANCERY COURT OF
RUTHERFORD COUNTY, TENNESSEE:**

Comes now the Petitioner, John Smith, and files this petition for the appointment of a conservator of Ima Oldperson, and would show to the Court as follows:

1. The name, date of birth, Social Security number, residence and mailing address of the Respondent is as follows:

Ima Oldperson
Date of Birth: June 14, 1910
Social Security No.: 411-70-0001
219 Chickasaw Road, Murfreesboro, Tennessee 37130

2. Upon information and belief, the Petitioner avers that the Respondent is a person who by reason of advanced age and/or mental infirmity is unable to manage her own affairs. Specifically, she has recently had a stroke and has the mental and physical problems more particularly described in the sworn medical examination report of her treating physician which is attached hereto.

3. The name, age, Social Security number, residence and mailing address, and relationship of the Petitioner is as follows:

John Smith
Age: 46
Social Security No.: 000-00-0000
5400 Walnut Grove Road, Murfreesboro, Tennessee 37130
The Petitioner is a child of the Respondent.

4. The Petitioner is seeking to have himself appointed Conservator of the Respondent. (In the event that the proposed Conservator and the Petitioner are not the same person, then the name, age, Social Security number, mailing address, and relationship of the proposed Conservator should be included in this paragraph. Also, the proposed Conservator should sign a statement acknowledging that he or she is aware of the petition filed and his or her willingness to serve as Conservator.)

5. The name, mailing address, and relationship of the closest relatives of the Respondent are as follows:

John Smith
5400 Walnut Grove Road
Murfreesboro, TN 37130

Richard Smith
123 Main Street
Greenville, MS 38101

Anne S. McDaniel
1518 State Street
Philadelphia, PA 19035

The Respondent has no living spouse or other relative of equal degree under the Tennessee law of intestate succession. (If one of the children of the Respondent is deceased, and has surviving children, then the surviving children,

even though minors, should be listed since they are included in the definition of “closest relatives of the Respondent” according to the Tennessee law of intestate succession.)

6. The Respondent is presently residing at her home located at 219 Chickasaw Road, Murfreesboro, Tennessee, 37130. The Respondent is 82 years of age, and has recently suffered a stroke which has left the right side of her body paralyzed. The stroke also adversely affected her mental capacity, and the Respondent does not have the requisite nor physical capacity to manage her day-to-day affairs. She presently requires 24-hour nursing care. (This would also be the portion in the petition to state that the Respondent is in a nursing home, if the facts so indicate.)

7. The Respondent’s treating physician is Dr. Walter Mathan, Baptist Memorial Hospital, Nashville, Tennessee. A copy of Dr. Mathan’s sworn medical examination report is attached to this petition and incorporated herein by reference. (If the Respondent has not been examined within ninety (90) days prior to the filing of the petition, or if she cannot be examined or refuses to be voluntarily examined, the Court shall order the Respondent to submit to an examination by a physician, who is identified in the petition as the Respondent’s physician, or where appropriate, a psychologist selected by the Court.)

A list of the assets of the Respondent is as follows:

A. 219 Chickasaw Road – Residence		
Murfreesboro, Tennessee		
Fair market value:	\$85,000	
Mortgage:	<u> -0- </u>	\$85,000.00

B. 339 Riverbluff Place – Rental Property Murfreesboro, Tennessee		
Fair market value:	\$125,000	
Mortgage:	<u>-50,000</u>	\$75,000.00
C. First Flag Bank		
Checking account #1234567		
Balance as of 10/31/09:		15,380.00
D. First Flag Bank		
Savings account #7654321		
Balance as of 10/31/09:		122,500.00
E. Certificate of Deposit #1234 with First Flag Bank issued 1/5/09 in the face of \$100,000.00, excluding accrued interest:		100,000.00
F. Smythe-Jones stock account #12-34-5678 valued as of 10/31/09:		234,560.00
G. Tangible personal property located within the home:		Value Unknown
H. 1995 Oldsmobile Cutlass, estimated value:		<u>3,500.00</u>
TOTAL:		\$635,940.00

8. A list of the source, amount, and frequency of Respondent's income is as follows:

A. Social Security monthly payment	\$	775.00
B. City of Murfreesboro Teachers' Pension Fund monthly payment		558.00
C. Monthly rental payment		875.00
D. Interest from bank accounts determined monthly		234.00

E. Dividends and interest from Smythe-Jones stock account determined monthly	<u>1,100.00</u>
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TOTAL:	\$3,542.00
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9. The list of the usual monthly expenses of the Respondent are as follows:

A. Light, gas, and water	\$ 260.00
B. Telephone	37.00
C. Food	300.00
D. Clothing and incidentals	100.00
E. Maintenance and upkeep on residence	100.00
F. Taxes and insurance on residence	300.00
G. Maintenance and upkeep in rental house (The insurance and taxes on the rental property are paid by the holder of the mortgage.)	150.00
H. Nursing and attendant care	1,000.00
I. Miscellaneous	<u>200.00</u>
TOTAL:	\$2,447.00

10. Before the Respondent had suffered her stroke, she was able to manage her own financial affairs and to pay the above expenses from her assets and income. Since her stroke, the Petitioner has had access to her bank accounts by virtue of joint ownership thereof, and he has paid for her monthly

expenses in this manner. However, the Petitioner does not have any authority to act on behalf of the Respondent with regard to her other assets.

11. Concerning the proposed property management plan, the Petitioner submits that he should be authorized to assume full and complete control, subject to Court approval and review, of all of the Respondent's assets and income. The Petitioner proposes that the Respondent continue to reside in her residence as long as her assets can afford to keep her there and as long as such circumstances are in her best interest. The rental property, in the opinion of the Petitioner, is a good investment and should be continued. The Petitioner proposes that the 1995 Oldsmobile Cutlass automobile be sold at a private auction because the Respondent will have no further use for it. The Petitioner suggests that the interest income presently earned by the Respondent in her bank accounts is not competitive with other investments which could be made pursuant to the Tennessee Prudent Man Rule, T. C. A. §35-3-101, et. seq. Therefore, the Petitioner proposes that approximately seventy-five percent (75%) of the available cash of the Respondent be turned over to Smythe-Jones & Co., Inc., the Respondent's investment advisor, and be invested in the type of investments the Respondent has chosen and which would generate her approximately eight percent (8%) per annum. A list of the Respondent's investments through Smythe-Jones & Co., Inc., are attached to this petition and incorporated herein by reference. Such investments comply with the standards set out in T. C. A. §35-3-101. (If the assets of the Respondent are varied, it may be wise to have the Respondent's investment counselor reduce to writing a

proposed property management plan for all of the assets, and present that plan to the Court for approval.)

WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:

1. That proper notice and process be served upon the Respondent, Ima Oldperson, in accordance with T. C. A. §34-1-108, and that notice by certified mail with return receipt requested be given to the closest relatives named in this Petition and to any other person having care and custody of the Respondent or with whom the Respondent is living, in accordance with T. C. A. §34-1-106;

2. That this Court appoint a Guardian Ad Litem to represent the interest of the Respondent; pursuant to T.C.A. § 34-1-107;

3. That at a hearing of this cause, the Court appoint the Petitioner as Conservator of the person and property of the Respondent, Ima Oldperson, upon furnishing bond in the amount of \$ _____; pursuant to T. C. A. § 34-1-105;

4. That this Court approve the property management plan and authorize the Petitioner to expend such funds from the Respondent's assets and income as may be appropriate under the circumstances; pursuant to T. C. A. §§ 34-1-110 and 34-1-115;

5. That the Petitioner have such other and further general relief to which he may be entitled.

JOHN SMITH

ATTORNEY FOR JOHN SMITH

1006 Exchange Building
Murfreesboro, TN 37130
#37181
(615) 899-3000

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I, John Smith, state under oath that the facts set out in the foregoing petition are true to the best of my knowledge, information and belief.

JOHN SMITH

SWORN TO AND SUBSCRIBED before me this the ____ day of

_____, 2009.

NOTARY PUBLIC

My commission Expires:

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: CONSERVATORSHIP

OF

CASE NO. _____

IMA OLDPERSON, Respondent.

**AFFIDAVIT OF PHYSICIAN
T.C.A. § 34-3-105**

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I, the undersigned physician, state under oath as follows:

1. I am a duly licensed and practicing physician engaged in the active practice of medicine in Rutherford County, Tennessee.

2. I am personally familiar with the medical history and current condition of Ima Oldperson, and have personally examined her within ninety (90) days hereof. Her history, current condition, and a summary of her disability is explained more fully in the medical report which was prepared under my supervision and which is attached to this affidavit and incorporated herein by reference.

3. I am of the opinion that Ima Oldperson is a disabled person and is unable to manage her personal and financial affairs. I recommend that a conservator be appointed for those purposes.

This the ____ day of _____, 2009.

WALTER MATHAN, M. D.

SWORN TO AND SUBSCRIBED before me this the _____ day of
_____, 2009.

NOTARY PUBLIC

My commission expires:

NOTE: T. C. A. §34-3-105 says that the affidavit may be signed by a “physician or psychologist.”

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: CONSERVATORSHIP

OF

CASE NO. _____

IMA OLDPERSON, Respondent.

ORDER APPOINTING GUARDIAN AD LITEM

This cause came on to be heard upon the sworn petition of John Smith, Petitioner, filed herein for the appointment of a Conservator of Ima Oldperson; upon affidavit of physician filed in this cause; upon statement of counsel representing the Petitioner; and upon the entire record of this cause.

From all of which it appears to the Court that a Guardian Ad Litem should be appointed to represent Ima Oldperson, the Respondent herein, whose Social Security number is 000-00-0000.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That Alan Cardozo, a lawyer licensed to practice in the State of Tennessee, be and is hereby appointed Guardian Ad Litem to represent Ima Oldperson in this cause;

2. That the said Guardian Ad Litem be and is hereby granted access to the records of Ima Oldperson in any financial institution and to review any medical records pertaining to Ima Oldperson; and that the Guardian Ad Litem shall be permitted to discuss the Respondent's physical and mental condition with any physician, psychologist, or other health care provider who may have pertinent information; and

3. That the Guardian Ad Litem owes a duty to the Court to impartially investigate to determine the facts and report the facts to the Court. The Guardian Ad Litem is not an advocate for the Respondent, but has a duty to determine what is best for the Respondent's welfare.

CHANCELLOR

APPROVED:

Attorney for Petitioner

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN THE MATTER OF:

CASE NO. _____

RESPONDENT.

**NOTICE OF HEARING
T.C.A. §§ 34-1-108 & 34-3-106**

TO: _____

SERVICE: _____

ADDRESS: _____

You are notified that a Petition has been filed, a copy of which is attached, in which it is alleged that you are incapable of caring for yourself, disabled from managing your property, or both. The Petition seeks the appointment of a Conservator for your person or property or both. The Court, being satisfied that there may be good cause for the exercise of jurisdiction as to the matters alleged in the Petition, has set a hearing on _____ at _____ o'clock _____m. In the Courtroom of the Honorable _____, of this Court at Room 302, Judicial Building, Murfreesboro, Tennessee. The Court may appoint a Guardian Ad Litem to investigate these matters and make a report to the Court. The Guardian Ad Litem is charged with asserting your best

interests and making recommendations, consistent with law, as to what action should be taken in your best interests.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Court at my office on _____, 2009.

John Bratcher, Clerk and Master

BY: _____ D.C.

IMPORTANT

A list of your rights in connection with the above described hearing is printed on the reverse side of this Notice.

RETURN ON SERVICE OF SUMMONS

I hereby certify and return, that on the _____ day of _____, 20____, I served this summons together with the complaint herein as follows: _____

_____.

SHERIFF/DEPUTY SHERIFF

Tennessee Code Annotated 34-3-106

THE RESPONDENT HAS THE RIGHT TO:

- (1) On demand by Respondent or the Guardian Ad Litem, a hearing on the issue of disability;
- (2) Present evidence and confront and cross-examine witnesses;
- (3) Appeal the final decision on the Petition;
- (4) Attend any hearing; and
- (5) Have an Attorney Ad Litem appointed to advocate the interests of the Respondent.

*** The above Notice should appear on the reverse side of or attached to the Notice of Hearing; T.C.A. § 34-1-108.**

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

IN THE MATTER OF:

_____ **CASE NO.** _____
RESPONDENT.

NOTICE OF HEARING
(To next of kin or those having caregiver status)
T.C.A. §§ 34-1-104 (2006 supp) & 34-1-106(b)

TO: _____

You are notified that a Petition has been filed, a copy of which is attached, that seeks the appointment of a Conservator for the person or property or both for the above named Respondent.

The Court, being satisfied that there may be good cause for the exercise of jurisdiction as to the matters alleged in the Petition, has set a hearing on _____, at _____ o'clock _____ m., in the courtroom of the Honorable _____, Judge of this Court, at Room 302, Judicial Building, Murfreesboro, Tennessee.

You may be present at the hearing and give testimony in this matter, if you so desire.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Court at my office on _____, 20_____.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

DEPUTY CLERK

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing NOTICE and PETITION has been sent by certified mail, return receipt requested, to

on this the _____ day of _____, 20_____.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

DEPUTY CLERK

**T.C.A. § 34-1-106
see T.C.A. §§ 34-3-103 & 34-3-104**

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: CONSERVATORSHIP

OF

CASE NO. _____

IMA OLDPERSON, Respondent.

**REPORT OF GUARDIAN AD LITEM
T.C.A. § 34-1-107(f)**

MAY IT PLEASE THE COURT:

Comes now Alan Cardozo, and would respectfully show to the Court as follows:

1. The Guardian Ad Litem was appointed by this Court on the _____ day of _____, 20____, to represent Ima Oldperson, as a result of the petition filed herein by John Smith seeking to be appointed conservator of the person and estate of Ima Oldperson.

2. I hereby verify that the said Respondent, closest relatives of the Respondent, and each other person required by statute to be served or notified was in fact served or notified of the pendency of the petition herein.

3. I have consulted with the Respondent in person, and I have explained to her the substance of the petition filed herein, the nature of the proceedings, her right to protest the petition, the identity of the proposed Conservator, and her particular rights set forth in T. C. A. §34-3-106. I am of the opinion that she does (or does not) understand the nature and importance of this proceeding.

4. As a result of the investigation which I have made, I am of the opinion that the Respondent does not want to contest the need for a conservator, nor does she object to the appointment of the Conservator proposed in the petition filed herein. (If the Respondent wants to contest the need of the Conservator, this is the appropriate point at which to make such opposition known. If the Respondent contests any portion of the proceeding, and if the Guardian Ad Litem is of the opinion that a fiduciary should be appointed, the Guardian Ad Litem should encourage the Respondent to obtain adversary counsel in the Report, or if there is none, request the appointment of an Attorney Ad Litem.)

5. The Guardian Ad Litem has investigated the nature and extent of the Respondent's property, the financial capabilities of the proposed fiduciary, and the proposed property management plan. The Guardian Ad Litem is of the opinion that the proposed management plan should be adopted. (If the Guardian Ad Litem is not of that opinion, then the Guardian Ad Litem should indicate what changes should be considered.)

6. In addition to the financial information contained in the petition, the Guardian Ad Litem believes that it is appropriate to bring to the Court's attention the following:

(Insert here any assets, income, or necessary expenses of the Respondent which the Petitioner did not include in the Original Petition.)

7. The Guardian Ad Litem further recommends that the Court authorize the Conservator to expend from the income and/or principal of the Respondent the sum of \$_____ per month in addition to the reasonable costs of required medical care for the Respondent. (There will be circumstances or situations in which a ceiling may be required for medical care expenses. In other words, the Court may order that the Conservator is authorized to spend an amount up to \$_____ per year for the reasonable medical, dental, optical, and hospital needs of the Respondent. Further, keep in mind that T. C. A. §34-1-113, authorizes the fiduciary to pay from the property of the disabled person “the costs of any required medical examination, the Guardian Ad Litem fee, bond premium, Court costs, attorney’s fees, fees for income tax preparation, Court accountings, investment management fees, taxes, or governmental charges for which the disabled person is obligated, and such other expenses as the Court determines are necessary for the fiduciary. The fiduciary shall not pay any attorney fee, Guardian Ad Litem fee, fees for income tax preparation, Court accountings, or investment management fees until the amount of such fees is approved by the Court.” Therefore, the fiduciary is still prohibited from paying many of these expenses without first obtaining leave of Court. (Although it can be allowed, it is not good practice to go ahead and incur the expenses, pay the expenses, and then ask the Court to ratify the unauthorized expenses.)

RECOMMENDATION: In summary, the Guardian Ad Litem recommends to the Court that the Respondent, Ima Oldperson, is in need of a Conservator,

and that the Petitioner is a fit and proper person to so serve. Further, it is recommended that the proposed property management plan be adopted and that the monthly encroachment set out above be authorized.

Respectfully submitted,

Alan Cardozo
Guardian Ad Litem

CERTIFICATE OF SERVICE

I, Alan Cardozo, Guardian Ad Litem, certify that I have mailed a copy of the foregoing to the attorney of record for the Petitioner, John Smith, on this the _____ day of _____, 20_____.

Alan Cardozo

IN THE CHANCERY COURT IN RUTHERFORD COUNTY, TENNESSEE

IN RE: CONSERVATORSHIP

OF

CASE NO. _____

IMA OLDPERSON, Respondent.

**ORDER APPOINTING CONSERVATOR
T.C.A. §§ 34-3-107 & 34-1-129**

This cause came on to be heard upon the sworn Petition of John Smith, the report of the Guardian Ad Litem, the medical report of (Name of Physician or Psychologist), the sworn testimony of the Petitioner and the Guardian Ad Litem on (Date) and representations of counsel, the Court finds the following:

- A. The Respondent has been properly served.
- B. All persons entitled to notice of this proceeding have been properly notified.
- C. The Respondent is a resident of Rutherford County, Tennessee.
- D. The Guardian Ad Litem has filed a report recommending appointment of a Fiduciary for the person and property of the respondent; appointment of the proposed Fiduciary and approval of the Property Management Plan.
- E. The Respondent is a disabled person; owns property requiring supervision; and should have a conservator appointed.
- F. The proposed Fiduciary is a fit and proper person to be named conservator of the person and property of the Respondent.

G. The Property Management Plan proposed by the Fiduciary is acceptable and should be adopted.

(Optional: Add the following if the Court determines bond should be waived.)

H. It is in the best interests of the Respondent that bond for the Fiduciary be waived because (state the reason).

Based on these findings, the Court Orders that:

1. On making the required bond, John Smith is appointed Conservator of the person and property of Ima Oldperson, the Respondent, and Letters of Conservatorship shall be issued to evidence this appointment by the Clerk of the Court.

2. Bond is set in the penal sum of \$_____ (or bond is waived.)

3. The rights of the Respondent to be transferred to the Conservator are as follows:

(List all rights being transferred)

4. The Fiduciary is authorized to invest the Respondent's assets as described in and pay the expenses enumerated in the Property Management Plan which is incorporated by reference herein.

5. The Fiduciary shall not spend the Respondent's assets or income for any purpose not enumerated in the Property Management Plan, shall not sell any asset of the Respondent without prior Court approval and shall not change

the investment of the Respondent's assets without prior Court approval except to the extent described in the approved Property Management Plan.

6. The fee of the Guardian Ad Litem is set at \$_____.

7. The fee of the attorney(s) for the Petitioner is set at \$_____.

8. The fees of the Guardian Ad Litem and attorney(s) together with the cost of these proceedings shall be paid from the assets of the Respondent.

9. The costs of this cause should be taxed to the estate for which execution may issue if necessary.

(Add additional provisions as may be needed to deal with specific circumstances of the Respondent.)

Entered this the _____ day of _____, 20_____.

CHANCELLOR/JUDGE

APPROVED FOR ENTRY:

Attorney for John Smith
1006 Exchange Building
Murfreesboro, TN 37130

Guardian Ad Litem

Address
Phone Number

LETTERS OF CONSERVATORSHIP
T.C.A. § 34-1-109

STATE OF TENNESSEE
COUNTY OF RUTHERFORD

To JOHN SMITH of RUTHERFORD County:
To ALAN CARDOZO of RUTHERFORD County:

It appearing to the Court that **JOHN SMITH IS APPOINTED AS CONSERVATOR OF THE PROPERTY OF IMA OLDPERSON AND ALAN CARDOZO IS APPOINTED AS CONSERVATOR OF THE PERSON OF IMA OLDPERSON**, and the Court being satisfied as to your right to the conservatorship of said person, and property, both real and personal, and you having given bond and qualified as directed by law, and the Court having ordered that Letters of Conservatorship be issued to you.

You are therefore, authorized to take into your possession, for the use and benefit of said ward, the profits of the lands, tenements, and hereditaments belonging to said **IMA OLDPERSON** and also the goods, chattels, and other personal estate of the said person; to bring such suits or actions in relation thereto as may be deemed necessary; to exhibit annually an account of the income and expenditures thereof; to return a new inventory of property of said ward each year, within sixty (60) days of the date of the Order establishing conservatorship, and to renew your bond annually, and to faithfully perform all the duties required of you by law in relation to said conservatorship; and upon the order of the Court, when required to make final accounting thereof, to deliver and pay to the person lawfully authorized to receive the same, the residue of said estate, including the profits arising therefrom, and further to spend the assets of the ward only as approved by order of the Court, herein fail not;

Witness, **JOHN A. W. BRATCHER**, Clerk and Master, at office, this the _____ day of _____, 20_____.

JOHN A. W. BRATCHER
CLERK AND MASTER

by **DEPUTY CLERK**

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I do solemnly swear that I will timely file each required inventory and accounting, spend the assets of **IMA OLDPERSON** only as approved by the Court, and honestly and faithfully carry out all of the duties of conservator of **IMA OLDPERSON**, to the best of my ability.

John Smith

Subscribed and sworn to before me this the _____ day of _____, 20_____.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

DEPUTY CLERK

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I, **JOHN A. W. BRATCHER**, Clerk and Master of said County, do hereby certify that the foregoing is a full, true and perfect copy of **LETTERS OF CONSERVATORSHIP**, issued to **JOHN SMITH**, Conservator of **IMA OLDPERSON**. And that the said **JOHN SMITH** is now the duly qualified and acting Conservator of said person.

Witness my hand and official seal, at this office, this the _____ day of _____, 20_____.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

DEPUTY CLERK

LETTERS OF CO-CONSERVATORSHIP

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

IN RE: IMA OLDPERSON

CASE NO.: XX-XXXXCO

**TO: JOHN EDWARD DOE and
JANE ILA DOE
RUTHERFORD COUNTY, TENNESSEE**

It appearing to the Court that **JOHN EDWARD DOE and JANE ILA DOE**, are appointed as Co-Conservators of the person of **IMA OLDPERSON**, and the Court being satisfied as to your right to the co-conservatorship of said person, and you having qualified as directed by law, and the Court having ordered that Letters of Co-Conservatorship be issued to you; you are, therefore, authorized pursuant to statute to exercise the following rights of the Ward, **IMA OLDPERSON**: ALL RIGHTS OF THE respondent to make personal and medical decisions are removed from the Respondent and transferred to the Co-Conservators. Such rights removed and transferred to the Co-Conservators include, without limitation, the Respondent's right to give or refuse consent to medical and mental examinations, treatment, and hospitalization, and to make any other decisions affecting the person of the Respondent. Among the rights of the Co-Conservators are, without limitation, the right to receive and review medical records and charts of the Respondent. The authority granted to the Co-Conservators applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Co-Conservators are authorized to obtain from any physician, health care professional, dentist, health plan, hospital, clinic, laboratory, pharmacy or other covered health care provider, any insurance company and the Medical Information Bureau, Inc., TennCare, or other health care clearing house that has provided treatment or services to the Respondent or that has paid or is seeking payment from the Co-Conservators for such services, all individually identifiable health information and medical records regarding the past, present, or future medical or mental health condition of the Respondent; all rights of the Respondent related to management of her property are also removed from the Respondent and transferred to the Co-Conservators. Such rights removed and transferred to the Co-Conservators include, without limitation, the Respondent's right to dispose of property without Court approval if under \$1,000.00 in value or an automobile or with Court approval of over \$1,000.00 in value, execute instruments, make purchases, and

enter into contractual relationships pursuant to statute and Orders of the Court. The Co-Conservators are authorized to obtain any financial information, including bank records in the name or maintained on behalf of the Respondent, life insurance policies and information pertaining thereto, or access to any other financial records or documents necessary to make decisions on behalf of the Respondent;

You are to perform all the duties required of you by law in relation to said co-conservatorship including the filing of an annual accounting. Inventory. and status report; the filing of a property management plan within thirty (30) days; the posting of a \$100,000.00 bond; the filing of a final accounting when the conservatorship is terminated pursuant to statute, and to deliver and pay to the person lawfully authorized to receive the same, the residue of the said estate, including the profits arising therefrom, herein fail not.

WITNESS, JOHN A. W. BRATCHER, Clerk and Master, at office, this ____ day of _____ 20__.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

By: _____
JOHN A. W. BRATCHER

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I do solemnly swear that I will timely file each required inventory and accounting, spend the assets of **IMA OLDPERSON** only as approved by the Court, and honestly and faithfully carry out all of the duties of conservator of **IMA OLDPERSON**, to the best of my ability.

JOHN EDWARD DOE

Sworn to and subscribed before me,
This the ____ day of _____ 20__.

JOHN A. W. BRATCHER, Clerk and Master

By: _____
JOHN A. W. BRATCHER

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I do solemnly swear that I will timely file each required inventory and accounting, spend the assets of **IMA OLDPERSON** only as approved by the Court, and honestly and faithfully carry out all of the duties of conservator of **IMA OLDPERSON**, to the best of my ability.

JANE ILA DOE

Sworn to and subscribed before me,
This the ____ day of _____ 2007.

JOHN A. W. BRATCHER, Clerk and Master

By: _____
W. BRATCHER

JOHN A.

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I, **JOHN A. W. BRATCHER**, Clerk and Master of said County, do hereby certify that the foregoing is a full, true and perfect copy of **LETTERS OF CO-CONSERVATORSHIP** issued to **JOHN EDWARD DOE** and **JANE ILA DOE**, Co-Conservators of **IMA OLDPERSON**, and that **JOHN EDWARD DOE** and **JANE ILA DOE**, are now the duly qualified and acting Co-Conservators of said person.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

By: _____
JOHN A. W. BRATCHER

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

**IN THE MATTER OF THE
GUARDIANSHIP/CONSERVATORSHIP**

OF

CASE NO. _____

Minor/Disabled Person

Fiduciary

**INVENTORY
T.C.A. § 34-1-110**

The undersigned Guardian or Conservator, under oath, submits the following inventory of the estate of the minor or disabled person for whom I have been appointed:

1. The following is a list of the Property:

DESCRIPTION OF ASSET

FAIR MARKET VALUE

<u>DESCRIPTION OF ASSET</u>	<u>FAIR MARKET VALUE</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. The following is a list of the source, amount and frequency of each item of income, pension, social security benefit or other revenue of the minor or disabled person:

INVENTORY OF INCOME

SOURCE

AMOUNT

FREQUENCY

Guardian/Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: GUARDIANSHIP

OF

CASE NO. _____

WILLIAM SMITH, Minor

**PETITION FOR APPOINTMENT OF GUARDIAN
T.C.A. § 34-2-104**

**TO THE HONORABLE CHANCELLOR OF THE CHANCERY COURT OF
RUTHERFORD COUNTY, TENNESSEE:**

Comes now, the Petitioner, John Smith, and files this petition for the appointment of a Guardian of William Smith, minor, and would respectfully show to the Court as follows:

1. The name, date of birth, Social Security number, residence, and mailing address of the minor Respondent are as follows:

- (a) William Smith
- (b) June 17, 1990
- (c) 411-07-5432
- (d) Rutherford County, Tennessee
- (e) 1440 Madison Avenue, Murfreesboro, TN 37130

2. The name, age, Social Security number, residence, mailing address, and relationship of the Petitioner are as follows:

- (a) John Smith – 45 years old
- (b) 411-55-5555
- (c) Rutherford County, Tennessee
- (d) 1440 Madison Avenue, Murfreesboro, TN 37130
- (e) Petitioner is the father of the minor child

3. The Petitioner requests that he be appointed Guardian of the person and estate of the said minor Respondent. (If the proposed Guardian is different from

the Petitioner, the name, age, Social Security number, mailing address, and relationship of the proposed Guardian should be inserted here. Also, a statement signed by the proposed Guardian acknowledging awareness of the petition and willingness to serve should be attached to the petition. (See T. C. A. §34-2-104.)

4. The minor Respondent has no other living parent or siblings. (If applicable, the name, mailing address, and relationship of the closest relatives of the minor and the name and mailing address of the present custodian of the minor who should be notified of the proceedings would be included here.)

5. On September 15, 1992, Susan Smith, mother of the minor Respondent, died. The said Susan Smith had named the minor Respondent as primary beneficiary on her \$100,000.00 group insurance policy issued through her employer, First Flag Bank. Further, as a result of the death of Susan Smith, the minor Respondent is to receive \$533.00 per month from the Social Security Administration. The minor Respondent has no other real or personal assets.

6. The Petitioner requests that he be allowed to invest the insurance proceeds of \$100,000.00 in a 5-year certificate of deposit with First Flag Bank paying seven percent (7%) per annum. The Petitioner further requests that he be allowed to apply the entire Social Security payment to the needs of the minor Respondent, and that the Petitioner be relieved from accounting for such Social Security payments pursuant to T. C. A. §34-1-111.

7. The Petitioner proposes that he be allowed to enter into an agreement with First Flag Bank, which agreement will be filed with the Court, in which First Flag Bank agrees that it will not permit Petitioner to withdraw the principal without Court

approval. Therefore, pursuant to T. C. A. §34-1-105, the Petitioner requests that bond be waived.

WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:

1. That proper process issue and be served upon the Respondent, William Smith, pursuant to T. C. A. §34-1-106, and pursuant to Rule 4.04 of the Tennessee Rules of Civil Procedure;

2. That this court waive the appointment of a Guardian Ad Litem for William Smith, minor, because the Petitioner, John Smith, is the parent of William Smith, minor;

3. That at a hearing of this cause this Court appoint John Smith, Guardian of the person and property of William Smith, minor;

4. That bond be waived pursuant to T. C. A. §34-1-105;

5. That the proposed plan of management of the minor's property as set out in this petition be approved;

6. That the Petitioner as Guardian be allowed to apply the full amount of the Social Security income to the needs of William Smith, minor; and

7. That the Petitioner have such other and further general relief to which he may be entitled.

JOHN SMITH

APPROVED FOR ENTRY:

ARTHUR ALLEN
Attorney for Petitioner
130 North Court
Murfreesboro, TN 37130
(615) 523-2311

#781600

STATE OF TENNESSEE
COUNTY OF RUTHERFORD

I, John Smith, after having first been duly sworn, state that the foregoing facts and statements contained herein are true and correct to the best of my knowledge and belief.

JOHN SMITH

Sworn and subscribed to before me this the _____ day of _____, 20_____.

Notary Public

My Commission expires:

NOTE: T. C. A. §34-1-106 provides that the petition for the appointment of a fiduciary shall be served in accordance with the Tennessee Rules of Civil Procedure. Rule 4.04 requires that service upon an unmarried infant or an incompetent person shall be made by delivering a copy of the summons and complaint to his resident Guardian or parent, or if none, to the person having control of the individual.

T. C. A. §34-1-107 provides that if at least one of the Petitioners is not the parent of the minor for whom a Guardian is sought, or if the minor has not attained the age of fourteen (14) years, the Court shall appoint a Guardian Ad Litem. The Court may waive the appointment of a Guardian Ad Litem if the Court determines such waiver is in the best interests of the minor or disabled person. The order appointing the Guardian Ad Litem shall be in the same form in the case of the appointment of a Conservator.

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
NOTICE TO NEXT OF KIN
T.C.A. § 34-2-104(4) & T.C.A. § 34-1-106

IN RE: GUARDIANSHIP

OF

CASE NO. _____

TO:

You are hereby notified that a hearing on the petition for the appointment of a guardian for _____, a minor, a copy of which is enclosed with this notice, will be held in the Chancery Court of Rutherford County, Tennessee, Division _____, at the Judicial Building, 20 Public Square North, Murfreesboro, Tennessee, on the _____ day of _____, 20_____, at _____.

Given under my hand and seal of said Court, at my office, Murfreesboro, Tennessee, on this the _____ day of _____, 20_____.

JOHN A. W. BRATCHER
CLERK AND MASTER

BY: _____
DEPUTY CLERK AND MASTER

T.C.A. § 34-2-109 (G)

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: GUARDIANSHIP

OF

CASE NO. _____

WILLIAM SMITH, Minor

ORDER APPOINTING GUARDIAN

This cause came on to be heard upon the sworn petition of John Smith, upon the testimony of John Smith in open Court, and upon the entire record of this cause, from all of which it appears to the Court that John Smith is the parent and natural guardian of the minor Respondent, William Smith, a minor born June 17, 2000. The minor Respondent's Social Security number is 000-00-0000. The minor Respondent lives with the Petitioner in Rutherford County, Tennessee.

It further appears to the Court that the minor Respondent's mother, Susan Smith, died on September 15, 2009. As a result of her death, the minor Respondent is to receive the sum of \$100,000.00 from a group insurance policy issued to the decedent, Susan Smith, through her employer, First Flag Bank. Further, the minor Respondent is to receive the sum of \$533.00 per month from the Social Security Administration.

It further appears to the Court that the Petitioner, John Smith, is a fit and proper person to serve as the Guardian of the person and property of the minor Respondent.

It further appears to the Court that the Petitioner has proposed to invest the insurance proceeds of \$100,000.00 in a 5-year certificate of deposit with First Flag Bank bearing interest at the rate of seven percent (7%) per annum. Further, the Petitioner has requested that he be allowed to apply the entire Social Security payment of \$533.00 per month to the needs of the Respondent.

It further appears to the Court that this property management plan is reasonable and should be approved. Further, the Petitioner should be prohibited from selling any of the minor Respondent's property without Court approval.

It further appears to the Court that the Petitioner and First Flag Bank have entered into a written agreement which has been filed with this Court in which First Flag Bank has agreed it will not permit the Petitioner as fiduciary to withdraw the principal under its control without Court approval. Therefore, the Court finds that bond should be waived in this cause.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED:

1. That John Smith be and he is hereby appointed Guardian without bond of William Smith, minor;
2. That the proposed property management plan be and the same is hereby approved;
3. That the Petitioner be and he is hereby authorized to apply the total sum which he receives from Social Security Administration towards the needs of William Smith, minor, and that the Petitioner shall not be required to account for such Social Security income.

4. The costs of this cause are charged to the estate for which execution may issue if necessary.

CHANCELLOR/JUDGE

APPROVED FOR ENTRY:

**ARTHUR ALLEN, #781700
Attorney for Petitioner
130 North Court
Murfreesboro, TN 37130
(615) 523-2311**

LETTERS OF GUARDIANSHIP

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

IN RE: WILLIAM SMITH

CASE NO.: XX-XXXXCO

**TO: JOHN SMITH
RUTHERFORD COUNTY, TENNESSEE**

You are to invest the insurance proceeds of \$100,000.00 in a 5-year certificate of deposit with First Flag Bank bearing interest at the rate of seven percent (7%) per annum, apply the entire Social Security payment of \$533.00 per month to the needs of the respondent. The Petitioner will follow the property management plan entered by this Court. The Petitioner is prohibited from selling any of the minor Respondent's property without Court approval. The will not withdraw principal from the account at First Flag Bank without Court approval.

You are to perform all the duties required of you by law in relation to said guardianship including the filing of an annual accounting, inventory. and status report; the filing of a property management plan within thirty (30) days; the filing of a final accounting when the guardianship is terminated pursuant to statute, and to deliver and pay to the person lawfully authorized to receive the same, the residue of the said estate, including the profits arising therefrom, herein fail not.

**WITNESS, JOHN A. W. BRATCHER, Clerk and Master, at office, this ____
day of _____ 20__.**

**JOHN A. W. BRATCHER
CLERK AND MASTER**

**By: _____
JOHN A. W. BRATCHER**

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I do solemnly swear that I will timely file each required inventory and accounting, spend the assets of **WILLIAM SMITH** only as approved by the Court, and honestly and faithfully carry out all of the duties of conservator of **WILLIAM SMITH**, to the best of my ability.

JOHN SMITH

Sworn to and subscribed before me,

This the ____ day of _____ 20__.

JOHN A. W. BRATCHER, Clerk and Master

By: _____
JOHN A. W. BRATCHER

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

NOTICE TO FILE ACCOUNTING
T.C.A. § 34-1-111(e)

TO: JOHN SMITH, CONSERVATOR.

RE: IMA OLDPERSON CASE NUMBER: _____

As conservator in the above-styled case, you are required by T. C. A. §34-1-111, to file an annual accounting. A recent review of our files indicates that we have not received the accounting for the period of _____.

This is to provide notice pursuant to T. C. A. §34-1-111(e), that this accounting must be filed within thirty (30) days of the date of mailing of this letter.

Enclosed for your convenience are blank forms which may be used for preparation of the accounting. It will also be necessary to submit the original of each bank statement, brokerage statement, or other document reporting any financial information. You must also submit the original of each cancelled check written on the fiduciary account and a copy of any United States and Tennessee income tax returns filed on behalf of the ward.

If no United States or Tennessee income tax return is due, you must include a statement in the accounting that no such return is due. You must also include information from the Internal Revenue Code or Tennessee Code Annotated exempting you from filing said income tax return. If no income tax return is required, then you must list the gross income of the minor or disabled person for the accounting person.

If a bond is required, proof of the bond must be submitted annually.

The accounting must also include a statement concerning the physical or mental condition of the disabled person. This statement must demonstrate the need for the continuation of your services. This statement can be your own. Medical verification is not required.

Sincerely,

JOHN A. W. BRATCHER
CLERK AND MASTER

JAWB/tms

Enclosures

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN RE: IMA OLDPERSON)
) **Case #.** _____
)
)
)

REPORT OF CLERK AND MASTER
NON V.A. CASE

Comes your Clerk and Master and reports that he has reviewed the annual accounting of John Smith, conservator of Ima Oldperson, together are all the documents required by T. C. A. §34-1-111, and all appear to be regular and proper. Your Clerk and Master recommends that the accounting be approved.

Respectfully submitted on this the _____ day of _____, 200__.

 John A. W. Bratcher, Clerk and Master

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **REPORT** has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

 Deputy Clerk

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN RE: IMA OLDPERSON)
)
)
) Case #. _____

**ORDER APPROVING ANNUAL ACCOUNTING
NON V.A. CASE**

This cause came on to be heard before the Honorable Chancellor/Judge, on the _____ day of _____, 20____ on the annual accounting John Smith, conservator of Ima Oldperson, together with all the record in this cause, and it appearing that the accounting should be approved,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

- 1. The annual accounting of John Smith is hereby approved;
- 2. The costs of this cause are charged to the estate for which execution may issue.

ENTER THIS THE _____ DAY OF _____ 20____.

CHANCELLOR/JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing REPORT has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

Deputy Clerk

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN RE: IMA OLDPERSON

)
)
)
)

Case #: _____
VA #: _____

**REPORT OF THE CLERK AND MASTER
V.A. CASE**

Comes your Clerk and Master and reports that he has reviewed the annual accounting, for Bank of Tennessee, TN, Guardian of Ima Oldperson, together with all the documents required by T.C.A. § 34-5-111, and all appear to be regular and proper. The Department of Veterans Affairs has waived its right to a notice of hearing in this matter and has no objection to the approval of the accounting. Your Clerk and Master recommends the approval of this accounting together with the statutory guardianship fee of \$1,000.00 in addition to the attorney’s fee for Fred Swenson in the amount of \$500.00.

Respectfully submitted, this the _____ day of _____, 2009.

John A. W. Bratcher, Clerk and Master

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **REPORT** has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

Deputy Clerk

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN RE: IMA OLDPERSON

)
)
)
)

Case #: _____
VA #: _____

**ORDER APPROVING REPORT OF THE CLERK AND MASTER
V.A. CASE**

This cause came on to be heard on this the _____ day of _____, 2009 before the Honorable Chancellor/Judge, on the report of the Clerk and Master on the annual accounting of the guardian in this matter, Bank of Tennessee, TN, and all appearing to be regular and proper and it further appearing that the statutory guardianship fee of \$1,000.00 together with the Guardian's attorney fee for, Fred Swenson, in the amount of \$500.00 should be approved.

It is hereby Ordered, Adjudged, and Decreed that:

1. The annual accounting of Bank of Tennessee, TN is hereby approved;
2. The statutory guardianship fee of \$1,000.00 is hereby approved;
3. The attorney's fee for Fred Swenson in the amount of \$500.00 is hereby approved;
4. The costs of this cause are charged to the estate for which execution may issue if necessary.

Enter this the _____ day of _____, 2009.

Chancellor/Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **ORDER** has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

Deputy Clerk

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

IN RE: IMA OLDPERSON

CASE NO. _____

NOTICE TO APPEAR
T.C.A. § 34-1-111(e)

Whereas it appears of record in this Court that _____,
3718 North Walnut Street, Murfreesboro, Tennessee 37130, has failed to file the
annual accounting(s) for the period of November, 2007, through November, 2008,
as conservator of the estate of Ima Oldperson as required by T. C. A. §34-1-
111. You are hereby notified that said _____ shall
appear before me at my office, Room 302, Rutherford County Judicial Building, in
Murfreesboro, at _____ a.m. on the _____ day of
_____, 20____, then and there to file such
accounting pursuant to statute. Failure to appear will result in your being
summoned to appear before the Court and show cause why you should not be
held in contempt.

Witness, John A. W. Bratcher, Clerk and Master of the Chancery Court of
Rutherford County, Tennessee, at office, in the city of Murfreesboro, this the
_____ day of _____, 20_____.

JOHN A. W. BRATCHER
CLERK AND MASTER

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **NOTICE TO APPEAR** has been sent by certified mail to Conservator/Guardian, 3718 North Walnut Street, Murfreesboro, Tennessee 37130, on this the ____ day of _____, 20_____.

DEPUTY CLERK AND MASTER

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

IN RE: IMA OLDPERSON

CASE NO. _____

REPORT OF THE CLERK AND MASTER
ON FAILURE TO REPORT ANNUAL ACCOUNTING
T.C.A. § 34-1-111(e)

To the Honorable Robert E. Corlew, III, Chancellor: The Clerk and Master respectfully reports to the Court that he issued notice commanding _____, Conservator/Guardian for Ima Oldperson, to appear and render the annual accounting in this cause on the _____ day of _____, 20____. Notice to Appear was executed pursuant to Rule 5 of the Tennessee Rules of Civil Procedure.

Said _____ has failed to appear and to obey the said Notice to Appear, and your Clerk and Master respectfully moves the Court to issue an order requiring said Conservator to appear before this Court and show cause why said _____ should not be held in contempt and for such other relief and instructions as the Court may deem proper.

Respectfully submitted,

JOHN A. W. BRATCHER
CLERK AND MASTER

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing REPORT has been mailed to Conservator/Guardian, and other parties on _____day of _____,2009.

DEPUTY CLERK AND MASTER

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

AT MURFREESBORO

IN RE: IMA OLDPERSON

CASE NO. _____

ORDER TO SHOW CAUSE

T.C.A. § 34-1-111(e)

It appearing to the Court from the Report of the Clerk and Master filed herein on the _____ day of _____, 20_____, that _____ has failed to appear and obey the Notice to Appear commanding him/her to appear in front of the Clerk and Master of this Court to file the annual accounting in this cause on _____, 20_____, and from all of which it appears that he/she should appear and show cause why he/she should not render the annual accountings in this cause and why he/she should not be judged in contempt of this Court.

IT IS, THEREFORE, ORDERED that the Clerk and Master is hereby ordered to issue a citation against _____ to appear before this Court at _____ a.m. on _____, 20_____, and show cause why he/she should not file said annual accountings and also show cause why he/she should not be held in contempt of this Honorable Court for failure to do so.

IT IS, FURTHER, ORDERED that the Clerk and Master give notice of the Citation to show cause to _____, surety on the bond in this cause.

This the ____ day of _____, 20____.

**ROBERT E. CORLEW, III
CHANCELLOR**

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing REPORT has been mailed to Conservator/Guardian, and other parties on the _____ day of _____, 2009

DEPUTY CLERK AND MASTER

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

AT MURFREESBORO

IN RE: GUARDIANSHIP/CONSERVATORSHIP

OF

CASE NO. _____

**CITATION TO SHOW CAUSE
T.C.A. § 34-1-111(e) & (g)**

TO THE SHERIFF OF RUTHERFORD COUNTY, TENNESSEE:

You are hereby commanded to summon _____
to appear before the Chancery Court of Rutherford County, the Honorable Robert
E. Corlew, III, presiding on the _____ day of _____,
20____, at _____ a.m. to show cause why _____,
conservator of the estate of _____, should not
be adjudged in contempt of Court for his/her failure to file his/her accounting
according to law.

Herein fail not and have you then and there this writ with a showing how
you have executed same.

Witness, John A. W. Bratcher, Clerk and Master, at office in Murfreesboro,
Rutherford County, Tennessee, this the ____ day of _____,
20____.

**JOHN A. W. BRATCHER
CLERK AND MASTER**

BY: DEPUTY CLERK AND MASTER

SHERIFF'S RETURN: _____

DATE: _____

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

AT MURFREESBORO

T.C.A. § 34-1-111

T.C.A. § 34-1-130

VS.

CASE NO. _____

_____ ACCOUNTING OF _____
(ANNUAL, INTERIM, FINAL)

AS _____ OF THE ESTATE OF
(CONSERVATOR/GUARDIAN)

_____.

THE UNDERSIGNED FIDUCIARY WOULD RESPECTFULLY STATE THAT
HE IS CHARGEABLE WITH THE FOLLOWING INCOME BELONGING TO
SAID ESTATE.

DATE	FROM WHOM RECEIVED	AMOUNT

TOTAL RECEIPTS _____

DATE FROM WHOM RECEIVED AMOUNT

***NOTE: DO NOT SHOW TRANSFERS BETWEEN ACCOUNTS AS EXPENDITURES. ITEMS MAY BE CUMULATIVE.**

SUMMARY

MONEY ON HAND AT START OF ACCOUNTING PERIOD \$ _____

MONEY RECEIVED DURING ACCOUNTING PERIOD \$ _____

TOTAL \$ _____

MONEY DISBURSED DURING ACCOUNTING PERIOD \$ _____

BALANCE OF MONEY ON HAND AT END OF ACCOUNTING PERIOD \$ _____

**ASSETS ON HAND TO REFLECT ABOVE BALANCE:
CD'S, STOCKS, BONDS, BANK ACCOUNTS**

TYPE	FINANCIAL INSTITUTION	AMOUNT

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I, _____, solemnly swear that the foregoing accounting of the estate of _____ exhibits a full, true and just statement of each and every asset of said estate with which I should be charged, and to the expenditures to which I am entitled, to the best of my knowledge and belief, so help me God.

CONSERVATOR/GUARDIAN

Subscribed and sworn to before me, this the _____ day of _____, 20____.

**CLERK OF THE COURT
OR NOTARY PUBLIC**

STATEMENT FROM CORPORATE SURETY

TO THE CLERK OF THE COURT:

We, _____ pursuant
(Name of Corporate Surety)
to T. C. A. §34-1-111 (d), hereby submit the following statement.

That we are surety on the bond of _____
(Name of Fiduciary)
as _____ for
(Conservator/Guardian)

(Respondent/Minor)

and that the bond is presently in the amount of \$ _____.

**We further state that said bond is in force for the next annual period,
and will remain in effect until Surety is discharged by Court Order.**

This the _____ day of _____, 20_____.

(Name of Corporate Surety)

By: _____
Attorney in Fact

Agency Name
Address
Telephone Number

**STATEMENT OF FIDUCIARY AS TO
PHYSICAL OR MENTAL CONDITION OF THE DISABLED PERSON
T.C.A. § 34-1-111(c)(2)**

IN RE: MATTER

OF

CASE NO. _____

Comes now, _____, the duly appointed and qualified Conservator of _____, and would respectfully show unto the Court the following:

That the ward,

_____ **continues to need a**
Conservator due to _____

(Specify physical or mental condition of the disabled person)

That the ward is presently residing at the following address:

This statement is furnished to demonstrate to the Court the need, or lack of need, for the continuation of the fiduciary's services.

This the _____ day of _____, 20____.

(Conservator)

Address: _____

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO
T.C.A. § 34-1-111(c)(1)(C)**

IN RE: GUARDIANSHIP / CONSERVATORSHIP

OF

CASE NO. _____

MINOR / RESPONDENT

STATEMENT AS TO FILING OF UNITED STATES

OR TENNESSEE INCOME TAX RETURN

**TO THE CHANCELLOR OF THE CHANCERY COURT OF RUTHERFORD
COUNTY, TENNESSEE:**

This Guardianship or Conservatorship is not required to file either a federal or state tax return for the period of this accounting because the taxable income for its most recent taxable year was within the exemption provided by Internal Revenue Code and T. C. A. §67-2-104. The gross income for the last year was \$ _____.

Dated this the _____ day of _____, 20_____.

Guardian or Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN THE MATTER OF THE

OF

CASE NO. _____

Minor/Disabled Person

Fiduciary

PROPERTY MANAGEMENT PLAN

Pursuant to Tennessee Code Annotated §34-1-115, the undersigned guardian or conservator submits the following proposed Property Management Plan: (Check one of the following)

_____ All assets held by the undersigned for the ward will be invested in accounts or certificates of deposit fully insured by an agency of the federal government. All such investments shall be in financial institutions located in Rutherford County, Tennessee.

OR

_____ Investments are to be made other than as stated below:

It is understood that the purpose of this Property Management Plan is to advise the Court of the general type of property in which the ward's property will be invested so that the Court will be assured the guardian or conservator will be making approved investments. It is understood that the undersigned must request **Court Approval** to change the nature of investments to be made.

This the _____ day of _____, 20_____.

Conservator/Guardian

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: CONSERVATORSHIP

OF

CASE NO. _____

IMA OLDPERSON, Respondent.

**ELECTION OF ACCOUNTING YEAR
T.C.A. § 34-1-111(a)**

**The undersigned was appointed Conservator for the above named
respondent by order of this Court entered**

_____.

Your Conservator is presently filing an annual accounting ending

(state month, day, and year).

Your Conservator elects and requests the Court to allow the filing of the
annual accounting on the basis of a year ending (state month, day, and year) .

Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: GUARDIANSHIP / CONSERVATORSHIP

OF

CASE NO. _____

Minor / Respondent

**RECEIPT FOR DOCUMENTATION
UNDER T. C. A. §34-1-111**

I, _____ for the above named
Guardian – Conservator

_____, hereby acknowledge receipt of the
Minor – Respondent

following:

_____ **The original of each bank statement, brokerage statement or other document reporting any financial information.**

_____ The original of each cancelled check written on the fiduciary account.

_____ Copies of United States and/or Tennessee Income Tax Returns.

This the _____ day of _____, 20_____.

Guardian / Conservator

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
CLERK AND MASTER'S ACCOUNTING CHECKLIST**

_____,'

_____,'

VS.

CASE NO. _____

_____,'

_____,'

DATE DUE _____

**AUTHORITY: T. C. A. §34-1-111
REGULAR (NON-V. A.)**

- _____ 1. Original of each bank statement
- _____ 2. Brokerage statement
- _____ 3. Other documents reporting any financial information List.
 - (A.)
 - (B.)
 - (C.)
 - (D.)
- _____ 4. Original of each check
- _____ 5. Copy of U. S. Tax Return or the code section evidencing the availability of the claimed exemption
- _____ 6. Copy of Tennessee Income Tax Return or the code evidencing the availability of the claimed exemption
- _____ 7. Statement from Corporate Surety (Bond)

- _____ 8. Sufficiency of Bond
- _____ 9. Statement of continuing need for Conservator
- _____ 10. Accounting waived by Court
- _____ 11. Report to Court
- _____ 12. Order approving accounting
- _____ 13. Notice to Parties or Attorneys
- _____ 14. Return of documents
- _____ 15. Receipt for return of documents

LATE ACCOUNTING

- _____ 1. Notice to appear before Clerk and Master
 - A. Date sent by Certified Mail _____
 - B. Date for appearance _____

- _____ 2. Show Cause Order
 - A. Date signed by Chancellor _____
 - B. Date sent by Certified Mail or delivered to the Sheriff _____
 - C. Court Date _____
 - D. Date Served _____

JOHN A. W. BRATCHER
CLERK AND MASTER

DATE

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

CLERK AND MASTER'S ACCOUNTING CHECKLIST

V. A.

_____,'

_____,'

VS.

CASE NO. _____

_____,'

_____.'

DATE DUE: _____

AUTHORITY: T. C. A. §34-5-101
T. C. A. §34-5-111(d)

- _____ 1. V. A. Form 27-4706, _____
- _____ 2. Securities or Investments Review
- _____ 3. Certified copy sent to V. A. by Guardian
- _____ 4. Hearing waived by V. A.
- _____ 5. Hearing waived by all others entitled to notice
- _____ 6. Hearing set within 30 days if no waiver
Date _____
- _____ 7. Guardian is accountable for property derived from sources other than V. A.
 - _____ (a). Original of each bank statement
 - _____ (b). Brokerage statement
 - _____ (c). Other documents reporting any financial information. List.

(1).

(2).

(3).

- _____ (d). Original of each check
- _____ (e). Copy of U. S. Tax Return or the code section evidencing the availability of the claimed exemption
- _____ (f). Copy of Tennessee Income Tax Return or the code section evidencing the availability of the claimed exemption
- _____ (g). Statement from Corporate Surety (Bond)
- _____ (h). Sufficiency of Bond
Amount required \$ _____
- _____ (i). Statement of continuing need for Conservator/Guardian
- _____ (j). Accounting waived by Court
- _____ (k). Report to Court
- _____ (l). Order approving accounting
- _____ (m). Notice to Parties or Attorneys
- _____ (n). Return of documents

LATE ACCOUNTING

- _____ 1. Notice to appear before Clerk and Master
 - A. Date sent by Certified Mail _____
 - B. Date for appearance _____

- _____ 2. Show Cause Order
 - A. Date signed by Chancellor _____
 - B. Date sent by Certified Mail or delivered to the Sheriff _____
 - C. Court Date _____
 - D. Date Served _____

**JOHN A. W. BRATCHER
CLERK AND MASTER**

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

IN RE: IMA OLDPERSON

)
)
)
)

Case #. _____

REPORT OF THE CLERK AND MASTER

Comes your Clerk and Master and reports that the ward, Ima Oldperson, died on November 15th, 2008 in Murfreesboro, Tennessee. The guardian, Bank of Tennessee, filed a **preliminary final accounting** on January 28, 2009, for the period July 1, 2008 to December 16, 2008. All appearing to be regular and proper your Clerk and Master recommends that the preliminary final accounting be approved together with the guardian's fee of \$250.00 and the legal fees of the guardian's attorney, Frank Swenson, in the amount of \$1,300.00, and it further appearing that there is no objection to the approval of the preliminary final accounting, and that with the filing of the final receipt from estate of the deceased this guardianship should be closed.

Respectfully Submitted this _____ day of _____ 2009.

John A. W. Bratcher, Clerk and Master

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing REPORT has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

Deputy Clerk

**T.C.A. § 34-3-108
 IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
 AT MURFREESBORO**

IN RE: IMA OLDPERSON)	
)	Case #. _____
)	
)	
)	

ORDER APPROVING PRELIMINARY FINAL ACCOUNTING

This cause came on to be heard before the Honorable Chancellor/Judge, on the _____ day of March, 2009 on the Report of the Clerk and Master on the preliminary final accounting of Bank of Tennessee, and it appearing that the ward Ima Oldperson, passed away November 15th, 2008, and further appearing that the preliminary final accounting should be approved and that the conservatorship fee of \$250.00 for Bank of Tennessee together with the conservator's attorney's fees of \$1,300.00 for Frank Swenson, and it further appearing that a second order approving the last annual accounting was entered on March 5th, 2009 and it further appearing that the cost of that order should be waived

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

- 3. The preliminary final accounting of Bank of Tennessee is hereby approved;
- 4. The statutory conservator's fee of \$250.00 is hereby approved;
- 5. The conservator's attorney's fee of \$1300.00 for Frank Swenson is approved;

6. The case shall be closed on the filing of the final receipt of the defendant's estate;
7. Bank of Tennessee shall be relieved of further responsibility in this matter upon filing of the final receipts from estate in this matter; and
8. The costs of this cause are charged to the estate for which execution may issue.

ENTER THIS THE _____ DAY OF _____ 20__.

CHANCELLOR/JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing ORDER has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

Deputy Clerk

**IN THE CHANCERY COURT ON RUTHFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN RE: IMA OLDPERSON)
)
)
)
)
)

No.: _____

REPORT OF THE CLERK AND MASTER

Comes your Clerk and Master and reports that he has received the receipt for the final distribution from the former ward, Ima Oldperson, and the preliminary final accounting having been filed and all appearing be regular and proper, your Clerk and Master recommends that the preliminary final accounting be approved and that the case be closed.

Respectfully Submitted on this the _____ day of _____, 20____.

**John A. W. Bratcher,
Clerk and Master**

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing REPORT has been mailed via the United States Postal Service to:

This the _____ day of _____, 20____.

Deputy Clerk

**IN THE CHANCERY COURT ON RUTHFORD COUNTY, TENNESSEE
AT MURFREESBORO**

IN RE: IMA OLDPERSON

)
)
)
)
)

No.: _____

ORDER TO CLOSE CONSERVATORSHIP

This cause came on to be heard on the ____ day of _____ 200____ before the Honorable Chancellor/Judge, upon the report of the Clerk and Master that he had received the final receipt for final distribution of the funds in this matter, the ward having passed away and the preliminary final account having been filed and approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. The final accounting of the conservator is approved;
2. This conservatorship case is closed;
3. The Surety , _____, is released from all further obligations in this matter;and
4. The costs of this cause are charged to the estate for which execution may issue.

Enter this the ____ day of _____ 20____.

Chancellor/Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing ORDER has been mailed via the United States Postal Service to:

This the _____ day of _____, 20__.

Deputy Clerk

Clerks Procedures for processing Guardianships /Conservatorships

Prepared By: JOHN BRATCHER, CLERK AND MASTER
Revised: April 28, 2009

**Read statutes: T.C.A. § 34-1-101, et seq., 34-2-101, et seq., 34-3-101 et seq.,
34-5-101, et seq., 34-7-101, et seq., 35-50-110, 35-50-111.**

1. Date stamp petition.
2. Assign case number.
3. Receipt filling fee (\$217.50 Rutherford County) T.C.A. § 8-21-401 (c) (3).
4. Lodge order appointing Guardian Ad Litem (GAL) if the GAL is not waived by the Chancellor, T.C.A. § 34-1-107.
5. Set a hearing at least seven (7) days and not more than sixty (60) days from the date of filling, unless emergency condition exists. The respondent (proposed Ward) must be served in addition to the closest relative, T.C.A. § 34-1-108. (This is the hearing to determine if a Conservator or Guardian (Fiduciary) will be appointed.) Do not set this outside the time parameters of the statute without one of the parties' filing a motion to ask for an order allowing the hearing to be set at another time. This will require a hearing and order.

6. There is a statutory form provided for the Notice of Hearing for the Ward, T.C.A. § 34-1-108. The attorney for the Petitioner should prepare this, but the clerk must see that it is served together with a certified copy of the petition, and the notice of rights set out in T.C.A. § 34-3-106.
7. The Ward must be served personally T.C.A. § 34-1-108 (c). Service may be made pursuant to the Tennessee Rules of Civil Procedure. T.C.A. § 34-1-106(a).
8. The Clerks process for being sure that the notice and summons is properly prepared usually takes longer than the attorney wishes to wait so be sure to call the attorney and GAL when the documents mentioned above are ready.
9. The Clerk must give notices to the next of kin or those having caregiver status by certified mail return receipt requested. T.C.A. §34-1-106(b). The notice to the next of kin maybe prepared by the attorney, but they typically provide only the names and address in the petition and the Clerk will have to prepare them. Forms are in Rutherford County Chancery Court's Fiduciary handbook. The Clerk is responsible for mailing them. The mailing to the next of kin will include the copy of the Order Appointing the GAL.
10. After mailing the Notices and seeing that the appropriate parties are served, it is a good time to add the case to your tickler file required by T.C.A. § 34-1-128, so that reporting deadlines established by T.C.A. § 34-1-110, and § 34-1-111, easily ascertainable.

11. After the hearing date if:

The petition is dismissed:

1. Treat it like any other case that has been closed.
2. The Court may, not must, order expunction of the record.

Follow usual procedures for expunction (expungement).

T.C.A. § 34-1-124

The petition is granted:

1. Note this on your tickler file.
2. Note whether or not accountings and/or bonds have been waived.
3. If accountings have not been waived, then an accounting will be due one (1) year and sixty (60) days from the date of entry of the order T.C.A. § 34-1-111(a).
4. Prepare Letters of Conservatorship or Guardianship.
T.C.A. §§ 34-1-109, 34-1-129, and 35-50-110.
5. Give the Conservator a copy of your Guardianship/Conservatorship Handbook.
6. Talk with Conservator/Guardian about their duties and responsibilities.
7. Be sure that they have filed a proper bond if required by the Order.

(a) know where they can get the bond.

8. Give them the proper oath pursuant to T.C.A. § 34-1-109.
If there are co-fiduciaries and one who is not a resident of your county, the non-resident may have the oath administered by a Notary Public and filed in your Court.
At least one Fiduciary must appear in front of you.
 9. Give the Fiduciary the Letters T.C.A. § 34-1-109 with the Ward's social security number.
 10. If the inventory has not already been filed, be sure to get it within sixty (60) days of the entry of the Order. (Look at it when it comes in). Be sure the Bond covers the assets.
If it does not, you should ask your Chancellor to increase it.
 11. You can now wait until the following year when the accounting is due. Do not forget T.C.A. § 34-1-130 that allows you to dictate the forms to use.
 12. If a bank is a fiduciary, be sure that you have an agreement from the bank not to release funds without a Court Order. T.C.A. § 35-50-111.
- C. If the Fiduciary files the accounting on time:
1. Review the accounting pursuant to T.C.A. § 34-1-111.
 2. Be sure that the fiduciary has complied with earlier requirements.

3. Be sure that the nature of investments has not been change with out court approval. T.C.A. § 34-11-115 (c).
 4. Be sure that investments are fully insured unless the court has approved unsecured investments. T.C.A. 34-1-115. Mention that T.C.A. § 34-1-101(9) refers to “Security Protection Insurance Corp.” There is no such thing. It is the “Securities Investor Protection Corporation”, S.I.P.C. “Insurance” is not part of it! It only partially protects against fraud and failure of the institution, not bad investments. (little protection here)
 5. If every thing is in order, prepare a report to the Chancellor giving notice to the fiduciary, attorneys and all parties, that you recommend approval and that a hearing be waived.
 6. If there are no objections, ask the Chancellor to sign the Order of Approval.
 7. After the court approves the accounting, return the supporting documents, but keep the original accounting. T.C.A. § 34-1-111 (d).
 8. Be sure to check the amount of the Bond to be sure that it covers the assets.
- D. If the fiduciary is late:

1. Send the fiduciary and his/her attorney of record a notice to file the accounting within thirty (30) days. T.C.A. 34-1-114 (e).
2. If the fiduciary does not file the accounting, then cite the fiduciary to appear before you on a certain date and time.
3. If the fiduciary still does not file the accounting, ask the Chancellor for a Show Cause to get him/her into Court T.C.A. § 34-1-111 (e).
4. If you do not take the above steps, you may be liable personally, if funds are lost.
5. Unfortunately, where there is smoke there is fire. Anybody will steal.
6. If someone does steal, the court may refer the matter to the District Attorney General. T.C.A. § 34-1-123.

12. Death of the Ward, or termination of the Conservatorship or Guardianship:

A. If the Conservatorship or Guardianship closes:

1. The fiduciary must file a preliminary final accounting within one hundred twenty days (120) of the date of death, if a conservatorship or sixty (60) days if a guardianship. T.C.A. § 34-2-106, T.C.A. § 34-3-108.
2. Once the preliminary final accounting is filed and approved, and no objections have been filed, the fiduciary

must file the receipts for the property of the Ward within thirty (30) days. The case may then be closed by order of the Court.

13. Transfers to or from other jurisdiction (T.C.A § 34-1-117):

A. Receiving Clerk:

1. When the ward moves and a new case is opened, in a new jurisdiction with an old guardianship or Conservatorship, receiving court gets: petition, “a copy of the accounting of the serving Tennessee fiduciary and all records pertaining to the fiduciary relationship.”

B. Sending Clerk:

1. The old jurisdiction (where fiduciary establishes) gets: sworn petition praying for removal; a certified copy of order appointing fiduciary in the new jurisdiction; accounting up to the filing of the petition (and up to date of hearing); copy of bond in the new jurisdiction (with clerk certificate if signed bond).

14. Veteran’s Affairs (VA) Guardianship (The VA calls it a Guardianship, it is really a Conservatorship) T.C.A. § 34-5-101, et seq.

A. The local administrator of The Department of Veterans Affairs is always a party in interest, T.C.S. § 34-5-103

B. The petition is filed pursuant to T.C.A. § 34-6-106.

C. Notice of the petition is given pursuant to T.C.A. § 34-5-109, T.C.A. § 34-1-106 and T.C.A. § 34-1-108.

D. Bond of guardianship, T.C.A. § 34-5-110, the VA usually recommends an amount and it is subject to change yearly.

15. Accountings, T.C.A. § 34-5-111

A. Follow the procedures in T.C.A. § 35-5-111.

1. The accounting is to be filed on the anniversary date of the appointment, not sixty (60) later.

2. Usually the accounting is filled on a form provided by the VA.

3. The form requires certain certified signatures.

4. The Guardian is to provide a certified copy to the VA administration at the same time he/she filed it in court.

Rutherford County Chancery Court usually sends it in for the guardians.

5. Review the accounting; there is nothing else to be done until the VA responds to the accounting and indicates whether it has any objection.

A. Normally, the VA does not have any objections and sends the letter indicating this and that it waives a hearing.

B. When the VA sends the letter, you can go forward with a report and order. Make sure to send the VA a certified copy.

C. If there are problems with the accounting, contact the Fiduciary and the VA.

6. Be sure any new Bond requirements are met. On the Bond you will get certificate from the bonding company reflecting the bond.

7. Failure to file an accounting on time can lead to removal of the Fiduciary T.C.A. § 34-5-112.

16. Compensation, T.C.A. § 34-5-113

A. Compensation for the guardian in VA cases is 7% of the money received during the period a minimum of \$ 250.00 upon court order, if 7% would be less than \$250.00.

B. All fees must be annually approved by court order.

17. Investment of Funds, T.C.A. § 34-5-114

A. Look carefully at this statute.

18. Discharge of Guardian and release of Surety, T.C.A. § 34-5-119

A. Discharge of the guardian and surety is based upon a hearing and order of the court.

B. The surety is not released until the Court releases it by order.

