

IN THE CIRCUIT COURT FOR THE FIFTH
JUDICIAL CIRCUIT IN AND FOR CITRUS
COUNTY STATE OF FLORIDA

ADMINISTRATIVE ORDER NO. C-2002-10

IN RE:

**ADMINISTRATIVE ORDER REGARDING
GUARDIANSHIP REPORTS, AUDITS AND
BUDGETS**

Guardians are required to file reports pursuant to §744.361, Fla. Stat., and the Clerk of Court is mandated by law to audit guardianship reports, §744.368, Fla. Stat. There is a need to establish minimum standards for such an audit. Some guardianships qualify for a simplified accounting pursuant to §744.3679(1), Fla. Stat. and a uniform fiscal year needs to be established for guardianships in Citrus County.

Procedures for expenditures authorized by §744.441 and §744.446, Fla. Stat., are not clearly defined. It is therefore, ORDERED that

I. SIMPLIFIED ACCOUNTING

A. If a guardianship estate meets the criteria set forth in §744.3679, Fla. Stat., the Guardian may elect to file a simplified accounting.

B. The guardian is required to file the original or a certified copy of the year-end statement of the ward's account from the financial institution, §744.3679(1)(a). A certified copy is defined as a copy that has been certified by the same financial institution as a true and correct copy of the original statement. Original bank statements filed with a simplified accounting become part of the court file and are not subject to return. A year-end statement is defined as a statement ending at the end of the fiscal year which is being reported and which contains all transactions for that fiscal year. If there is no single statement that covers all the transactions for the fiscal year, then the guardian must provide all of the statements for the fiscal year in question.

C. Upon the guardian filing a simplified accounting, the guardian is presumed to have made that election.

D. If at any time during any accounting period the estate no longer qualifies for a simplified accounting, the guardian shall file a full accounting as required by §744.3678, Fla. Stat.

E. The Court reserves the right to determine whether the estate qualifies for a simplified accounting. Where the guardian has filed a simplified accounting and the Court determines that the estate does not qualify for a simplified accounting, the guardian shall file the full accounting required by §744.3678, Fla. Stat.

II. BUDGETS AND EXPENDITURES

A. Guardians have the power pursuant to §744.444(8), Fla. Stat., to pay for reasonable living expenses for the ward. Pursuant to this power, guardians who are required to make such payments shall file a budget on an annual basis setting forth the monthly living expenses of the ward. An order approving such a budget is authorization to make the budgeted expenditures without further order of the court and is a determination that the budgeted expenses are reasonable. Attorney fees, guardians fees or other professional fees must be petitioned for separately and cannot be approved as budget expenditures.

B. Expenditures that are not categorized as reasonable living expenses must have Court approval pursuant to §744.441, Fla. Stat. The guardian shall follow the procedures set forth in §744.447, Fla. Stat., and Fla. Probate R. 5.630, unless there is an emergency, in which case the expense may be ratified by the Court. If the Court denies the ratification of an expenditure the guardian shall reimburse that expenditure to the guardianship.

III. SELECTION OF ACCOUNTING YEAR

The volume of guardianship cases in Citrus County necessitates fiscal year accounting for more efficient utilization of audit and Court resources. Unless otherwise ordered in individual cases, all accountings are hereby ordered to be filed on a fiscal-year basis, which begins on the first day of the month following the date the letters were issued. A petition for authorization to file accountings on a calendar-year basis must allege good cause and may be granted upon a showing of good cause within the discretion of the Court.

IV. CLERK'S DUTIES

A. *Verified inventory.* The Clerk of Court or the Clerk's auditor ("auditor") shall audit each inventory filed by a guardian. In performing the audit, the auditor shall determine whether the inventory:

1. Is timely filed and properly executed, *Fla. Probate R. 5.620*;
 2. Includes an itemized list of all assets and liabilities of the guardianship as of the date letters were issued and a detailed description and value for each item owned by the ward at the time the Letters are issued;
 3. Includes a statement from each financial institution listed on the above that verifies the cash assets and security investments listed on the inventory.
 4. Correctly reflects the list of the assets and liabilities contained in the petition for appointment of guardian and includes papers and records sufficient to verify the values given for each asset and liability;
 5. Contain mathematically correct computations;
 6. Identifies all declared sources of periodic income, including, but not limited to, Social Security benefits, pensions, or annuity payments and identifies the institution and accounts where such income is deposited, §744.365(2)(c), Fla. Stat., and the person receiving such income.
 7. Indicates the location and date of any will, and death instructions;
 8. Includes a statement as to whether or not there is a safe deposit box held by or on behalf of the ward;
 9. Includes a copy of the inventory of the safe deposit box (if any) that has been signed by an employee of the institution where the box is located, and that identifies and describes the assets held herein, §744.365(4), Fla. Stat., however, the Clerk or auditor has no duty to verify the contents of such safe deposit box, or the identity or description of the items held therein;
- and whether a bond or a receipt from a financial institution pursuant to §69.031, Fla. Stat., is in the file pursuant to court order, §744.351, Fla. Stat.

B. *Initial Plan.* The Clerk of court or the Clerk's auditor shall audit each initial plan filed by a guardian. In performing the audit, the auditor shall determine whether the plan includes the information required by §744.363, Fla. Stat.

C. *Annual Reports.* The Clerk of Court or the Clerk's auditor shall audit each annual report, §744.368, Fla. Stat. In performing the audit, the auditor shall determine whether:

1. The guardian of the property has properly executed and timely filed the annual accounting. Reports are due by the first day of the fourth month after the end of each fiscal year, §744.367(2), Fla. Stat. The initial fiscal year begins with the date of appointment and runs through the end of the anniversary month of appointment. The guardian is appointed when letters of guardianship are issued. Each succeeding fiscal year will start on the first day of the month after the anniversary month of appointment;
2. The computations in the annual accounting are mathematically correct;
3. All disbursements are supported by copies of canceled checks and receipts, or other substantiating papers and are reflected on the bank statements;
4. All income is reflected on the bank statements;
5. All disbursements have been made pursuant to Court order;
6. The accounting can be reconciled with the accounting filed for the previous accounting period, or, if there is no previous accounting period, the inventory;
7. The assets on hand at the close of the reporting period are verified by substantiating papers, bank statements, or other records.
8. The guardian of the person, unless the ward is a minor, has filed an annual plan that covers the upcoming fiscal year. The annual plan is due at the same time the annual accounting is due and must contain information about the ward pursuant to §744.3675, Fla. Stat., and §744.368(1), Fla. Stat, addressing:
 - a. physical and mental health care, including provisions for medical, mental health and rehabilitative services in the coming year;
 - b. personal and social services;
 - c. residential setting;
 - d. application of insurance, private benefits, and government benefits;
 - e. physical and mental health examinations, including but not limited to the report of a physician in accordance with §744.3675, Fla. Stat;
 - f. inventory or the annual accounting; if applicable,

- g. a budget for the coming fiscal year, where appropriate, and
- h. the issue or restoration of rights to the ward in accordance with §744.3675, Fla. Stat.,

D. The auditor shall report the results of the audit within 90 days after the report is filed, §744.368(3), Fla. Stat.

E. The Clerk shall not accept the inventory or annual accounting for filing if it is not accompanied by the statutory audit fee, except that no fee shall be required for filing a simplified accounting, §744.3679(2), Fla. Stat. If a signed order waiving the statutory audit fee for the inventory or annual accounting is presented at the time of filing, then the Clerk shall accept the inventory or annual accounting without a fee and conduct the requisite audit.

F. If an audit is performed indicating errors to be corrected, and an amended / supplemental inventory or accounting is filed as a result thereof, the revised value of the ward's estate shown on such amended document shall control the final determination of the audit fee assessed pursuant to §744.3678(4), Fla. Stat. Accordingly, in the event of an increase or decrease in the value of the estate, the guardian shall, at the time of filing of the amended document, present to, or receive from, the Clerk, the difference between the fee amount previously paid and the correct fee for the estate's revised value. The amended / supplemental report shall be audited and the results reported 90 days from the date the amended or supplemental report is filed.

G. Upon court approval of each initial or annual accounting, the Clerk shall return all supporting receipts to the guardian, or to the attorney for the guardian, unless otherwise ordered by the court. Copies of bank statements or financial statements of any kind, however, shall be retained in the court file.

This Order shall be effective on March 1, 2002.

DONE AND ORDERED in Chambers in Inverness, Citrus County, Florida this 6 Day of March, 2002, nunc pro tunc to March 1, 2002.



PATRICIA THOMAS
ADMINISTRATIVE JUDGE
CITRUS COUNTY