

**JUDGE RICHARD R. HICKS, III
CALDWELL COUNTY COURT AT LAW**

Caldwell County Justice Center
1703 S. Colorado, Box 11
Lockhart, Texas 78644



**COURT INSTRUCTIONS TO THE GUARDIAN OF AN ESTATE
CONSULT WITH YOUR ATTORNEY (NOT THE COURT) ON ANY
MATTER REGARDING THIS ESTATE THAT YOU DO NOT
UNDERSTAND**

As the duly appointed Guardian of this estate, you are advised that you must do the following:

- 1.** Qualify as guardian by filing your Oath and Bond within 20 days of the date of your appointment. Estates Code §1105.003. You have no authority to act until you submit the Bond, and it is approved by the Court.
- 2.** Collect all assets of the estate. Estates Code §1151.101
- 3.** Place all estate funds in federally insured accounts in the name of the guardianship. Retain in a checking account only such funds as are reasonably necessary to pay the debts and the expenses of administering this estate. Place all additional funds in interest-bearing accounts at the highest interest rate, giving reasonable consideration to current and long-term market conditions. All funds must be deposited in an institution located in the State of Texas.
- 4.** Keep all Social Security funds you receive on behalf of the Ward separate and apart from Guardianship funds as you need only account to the Social Security Administration for the use of these funds.
- 5.** Preserve, protect and insure, if insurable, all non-cash assets of the estate. Estates Code §1151.105, and Subchapter D, Estates Code §1151.151 et. seq.
- 6.** Within 1 month, publish in a local newspaper your notice to the creditors of the estate. File the Publisher's Affidavit with the Court. Estates Code §§1153.001, 1153.002

Within 4 months, give your notice by registered or certified mail, return receipt requested, to each holder of a secured lien against estate property and to each person you have knowledge of having a claim against the estate. Proof of the above notices must be filed with the Court. Estates Code §1153.003.

May give notice by certified mail, return receipt requested, to all unsecured creditors stating that they have 120 days to present a claim, or it is barred. If a claim is presented, either approve or disapprove the claim within 30 days. No claims can be paid without court approval. Do not pay any claims which are barred. Estates Code §1153.004.

7. File your Inventory, Appraisal and List of Claims within 30 days of qualification. Estates Code §1154.051, 1154.052.

The inventory must contain a complete list of all the real estate located in this state and a list of all personal property, regardless of where it is located. In compiling the inventory, if the ward is married, you must distinguish between separate and community property belonging to the estate. If the property is community, show the full value of the property and the ward's undivided one-half interest. Do not include debts owed by the estate on the inventory.

Do show on the inventory filed with the Court any life insurance insuring the life of the Ward or for which the Ward is the owner, including the name and number of the policy, the name of the owner of the policy, the name of the beneficiary of the policy, whether the policy is term or whole life and the cash surrender value, if any.

When you list the bank account, you should put the number of the account, how the account was styled when you became the guardian and whether or not it is a joint account, joint tenancy with right of survivorship, etc. IRA accounts in the name of the Ward or if the Ward is married, in the name of the spouse, should be listed on the inventory with the name of company and number of policy, name of owner, name of beneficiary and the present value of the IRA account.

You should obtain for your attorney copies of all bank signature cards, contracts for certificates of deposit, IRAs, etc. Do not close and transfer into the name of the guardianship until further order of the court any accounts that are joint tenancy with right of survivorship or IRA or annuity accounts.

8. Within 30 days after your appointment, file an application requesting the monthly allowance for the Ward.

The application must clearly separate amounts requested for education and maintenance of the Ward from amounts requested for maintenance of the Ward's property. Estates Code 1156, Subchapter A, §1156.001, et seq.

9. Obtain a written order of the Probate Court authorizing any expenditure of estate funds before any such expenditures are made. Estates Code §1151.102

10. Obtain a written order of the Probate Court before attempting to sell, lease, transfer or otherwise dispose of any non-cash asset of estate funds. Estates Code §1151.102

11. If estate is or will be involved in lawsuit, obtain authority from the Court to hire the attorney to represent the estate and do not settle lawsuit without first obtaining Court authority. Estates Code §1151.104 1

12. File an Annual Accounting one year after taking your oath, and every year thereafter until the estate is closed. You must retain your bank statements, canceled checks, invoices and receipts to substantiate the receipts and disbursements of the estate. (Letters of Guardianship expire one year & four months after the date of issuance unless renewed). The Clerk cannot renew Letters unless annual Report is filed. Estates Code § 1163.101

- 13.** If the monthly needs of the Ward change, file an application for an amended monthly allowance.
- 14.** If your address changes, you **MUST** notify the Guardianship Investigator and the Clerk of the Court in writing of your new address within ten days of the change. Failure to provide that notification could result in your being fined \$50.00 by the Court. (Civil Practice and Remedies Code Section 30.015)
- 15.** When the Ward dies and assets remain in the estate and the Ward did not have a Will, file an application to determine heirship within thirty (30) days. Have your hearing on the application to determine heirship with two disinterested witnesses to verify family history within sixty (60) days of the date of death of the Ward.
- 16.** After the heirship hearing or if the Ward has a Will, after the Will has been admitted to probate and an executor has been appointed, then file the final accounting of the estate. Send each heir or devisee of the estate a copy of the accounting and obtain a waiver of service from the heir/devisee.
- 17.** Once the final accounting has been approved, distribute the remaining assets in accordance with the order approving the final accounting. Estates Code §1204.102.
- 18.** Obtain signed receipts and releases from each heir, devisee and/or creditor showing distribution of assets of estate. Estates Code §1204.105
- 19.** File application to close estate, discharge administrator and surety, along with receipts and releases. Estates Code §§1204.151, 1204.152.
- 20.** Send copy of Order closing estate & discharging administrator to bonding company.

I acknowledge receipt of these Court Instructions:

Guardian of the Estate