

Instructions and Duties of a Conservator

Prepared
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**IT IS IMPORTANT THAT YOU READ THIS INSTRUCTION PACKET IN
ITS ENTIRETY BEFORE YOU BEGIN ADMINISTERING THE
CONSERVATORSHIP**

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INTRODUCTION TO INSTRUCTIONS AND DUTIES OF A CONSERVATOR

THESE INSTRUCTIONS AND DUTIES OF A CONSERVATOR were prepared by the Commissioner of Accounts of Prince William County to assist you in performing the general duties you have undertaken as a Conservator of a Conservatorship estate. It is the duty of a Conservator to be in full compliance with the legal requirements of all sections of the Code Virginia that pertains to a Conservator. These instructions address only the most commonly asked procedural questions.

Please be advised that the Commissioner of Accounts is not an employee of the Commonwealth of Virginia or Prince William County, but rather is appointed by the Judges of the Circuit Court of Prince William County. **The Commissioner of Accounts cannot give you legal advice and these instructions are not to be considered as advice as to all laws and your duties as a Conservator.** Although many Conservators properly fulfill their duties without the assistance of an attorney, you may determine it is appropriate to consult with an attorney experienced in administering an estate of an incapacitated adult to assist you and to avoid liability you may incur for improper administration.

It is important that you are aware of the following information and principles to avoid your incurring personal liability in your role as Conservator and to fulfill the requirements of filing the proper documentation with the Commissioner of Accounts and the Circuit Court of Prince William County:

1. KEEP ALL CONSERVATORSHIP ASSETS AND MONEY SEPARATE.

This is not your money. Do not deposit any Conservatorship money into your personal account or use this money for any of your bills or personal finances or you will be subject to court sanctions and you could be subject to criminal prosecution. A Conservatorship account should be opened to receive all Conservatorship funds.

2. CANCELLED CHECKS AND RECEIPTS ARE REQUIRED.

When you file an Accounting with the Commissioner of Accounts you will have to prove that any disbursements of money for expenses of administering the

Conservatorship were in fact received. Open the account for the Conservatorship at a bank which returns cancelled checks or provides a photocopy of the check which, together with the bank statements, itemizes that check.

3. **RECORD KEEPING.**

It is your obligation to maintain an accurate record of all Conservatorship assets, receipts and disbursements you have made from Conservatorship funds. These records will be required in support of the documentation you are required to file with the Commissioner of Accounts during your administration of the Conservatorship.

4. **SALE OF REAL PROPERTY.**

The Court Order entered when you were appointed Conservator may have imposed requirements that must be satisfied prior to the conveyance of any real estate you hold as Conservator. Failure to comply with any requirements set forth in the Court Order may result in the sale being declared void and subject you to being summoned to appear before the Circuit Court for violation of the Court Order.

5. **IMPORTANT DEADLINES TO REMEMBER.**

The following are important deadlines to meet your filing requirements with the Clerk of the Circuit Court and the Commissioner of Accounts:

On or before 4 months from the date of qualification: (*Virginia Code §64.2-1300*) Send or hand deliver the Inventory to the Commissioner of Accounts Office with the appropriate fees (See fee schedule).

On or before 6 months from date of qualification: (*Virginia Code §64.2-1305*) Send or hand deliver the First Accounting to the Commissioner of Accounts Office covering the initial 4 month period of administration with the appropriate fees (See fee schedule).

Second and subsequent Accountings are due to the Commissioner of Accounts with the appropriate fees on or before 16 months from the end date of the prior account and should cover each 12-month period subsequent to the first Accounting. (*Virginia Code §64.2-1305*)

Final Accounting is due within 4 months of the ending date of the period covered, which may not necessarily cover a 12-month period. **All assets must be distributed in accordance with Virginia Code Section 64.2-2026(discussed in**

these Instructions) and the account may not reflect any remaining assets on hand.

Failure to comply with these deadlines or to submit additional documentation requested by the Commissioner of Accounts may result in:

- 1. Delinquency fees imposed by the Commissioner of Accounts you are required to pay from your personal funds. (See the fee schedule for the various delinquency fees that may be imposed).**
- 2. A summons being issued by the Commissioner of Accounts to file any delinquent documentation.**
- 3. Forfeiture of your commission for your services as Conservator.**
- 4. A summons being issued by a Judge of the Circuit Court of Prince William County to appear before the Circuit Court to answer for your delinquency which can result in your being fined and/or imprisoned.**
- 5. Removal of your appointment as Conservator together with being held personally liable for any losses incurred by the Conservatorship estate which includes, but is not limited to, costs to investigate your administration and to qualify a substitute personal representative to administer the Conservatorship estate.**

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DUTIES AND POWERS OF A CONSERVATOR

The Order appointing the Conservator should be carefully reviewed to determine the powers and duties of the Conservator in managing the estate and financial affairs of the incapacitated person. A Conservator shall exercise reasonable care, diligence, and prudence and shall act in the best interest of the incapacitated person. To the extent known to him, a conservator shall consider the expressed desires and personal values of the incapacitated person (Virginia Code Section 64.2-2021); consider the expressed desires and known personal values of the incapacitated person; and to the extent feasible, encourage the incapacitated person to participate in decisions, to act on his own behalf and to develop or regain capacity to manage his estate and financial affairs.

Except as limited by the Order of appointment, a Conservator has all the powers set forth in Virginia Code §64.2-105, and the powers listed in Virginia Code §64.2-2022(A). Additionally, Conservator has the power to make gifts (see Allowable Expenditures, page 21), to disclaim property (also discussed in Allowable Expenditures), make an election for a family allowance, exempt property or homestead allowance under Virginia Code §64.2-313, and, if authorized by the Order of appointment, to create a revocable or irrevocable trust on behalf of the incapacitated person.

TAKING POSSESSION OF ASSETS

After determining what assets will be under the control and supervision of the Conservator, the Conservator should take possession of those assets. An initial determination must be made to determine if the incapacitated adult's property, real and personal, is owned individually by the incapacitated adult, owned jointly with the right of survivorship, owned jointly without the right of survivorship, is payable upon death to another individual or consists of the incapacitated adult's interest in any trust.

1. Your Certificate of Qualification from the Clerk of the Circuit Court is your authority as Conservator to take possession of the incapacitated adult's assets. You should present (or mail) this to every entity that holds assets of the incapacitated adult and request that all future correspondence and payments be sent in your care as Conservator.
2. You will need to open a separate Conservator bank account and possibly other Conservatorship accounts depending on the assets the incapacitated adult owned over which you have supervision (as well as future investments). Use a Virginia bank that returns the original or photocopies of checks. You will find it very helpful if you use

this account for all deposits from investments and all disbursements as it will then be a single source for preparation of the Accountings required to be filed for the Conservatorship.

3. All of the incapacitated adult's assets should be re-titled with the Conservator's name followed by "Conservator for" the incapacitated adult's name.

Example: John Smith, Conservator for Joseph Smith

If more than one Conservator has been appointed, the assets must be titled in the name of all Conservators.

- Re-title assets the incapacitated adult owned individually in the Conservatorship
- Assets held jointly with the incapacitated adult's spouse should be divided 50/50 and the incapacitated adult's 50% should be placed in and re-titled in the Conservatorship. Also, 50% of the income earned from such joint assets after the date of qualification should be deposited into the Conservatorship account. To the extent possible, the Conservator should preserve the survivorship nature of the account upon re-titling the account by making the account payable on death to the spouse
- Assets held jointly with an individual or individuals other than the incapacitated adult's spouse requires the Conservator to determine and account for the percentage that was contributed by the incapacitated adult, which percentage should be placed in and re-titled in the Conservatorship. If the incapacitated adult intended for the account to be a survivorship account with an individual other than the spouse, the Conservator should preserve the survivorship nature of the account upon re-titling the account by making the account payable on death to the individual(s).
- Pay on death (P.O.D.) accounts and transfer on death (T.O.D.) accounts should be left in that form until you need to use funds from such accounts for the incapacitated adult's benefit, and you should only withdraw funds to the extent needed which you thereafter deposit into the Conservatorships checking account. The goal is to attempt to maintain these assets in the form designated by the incapacitated adult in order to honor such incapacitated adult's wishes

- Stocks or investments that have not reached maturity can be left as titled as long as the co-owner agrees to cooperate with you as Conservator and permits you to hold the original documents

USE THE INCAPACITATED ADULT'S SOCIAL SECURITY NUMBER ON EACH ACCOUNT

4. You need to obtain the value of all assets as of the date of your qualification as Conservator for preparation of the Inventory for the Conservatorship and for the Commissioner of Accounts to determine the sufficiency of the bond.

5. Conservatorship assets and funds cannot be combined or commingled with the personal assets and funds of the Conservator. Conservatorship assets and funds should be kept in separate accounts from the personal assets and funds of the Conservator.

Record Keeping/Supporting Documentation:

You have an obligation to maintain a record of all receipts and disbursements of the Conservatorship funds. Be prepared to present supporting documentation to the Commissioner of Accounts during your administration of the Conservatorship. Below is a list which provides you with some of the records you should retain:

- All original invoices of bills paid
- Original banking and brokerage statements
- Cancelled checks or bank copy of check
- Settlement statement of any sale of real estate
- Signed (and preferably notarized) receipts for each asset distributed upon termination of the Conservatorship.

As stated in the Introduction to Instructions and Duties of a Conservator above, you should use a bank that returns cancelled checks. We will accept a photocopy of the check (individual copy or a copy obtained through a bank's on-line banking services) together with the bank statement that itemizes that check. If the bank fails to provide either cancelled checks or statements that contain photocopies of checks, contact the bank immediately to correct this matter as a request for these items at a later date may result in service charges by your bank. You need to maintain an accurate record of all Conservatorship assets, and all documents (cancelled checks, bank/investment statements, receipts from the distribution of cash or personal items) that exhibit receipts (interest income, dividends or receipts of any kind) and disbursements you have made from Conservatorship funds.

INVESTMENT OF CONSERVATOR FUNDS

1. **Time Requirement:** Principal funds must be invested **within four (4) months** from the time such funds come under the control of the Conservator. (Virginia Code § 64.2-1501)
2. **Acceptable Securities:** Funds may be invested in acceptable securities as set forth in Virginia Code § 2.2-4519 and 64.2-1502, or as permitted by the Court Order.
3. **Standard of Care for Investments:** The standard of care for investments is set out in **Virginia Code, Article 2 Uniform Prudent Investor Act, § 64.2-781, et seq.**, and is referred to as the “**prudent investor**” rule.
4. **Loss in Value of Assets:** The Conservator is responsible for the care, preservation, and management of the incapacitated adult’s assets.
5. A Conservator may not lend money to himself/herself or invest in unsecured notes or purchase real estate.

NOTE: If there is a loss in the value of Conservatorship assets due to the negligence or improper conduct of the Conservator, the Conservator is charged with the lost principal and interest thereon. (Virginia Code § 64.2-1415)

Document Filing Dates

A. Within four (4) months after your date of qualification: Mail or hand deliver your completed "**Inventory For Estate Of Incapacitated Adult**" form to the Commissioner of Accounts Office in accordance with the instructions below. This form (Form CC-1671) was given to you at your qualification appointment with the Probate Clerk and may also be obtained from the Virginia Supreme Court website at <http://courts.state.va.us/forms/circuit/fiduciary.html> .

B. Within six (6) months after date of qualification: Mail or hand deliver your completed first "**Account For Incapacitated Adult**" form to the Commissioner of Accounts Office in accordance with the instructions below. This form (Form CC-1682) was given to you at your qualification appointment with the Probate Clerk and may also be obtained from the Virginia Supreme Court website at <http://courts.state.va.us/forms/circuit/fiduciary.html> .

C. Second and subsequent accountings are due within sixteen (16) months after the ending date of the prior account and should cover a twelve (12) month period: Mail or hand deliver your completed "**Account For Incapacitated Adult**" form to the Commissioner of Accounts Office in accordance with the instructions below.

Inventory for Estate of Incapacitated Adult

General Information:

The Conservator is required by law to file an inventory with the Commissioner of Accounts within four (4) months after the date of your qualification listing all assets under your supervision and control as Conservator. (Virginia Code §64.2-1300)

Example: Date of qualification -June 1, 2020
Inventory Filing Due Date -October 1, 2020

The Inventory must be signed by each Conservator. The inventory must also be **typed or computer generated**, and an **original and one copy must be submitted** to the Commissioner of Accounts Office along with the appropriate filing fee (see the Fee Schedule the Probate Clerk provided you at qualification).

Valuation of Assets:

The Conservator must report on the "Inventory for Estate of Incapacitated Adult" form, the exact value of assets as they existed on the date of qualification.

Personal Property: Use the **fair market value of the assets**. (Provide the **exact dollars and cents values; do not round figures**)

Real Property: Use the local real estate assessed value or appraised value. (Do not reduce gross value by outstanding mortgage, loan, lien, or other claim against the property).

Note: Reasonable expenses incurred in determining the values to place on estate assets, such as appraisals, are allowable as an administrative cost of the conservatorship.

Preparing the "Inventory for Estate of Incapacitated Adult"

Part 1 - List the incapacitated person's personal estate; tangible and intangible.

- List assets in the incapacitated adult's individual name. If an asset is in the incapacitated adult's individual name with a designation to go to another individual upon the incapacitated adult's death (pay on death "P.O.D." or transfer on death "T.O.D." designation), list those assets in Part 5.
- Assets should be clearly identified and listed in reasonable detail.
- Group similar assets together such as personal effects and household property.

EXAMPLE

Personal items	\$ 200.00
Household furnishings	\$ 500.00
Diamond ring	\$ 855.00

- List articles separately that have a value of more than \$500.00, including collections such as stamps, coins or other collectibles.

EXAMPLE

Coin Collection (appraised value)	\$3,900.00
Stamp Collection (appraised value)	\$1,500.00

- Un-cashed checks should be listed separately.

EXAMPLE

ABC Corporation, dividend check	\$50.00
XYZ bank, interest check	\$75.00

- Motor vehicles, boats, and personal watercraft should be listed by year, make, and model.

EXAMPLE

2011 Toyota Camry	\$15,000.00
2010 Bayliner Watercraft	\$4,800.00

- Checking, savings, and other accounts should include the bank name, type of account, the account number (**only the last four digits**), any accrued interest, and the maturity date. Stock, mutual funds, partnerships, or limited liability companies, whether held in certificate form, book account form, or in a brokerage account, **must be listed separately** and must include name, number of shares, or percentage of ownership, and price per share or value of percentage of ownership.

EXAMPLE

ABC Bank, checking Acct #6215	\$2,522.00
2.5% interest, maturity date 12/2/13	\$9,500.00
ABC Company, 200 shares, \$50 per share	\$10,000.00
GGG Mutual Fund, 1,000 shares, \$5 per share	\$5,000.00
WWW Brokerage Acct Money Market Account	\$4,222.00

- Bonds and promissory notes should be listed, and each should include the issuer's name, face amount, interest rate, and maturity date for each item.

EXAMPLE

City Water Authority Bond, \$8,000 6.75% interest, maturity date 10/2/25	\$8,000.00
Mary Smith, promissory note, face amount \$27,000 7% interest, maturity date 11/1/25	\$27,000.00

Part 2 - List the Incapacitated Adult's Real Estate in Virginia, over which you, as Conservator have a power of sale (See explanation on page 22 "Sale of Real Estate").

Report each piece of real estate, street address, and city or county in which the property is located.

Part 3 - List the Incapacitated Adult's Real Estate in Virginia, over which you, as Conservator do NOT have a power of sale (See explanation on page 22).

Report each piece of real estate, street address, and city or county in which the property is located.

Part 4 - List the Incapacitated Adult's Non-Virginia Real Estate.

The Conservator should report all of the incapacitated adult's real estate or partial interest in real estate not situated in Virginia that are assets of the conservatorship, whether or not the property is located in the United States.

Part 5 - List the Incapacitated Adult’s legal or equitable ownership

The Conservator should list any real property or personal property that will pass to another person upon the death of the incapacitated adult by means other than testate or intestate succession. This is any real or personal property held with right of survivorship with another person; and personal property of the incapacitated adult payable to a named beneficiary upon death. (a pay on death “P.O.D.” or transfer on death “T.O.D.” account)

EXAMPLE

ABC Bank, Certificate of Deposit, Acct #9999, Decedent and Mary Smith, joint account with Survivorship, 3.75% interest, maturity– 11/20/25	\$5,000.00
ABC Bank, checking Acct #6220, POD to Barbara Smith	\$2,522.00
1150 Tolbert Drive, Manassas, VA joint with survivorship with wife, Susan Jones, assessed value	\$350,000.00
2110 Davis Ford Road, Manassas, VA, joint with survivorship with Tom Smith, assessed value	\$250,000.00

Part 6 – The Incapacitated Adult’s interest in any Trust.

The Conservator should list the incapacitated adult’s interest in any trust created by the incapacitated adult or another person. If the only interest is the right to receive distributions from a trust created by another person, the right to such payments should be listed in Part 8.

EXAMPLE

John Smith Revocable Trust Agreement Dated June 1, 2010	\$208,145.00
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Part 7-List the Incapacitated Adult’s rights to periodic payments from any agency of the United States Government.

The most common example of such payments would be the total annual value of payments from social security, but you should list any other benefit payments the incapacitated adult receives from a government agency. These are payments a designated representative is required to file a separate report with the agency regarding the use of the payments.

Example

Monthly Social Security of \$300.00	\$3,600.00
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Part 8 - List the Incapacitated Adult’s rights to periodic payments from any other source.

This Part includes payments from a retirement plan, annuity, trust fund, etc. that does not require a report to the agency, as in the payments under Part 7.

Example

Hartford Annuity Account No. #2056 Monthly amount \$450.00	\$5,400.00
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Filing the ‘Inventory for Estate of Incapacitated Adult’

- Date and sign the Certificate of Accuracy and Completeness on page 3 (**All** Conservators are required to sign)
- Write a check for the appropriate Inventory filing fee, see Fee Schedule
- Make at least two (2) copies of the Inventory; 1 for your records, and 1 for the Commissioner of Accounts Office to be filed with the original Inventory.

Mail **ALL** of the items listed below to the Commissioner of Accounts to whom you were assigned at the address on the front page of these Instructions. You may deliver these in person if you make an appointment ahead of time. An appointment can sometimes be made with as little as one day's notice:

- The completed and signed Inventory form
- One copy of the completed and signed Inventory form
- Payment for the Inventory Filing Fees (see fee schedule)

If, after filing the Inventory, additional assets are discovered, or if errors are found that increase the total estate assets by **more than \$25,000 over the Inventory Value**, an Amended Inventory must be filed with the Commissioner of Accounts within four (4) months from the date of discovery of the additional assets or the discrepancy.

However, if the after discovered assets or errors are **less than \$25,000**, an Amended Inventory is **not** required, and the adjustment(s) can be made on the First Account.

Account for Incapacitated Adult

General Information

The Conservator is required by law to file a first accounting with the Commissioner of Accounts within six (6) months after the date of qualification. This first account must cover the first four (4) months of your conservatorship (Virginia Code §64.2-1305). When applicable, second and subsequent accountings are due sixteen (16) months after the date of the prior account and should not cover more than a twelve (12) month

period.

Exception: a three-year accounting period may be permitted by the Commissioner of Accounts where a filed and approved accounting exhibits the total assets under the control of the Conservator are less than \$25,000.00 (Virginia Code §64.2-1313). That permission may be revoked by the Commissioner of Accounts or upon the request of any interested party.

Example First Account: Date of Qualification –March 1, 2020
Due Date – September 1, 2020 (6 months from March 1, 2020 date of qualification)
Time period Accounting covers –March 1, 2020 to July 1, 2020

Example Subsequent Account: Ending date of last Account –July 1, 2020

Due Date–November 1, 2021 (16 months from end date on last account July 1, 2020)
Time period Accounting covers (12 months only)
July 1, 2020-July 1, 2021

You must provide original documentation to corroborate all receipts and disbursements reflected on the Account, together with the original and one copy of the “Account For Incapacitated Adult” form. This documentation includes, but is not limited to, the following:

- bank statements
- Broker's statements
- HUD-I settlement statements
- receipts
- billing statements or invoices for each disbursement
- Originals of checks. A photocopy of a check will suffice as a receipt if both sides of the canceled check are provided. A copy of the front side of the check and the statement from the financial institution showing the check number and amount that coincides with the copy will also be accepted.

The Account must also be typed, or computer generated, and a signed original and one signed copy must be submitted to the Commissioner of Accounts Office, along with the appropriate filing fee. (See Fee Schedule) Also, be sure to number each page in sequential order.

Valuation of Assets:

Carrying Value is the value established when the asset was acquired, that is, the value of an asset as reported on the Inventory; or, the cost of a new asset on the date of purchase.

Current Market Value is the value of an asset if the asset were sold as of the date of the end of the accounting period.

Note: Some assets such as bank accounts, certificate of deposits, and money market funds will have the same carrying and current market value.

Preparing the “Account For Incapacitated Adult”

Line 1. Beginning Assets

If filing a FIRST account, itemize the beginning assets from Parts 1, 2 and 5 of the Inventory for Estate of Incapacitated Adult (including any Amended Inventory you filed). Include the full description of each asset and the carrying value and market value.

If filing a Second or subsequent account, itemize the total assets on hand at the end of the prior accounting period, including the full description of each asset and the carrying value and market value.

The TOTAL of the beginning assets must be entered on line number ‘1’

Line 2. Receipts

Social Security, SSI, Veteran’s or other Federal Benefits:

As stated in the Instructions provided by the Probate clerk upon qualification, if certain federal benefits (Social Security, Supplemental Security Income, Veterans Affairs and Black Lung benefits) are paid to a designated representative (whether the conservator or another) on behalf of an incapacitated adult, and *if* (i) the designated representative is required to report to a federal agency for the use of such benefits *and* (ii) the benefits are kept in a separate account and not commingled with other conservatorship assets, the conservator does not have to account to the Commissioner of Accounts for the use of such benefits. However, the amount received must be listed on the line marked with “*”. If such benefits are kept in the same account as other conservatorship assets, then these benefits are included in line 2 and accounted for in the same manner as the incapacitated adult’s other income. Any federal benefits paid to a conservator on behalf of the incapacitated adult for which the conservator is not required to report to a federal agency for their use must be disclosed in Part 2 and accounted for in the same manner as the incapacitated adult’s other income.

All other receipts

Itemize chronologically all interest, dividends, rental income, refunds, and any other income received during the accounting period (but not Social Security, Supplemental Security Income, Veterans Affairs and Black Lung benefits except as discussed above) when received. For example, show each quarterly dividend from XYZ Stock

rather than a lump sum for the year.

Example

ABC Bank Checking Account		
3/1/20 ABC Bank interest	\$8.50	
3/5/20 Virginia Natural Gas, Refund	\$30.00	
4/1/20 ABC Bank Interest	\$8.50	TOTAL
5/15/20 IRS Tax refund	\$1,200.00	\$ 1,247.00

ABC Brokerage Account		
3/1/20 ABC MM Account, interest	\$100.00	
3/5/20 AB Inc., dividend	\$25.00	= \$125.00
		Total Receipts: \$ 1,372.00

The TOTAL of the receipts must be entered on line number ‘2’

Line 3. Gains on Asset Sales

For securities sold by a broker, show the date of the sale, property description, to whom sold, total carrying value, gross sales price, and the net gain. show the date of the sale, the name of security, the total number of shares sold, the total carrying value, the gross sales price and the net gain.

ABC Corporation, 300 shares		
3/1/20 carrying value	\$14,388.50	
Sold 300 shares	\$15,327.38	Net Gain: \$938.85

For real property sold, show the date of the sale, property description, total carrying value, gross sales price, the costs of sale (realtor commission, recordation fees, real estate taxes, deed, etc.) and the net gain. Provide a signed settlement statement as verification.

Lot 1, Block B, 3201 Main Street, Manassas, VA, sold to John Smith		
3/1/20 carrying value	\$350,000.00	
Gross Sales price	\$450,000.00	
Costs of sale	\$12,715.00	Net Gain: \$87, 285

For miscellaneous items sold, show date of sale, description, total carrying value, gross sales price, any costs of sale and net gain.

2018 Toyota Camry		
3/1/20 carrying value	\$15,000.00	
Gross Sales Price	\$18,000.00	Net Gain: \$3,000

The TOTAL of the net gains must be entered on line number '3'

Line 4. Adjustments

Itemize any additional **after-discovered** assets under 25,000.00;

4/1/20 After discovered asset		
1 U.S. Savings Bank, serial #25555, face amount \$500.00, maturity May 1, 2021		
Date of death value	\$500.00	
Net increase in value		\$500.00

Itemize **corrections** to assets previously reported;

3/1/20 Asset correction		
CCC Company, 200 shares, inventory value \$40/share	\$8,000.00	
Date of death value was \$30/share	\$6,000.00	
Adjustment		-\$2,000.00

Itemize **mergers** and **name changes of securities** and **stock splits** showing the **effective date** and any **changes in the number of shares**;

4/8/20 Merger and Name change		
Bell Atlantic Corp., 100 shares	\$3,000.00	
Merger and exchange of shares Verizon Communications, 100 shares	\$3,000.00	
Adjustment		\$ 0.00

Itemize **acquisition** of additional **principal assets**;

4/1/20 Asset Acquisition		
Dominion Resources, Inc.	\$2,250.00	
Commission	\$65.00	
Amount paid for Dominion Resources	-\$2,315.00	
Adjustment		\$ 0.00

Itemize shares acquired from **reinvested dividends** showing each reinvestment and the amount of stock purchase.

5/1/20 Reinvested Dividends		
MFS Muni bond Tr. 200 shares @ \$11.25/share	\$2,251.68	
Less dividends used for purchase	-\$2,251.68	\$ 0.00

The TOTAL of the net adjustments must be entered on line number ‘4’

Line 5. Total

The TOTAL of lines 1, 2, 3 and 4 must be entered on Line ‘5’

Line 6. Disbursements

Itemize chronologically all disbursements by date, check number, payee, and the purpose of the disbursement.

DATE	CHECK #	PAYEE	PURPOSE	AMOUNT
5/1/20	#100	Clerk of Circuit Court	Probate Tax	\$500.00
5/4/20	#101	EE Funeral Home	Funeral service	\$3,000.00
5/9/20	#102	Virginia Power	Final power bill	\$60.00
Total				\$3,560.00

The TOTAL of the disbursements must be entered on line number ‘6’

A canceled check OR a copy of the front and back of the check OR a photocopy of the check together with the bank statement that itemizes that check AND a signed invoice or receipt from each payee must be provided for each disbursement and must be organized chronologically by account.

If a reimbursement is made to a third party for expenses paid on behalf of the conservatorship, you must provide an invoice or receipt for said expense and the third party’s cancelled check or credit card statement verifying payment.

Line 7. Losses on Asset Sales

For securities sold by a broker: show the date of sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price, and the net loss.

3/1/20 ABC Corp 300 shares @ \$47.97/share		
Carrying value of 300 shares	\$14,391.00	
5/1/20 Sold all 300 shares	\$12,500.00	Net Loss: \$1,891.00

For real property sold show the date of the sale, the property description, the total carrying value, the contract/gross sales price, the costs of sale and the net loss. Provide a signed settlement statement as verification.

3/15/20 Sale 15 E. Main St., Manassas, VA		
Carry value	\$300,000.00	
Gross Sales Price	\$250,000.00	
Costs of sale	\$ 12,715.00	
Net Loss:\$50,000+costs of sale of \$12,715		Net Loss: \$62,715.00

For miscellaneous items sold: show the date of sale, the description, to whom sold, the total carrying value, the gross sales price, and the net loss.

2010 Ford Mustang		
Carrying value	\$ 14,000.00	
Contract/Gross Sales Price	\$ 12,500.00	Net Loss: \$1,500.00

The TOTAL of ALL of the NET LOSS must be entered on line number ‘7’

Line 8. Distributions (FINAL ACCOUNT ONLY)

- Line 8 is only applicable if the Conservator is filing a final Account For Incapacitated Adult. See Termination of Conservatorship below on page 23.
- Any distribution in the final account should be itemized by date with a description and value of the assets distributed.
- You should file a final accounting covering the period from the prior accounting through the date of incapacitated adult’s death or restoration of competency.

The TOTAL value of the distributions must be entered on line number ‘8’

Line 9. Assets on Hand

Itemize each asset remaining on hand at its carrying value and its market value at the end of the accounting period.

The TOTAL of the Carrying Value must be entered on line number ‘9’.

The Total of the Market Value must be entered below where the last entry on the Account states: **Market Value of Assets on Hand****

The Conservator will be required to provide verification of the existence of each asset. This includes bank statements, (reconciled to agree with your account balance) broker’s statements, copies of K-1 forms, copies of promissory notes, Certificate of Deposit Statements, titles to vehicles and watercraft.

Line 10. Total

The total dollar amount of lines **6, 7, 8, and 9** must be inserted on **line number '10'** of the account form, **AND** this total **MUST equal** the total listed on **line number '5'** of the account form.

Filing the 'Account for Incapacitated Adult'

- Date and sign page 1. The Account **must be signed by each Conservator**.
- Write a check for the appropriate Account filing fee (see fee schedule)
- Be sure to number each page in sequential order
- Make at least two (2) copies of the Accounting; 1 for your records, and 1 for the Commissioner of Accounts Office

When ready to file, mail to the Commissioner of Accounts you were assigned to or file in person ALL of the items listed below:

- An Original complete and executed Account For Incapacitated Adult together with an itemized list for each figure on the account and stated supporting documentation.
- One copy of the completed Account form together with an itemized list for each figure on the Summary Form.
- The supporting documentation as described above
- The Account filing fee

Allowable Expenditures

1. Health and Maintenance. The Conservator may expend funds from principal and or/income of the conservatorship funds for the health and maintenance of an incapacitated adult. [Virginia Code § 64.2-2021](#) also permits a Conservator to contribute funds towards the support and maintenance of the incapacitated person's spouse and/or family.

2. Estate Planning:

- Gifts and Disclaimers. The Conservator may make a gift of up to \$150.00 to an individual or entity on behalf of the incapacitated adult in a calendar year, not to exceed a total of \$750.00 per calendar year. You should consult [Virginia Code § 64.2-2023\(C\)](#) which requires the Conservator consider several factors prior to making any gifts or disclaimers, including a determination the incapacitated adult had a three-year history of making similar gifts.

- Gifts in excess of \$750.00 in a calendar year or to disclaim ownership of property on behalf of the incapacitated adult in excess of \$750.00, require authorization by a hearing before the Court ([Virginia Code § 64.2-2023](#)) premised on the several factors. [Virginia Code § 64.2-2023 C](#).
- The Commissioner of Accounts may authorize gifts not to exceed \$25,000.00 by a hearing and filing of a Report to the Court, also premised on the several factors set forth in [Virginia Code § 64.2-2023 C](#).
- Funeral/burial arrangements. [Virginia Code § 64.2-2023 F](#) also permits a Conservator to transfer assets to an irrevocable trust for burial of the incapacitated person or such person's spouse, and to arrange for a preneed funeral/burial plan pursuant to [Virginia Code § 54.1-2820](#) while the incapacitated person is still alive. There are, however, many regulations a Conservator must meet. Before you enter a preneed funeral/burial plan, be sure the funeral home's contract meets the requirements of Virginia law.

3. Maintenance of Real Estate. You may pay for normal maintenance costs of the incapacitated adult's real estate. If the incapacitated adult is residing in a nursing home and you are using conservatorship funds to pay utilities for the incapacitated adult's home, in which someone other than the incapacitated adult's legal dependent(s) reside, you must be receiving rental income. If the incapacitated adult's legal dependents(s) reside in the home, please provide a statement with the account explaining the same.

Sale of Real Estate

1. Be sure to review the Court Order appointing you as Conservator to see if any requirements need to be met before you begin procedures to sell any real property.
2. Unless the Court Order appointing you Conservator imposes restrictions, you may sell the incapacitated adult's real estate without Court approval.
3. Prior to selling any real estate, the Court may require the Conservator to:
 - Increase the amount of the Conservator's bond,
 - Secure an appraisal of the real estate or interest,
 - Give notice to interested parties,
 - Consult with the Commissioner of Accounts, and if one has been appointed, the guardian, and

- Require the use of a common source information company, as defined in [Virginia Code § 54.1-2130](#), when listing the property.
4. If any or all of these requirements are imposed, and before the real estate conveyance can occur, you must submit a report to the Commissioner of Accounts showing how the sale has complied with all the requirements imposed in the Court Order. [Virginia Code § 64.2-2022\(B\)](#)
 5. The Commissioner of Accounts will file a Report with the Court indicating whether the requirements imposed have been met and whether the sale is otherwise consistent with the Conservator's duties.

Termination of Conservatorship

1. **Cessation of authority: If the incapacitated adult has died, your authority as Conservator with regards to the assets of the conservatorship immediately ceases** and no further disbursements can be approved. The Executor or Administrator of the incapacitated adult's estate is responsible for payment of any unpaid debts and expenses, including funeral expenses, and the filing fee for the final Account For Incapacitated Adult. The Conservator has the duty to manage the assets of the Conservatorship until distribution.
2. **Distribution of Conservatorship assets upon termination:**
 - If the incapacitated adult is restored to capacity by Court Order, the Conservator is required to distribute the remaining assets of the Conservatorship to the incapacitated adult.
 - If the incapacitated adult has died prior to restoration to capacity, the Conservator is required to distribute real estate to the heirs or devisees of the deceased incapacitated person and the personal estate to the executor(s) or administrator(s) of the incapacitated person's estate. (Virginia Code §64.2-2026 B).
 - If the value of the personal estate is \$25,000.00 or less; a personal representative has not qualified to administer the estate of the incapacitated person within 60 days of death; and the Conservator concludes such qualification is not likely; the personal estate may be paid to the surviving spouse, or if there is no surviving spouse, to the distributees of the incapacitated person or other person's entitled

thereto, including those entitled to payment for funeral or burial services provided, which distribution(s) shall be entered on the final Account For Incapacitated Adult. (Virginia Code §64.2-2026 B)

- Although upon the death of the incapacitated adult the Conservator's authority to make further disbursements for expenses has ceased, if a Conservator's mistakenly makes payment for funeral expenses, this must be approved in writing by the personal representative of the decedent's estate.

Compensation for Administration of Conservatorship

A Conservator is entitled to "reasonable" compensation for administering an estate. (Virginia Code §64.2-1208)

In those circumstances where there is a Guardian appointed by the Court who is not also the Conservator, compensation paid to the Guardian by the Conservator will be reviewed by and require approval of the Commissioner of Accounts. It is recommended records of time, services rendered, and proposed charges be maintained for that review.

The Conservator's compensation is for the **complete** handling of the administration of the conservatorship. **Compensation is not an honorarium, but it is based on services rendered by the Conservator.**

The Compensation Guidelines that follow are based on the "Guidelines for Fiduciary Compensation" adopted by the Judicial Counsel of Virginia and this jurisdiction.

If you have any questions regarding Conservator Compensation, please contact the Commissioner of Accounts Office BEFORE YOU TAKE A FEE.

Principal Fee (Taken annually based on the fair market value of the conservatorship assets, principal and income, at the beginning of the accounting period):

1% of the first \$500,000.00 (.01)

3/4% of 1% of the next \$500,000.00 (.0075)

½ of 1% of \$1,000,000 through \$9,999,999 (.005)

Over \$10,000,000-by agreement with the Commissioner (consultation required)

Income Fee (taken annually):

An additional fee of 5% should be allowed on non-investment income received during the account period (for example, periodic retirement payments). No compensation is to

be calculated on investment income received during the year.

Successor Conservators

When a Conservator is succeeded by another, the annual fees shall be pro-rated, and an additional compensation fee may be allowed, but only if the Commissioner of Accounts or the Court determines this to be appropriate.

Co-Conservators

One fee will be divided equally among the Co- Conservators. The Co-Conservators may agree among themselves on a different division. In case of a dispute concerning the division of the compensation fee, the Commissioner of Accounts may hold a hearing to resolve the dispute, but only if ALL of the Conservators first agree to the use of this hearing procedure.

Important Notes about Compensation for Conservator

If the court order clearly sets out compensation in a specific dollar amount or a specific percentage that the fiduciary is to receive, the court order controls, and the fiduciary is entitled to the amount set out.

The Commissioner of Accounts may deviate from the above compensation guideline on a case-by-case basis, if necessary, to ensure that each Conservator receives “reasonable compensation” for services provided.

Fees paid to an attorney or accountant employed by the Conservator to perform duties that could be performed by the Conservator will be deducted from the compensation due to the Conservator. “Reasonable fees” paid to attorneys or accountants for tax work, litigation, or other professional services reasonably necessary for the orderly administration of the conservatorship need not be deducted from the Conservator’s compensation.

Bond

When you qualified as Conservator before the Clerk, you signed a Bond guaranteeing your performance as required by law. The dollar amount of your Conservator’s bond and whether the bond was secured or unsecured was determined by the Court Order appointing you as Conservator.

Bond Increase

If there is an increase in the value of the assets under your control as Conservator, and the dollar value of the assets becomes greater than the dollar amount set on your bond at the time of qualification before the Clerk, you will be required to sign a new bond to increase the dollar amount on the bond. You will receive notification from the Clerk to execute a new bond within a set deadline. If you do not sign a new bond by the deadline given, your powers of appointment as Conservator may be revoked due to an insufficient bond.

Bond Reduction

If there is a decrease in the value of the assets under your control and the dollar values of the assets become less than the dollar amount set on your bond at the time of your qualification, you can request a reduction in the amount of the bond. **A bond reduction request can only be considered after an inventory or accounting has been approved by the Commissioner of Accounts showing that the assets on hand, plus anticipated income, are less than the current bond amount. Please mail a written request for a bond reduction to the Probate Clerk.**

Penalties

The Code of Virginia provides for certain penalties if a Conservator does not properly file the required documents with the Commissioner of Accounts Office in a timely manner. **Any penalties are to be paid from the Conservator's personal assets and NOT from the assets of the conservatorship.**

Late Fee

For failure to file an inventory or accounting within the time required by law, the Conservator will be assessed a late filing fee. Conservator's who fail to settle their accounts in a timely manner shall forfeit their compensation unless good cause can be shown for their delay.

Summons

If the Conservator fails to respond to letters from the Commissioner of Accounts regarding the filing of an inventory or accounting, or fails to provide appropriate supporting documentation, a summons will be issued and served upon the Conservator by the Sheriff. Upon service, the Conservator has thirty (30) days in which to submit the required information to the Commissioner of Accounts.

Court Appearance

If a summons deadline is not met, the Commissioner of Accounts will report the delinquency to the Court and will request that a Show Cause Order be entered against the Conservator. After the Court issues a Show Cause Order, the Conservator will be required to appear in the Circuit Court of Prince William County. The Conservator will have to explain to the Judge why he/she has not complied with the law. The Court may revoke the Conservator's powers and may also impose a fine not to exceed \$500.00 (Virginia Code §64.2-1215).

Any fees or fines incurred because of delinquency must be paid by the Conservator, individually and personally, and cannot be paid from the conservatorship assets.

Taxes

It is the responsibility of a Conservator to determine whether all taxes due by the incapacitated adult have been paid, including but not limited to, federal and state income taxes, individual personal property tax, and any other applicable taxes. Unless these taxes are being addressed and satisfied by another, such as the incapacitated adult's spouse, the Conservator is responsible for these taxes.

Change of Address

Any Conservator whom moves from Virginia and becomes a resident of another state shall inform the Clerk's Probate Department and the Commissioner of Accounts of his/her new address and phone number within thirty (30) days of the date of the change in residency. **Any person who fails to inform the Clerk and the Commissioner shall be subject to a civil penalty of \$50.00.** ([Virginia Code § 64.2-1409](#))