



**HANDBOOK FOR  
CONSERVATORSHIP/GUARDIANSHIP**

**PART I: The Filing of the Petition, the  
Court Hearing, the Order of  
Appointment, and the Letters of  
Conservatorship/Guardianship**

**CHANCERY COURT OF RUTHERFORD COUNTY, TENNESSEE**

**JOHN A. W. BRATCHER, J.D., RETIRED CLERK AND MASTER**  
**Revised and Edited by Mandy Bates: October 2022**

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## **INTRODUCTION: Why read this handbook?**

You are interested in filing a Conservatorship for an adult or a Guardianship for a minor. Like many people, you may never have been a Conservator or a Guardian of someone else before, and that's why this guide was created. This Handbook has been designed by the Rutherford County Clerk and Master's Office as a helpful reference, and it will cover general information regarding filing a case with the Rutherford County Chancery Court. This Handbook is **NOT** intended to cover all the Tennessee laws governing Conservatorships and Guardianships. The Court highly suggests consulting with an attorney for any questions regarding the filing of the petition, your responsibilities as Conservator or Guardian, and if possible, consult with an attorney before taking any legal action on your own.

**For an electronic version and further  
information visit our website at:**

**[www.rcchancery.com](http://www.rcchancery.com)**

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# **1. CONSERVATORSHIPS AND GUARDIANSHIPS: The Basics**

- **Who is considered a person with a disability?**

A “person with a disability” means any person eighteen (18) years of age or older determined by the Court to need partial or full supervision, protection, and assistance by reason of mental illness, physical illness or injury, developmental disability, or other mental or physical incapacity.

- **Who is the Respondent?**

The person with a disability is often referred to as the Respondent in Conservatorships.

- **What is a Conservator?**

A Conservator is a person or entity appointed by the Court to provide partial or full supervision, protection and assistance to a Respondent. The person may be appointed as Conservator over the Respondent to manage medical affairs and activities of daily living; a Conservator of the property to manage the financial affairs of the respondent; or a Conservator over the person and property. The Court may appoint more than one person as Conservator, and the person are then called Co-Conservators.

- **What is a Fiduciary?**

A Fiduciary is a person who has been legally granted rights and powers to be exercised for the benefit of another person. For example, a personal representative of an estate is a Fiduciary; a Conservator of a person with a disability is a Fiduciary; a Guardian of a minor child is a Fiduciary; and a trustee of a trust is a Fiduciary.

- **What is a Guardian?**

A Guardian means a person or persons appointed by the Court to provide partial or full supervision, protection, and assistance of the person or property, or both, of a minor.

- **What are the Responsibilities of a Conservator or Guardian?**

As Conservator or Guardian, you have a double duty to both the Respondent and to the Court. You must always keep the best interests of the Respondent in mind. You must report to the Court regularly and be ready to answer any questions. Your responsibility as a Conservator or Guardian does not end until the court relieves you of your duties.

- **Who may file for a Conservatorship or Guardianship?**

Any person may file a petition for appointment of a Conservator or Guardian if he or she has knowledge of circumstances necessitating a Conservatorship or Guardianship. The persons having priority to be Conservator, subject always to the Court's discretion, are: (1) the person(s) designated in writing by the person with the disability; (2) the person with the disability's spouse; (3) any child of the person with the disability; (4) closest relatives of the person with the disability; and (5) other persons.

- **Where do I file for Conservatorship/Guardianship?**

A Conservatorship or Guardianship must be filed in the county where the minor or individual with a disability resides. In Rutherford County, you can file a petition in the Clerk and Master's office located on the fifth floor of the Rutherford County Judicial Building, and you can also in the Probate Court located at the Rutherford County Clerk's office. In other counties, you can file a petition in any probate court or other court of appropriate jurisdiction in the county of residence of the alleged person with the disability or minor. If filing outside Rutherford County, check with the court clerk in the county where you intend to file to confirm which court hears Conservatorships and Guardianships. You are strongly advised to hire an attorney to assist you with this process.

- **Will I have to have a hearing to be appointed as Guardian or Conservator?**

Yes. A hearing must be set before the Judge before a Guardian or Conservator can be appointed.

- **Is an examination by a doctor required?**

Yes. To establish a Conservatorship, you must prove that an individual is disabled by a clear and convincing legal standard, which is usually

accomplished through a sworn statement by a physician, psychologist, or senior psychological examiner. (See T.C.A § 34-3-105)

- **Who pays the attorney fees to file a Guardianship or Conservatorship?**

The Respondent's or minor's fund may be used to pay for attorney services, AFTER obtaining court approval. If the Respondent has very limited funds and/or receives public assistance, the Conservator may be able to qualify for free legal aid.

- **In Conservatorship proceedings, who protects the rights of the person with a disability?**

If the Conservatorship is already established, the Conservator is the one who protects the rights of the respondent. If the Conservatorship is being challenged by the individual with a disability, an Attorney ad Litem ("AAL") will be appointed to represent the person with a disability upon their request, recommendation of the Guardian ad Litem or if it appears to the Court to be necessary to protect the rights of the person with a disability.

- **What is an Attorney ad Litem?**

An Attorney ad Litem ("AAL") is an independent attorney the court may appoint to advocate on behalf of the person with the disability or the minor. The court shall appoint an Attorney ad Litem to represent the respondent on the respondent's request, upon the recommendation of the Guardian ad Litem or if it appears to the court to be necessary to protect the rights or interests of the respondent. The Attorney ad Litem shall be an advocate for the respondent in resisting the requested relief.

- **What is a Guardian ad Litem?**

A Guardian ad Litem ("GAL") is a person the court may appoint to impartially investigate the facts of the case and make a report and recommendation to the Court on whether a fiduciary should be appointed and whether the proposed fiduciary is the appropriate person to serve. Unlike the AAL, the GAL is not an advocate for the Respondent or any other party to the case. The Guardian ad Litem serves as an agent of the Court and has a duty to report and recommend whether a Conservator/Guardian should be appointed and whether the proposed Conservator/Guardian is appropriate. (See T.C.A § 34-1-107)

- **What are Letters of Conservatorship/Guardianship?**

The appointment as a Conservator or Guardian becomes effective upon the entry of an order by the Court appointing a Conservator or Guardian, administration of the statutory oath, and the posting of a bond, if required. ***The only effective evidence of appointment of a Conservator or Guardian are Letters of Guardianship or Conservatorship duly issued by the Clerk and Master.*** The Letters of Conservatorship/Guardianship must recite the specific powers to be exercised by the Conservator/Guardian and the specific rights retained by the person with a disability; or the have the order attached with the same information. (See T.C.A § 34-1-129)

- **How do I terminate or modify a Conservatorship or Guardianship?**

A Conservator may be discharged or have Conservatorship duties modified when the Court determines by a preponderance of the evidence that the respondent is no longer disabled or that it is in the respondent's best interest to do so. Death or reaching the age of majority does not automatically terminate the Conservatorship/Guardianship. The Court may also remove or modify a Conservator or Guardian on grounds the Conservator or Guardian has not performed as required by law or does not act in the respondent's best interests.

- **Can the person with a disability asks for the Conservatorship to be terminated or modified?**

Yes. The Respondent or any interested person may petition the Court at any time for termination or modification of the Conservatorship. If the Respondent is making the request, it may be communicated by simply calling the Clerk's Office or an informal letter. The Court may require a medical or psychological evaluation prior to a hearing on such a request or petition.

- **Who supports the spouse or minor children of the person with a disability?**

The appointment of a Conservator does not automatically terminate a person with the disability's duty to support a spouse or minor children. The Court may establish the amount of financial support to which a spouse or children are entitled.

- **Are Conservators and Guardians required to file any documents with the court?**

Yes. A status report is required to be filed each year. Other documents such as an inventory, bond, accountings, and a property management plan will be required by the Conservator/Guardian unless the requirement is waived by the Judge. (See T.C.A § 34-1-111)

- **Where do I locate the documents to file with the court?**

Many of the forms that are necessary to file with the court may be found in this Handbook and on the Rutherford County Clerk and Master's website: [www.rcchancery.com](http://www.rcchancery.com). Consult with your attorney if you are unsure how to proceed.

- **When is the Annual Status Report due?**

The first Annual Status report is due six (6) months after the date of your appointment as conservator, and it cannot be waived. An Annual Status report is due twelve (12) months from the date of the first Annual Status Report and every twelve (12) months thereafter. The status report form is a form you can download from the Clerk and Master's website (see above). The Conservator/Guardian is required to include with each status report a statement concerning the physical or mental condition of the respondent, which statement shall demonstrate to the court the need, or lack of need, for the continuation of the fiduciary's services.

- **When are the Annual Accountings due?**

An Interim Annual Accounting is due six (6) months after the date of appointment as Conservator/Guardian. Annual Accountings are due twelve (12) months from the date of appointment as Conservator/Guardian and every twelve (12) months thereafter.

- **When is the Inventory due?**

The Inventory is due sixty (60) days from the date of your appointment as Conservator/Guardian unless it was separately stated as an Inventory in the petition.

- **What is the difference between a Property Management Plan and an Inventory?**

The Property Management Plan is a Court approved budget that tells the Court how the Conservator/Guardian will manage the respondent's assets, pay for the respondent's needs, and how the Conservator/Guardian plans on investing any remaining assets. If not approved at the time of appointment as Conservator/Guardian, the Property Management Plan must be filed within sixty (60) days of the

order of appointment. The Inventory is a complete list of the respondent's personal property, real property, and income. The inventory tells the Court all that the Respondent or minor possesses.

- **Who do I contact if I need help completing the accounting?**

Contact your attorney if you need assistance with your accounting. The accounting forms can be found in Part II of this Handbook, and on the Clerk and Master's website at [www.rcchancery.com](http://www.rcchancery.com).

- **What is a Conservator/Guardian surety bond?**

A (Conservator/Guardian) surety bond provides financial compensation to the Conservatorship/Guardian estate should the Conservator/Guardian fail to properly exercise their financial fiduciary duty. The cost of the premium for the bond is paid out of the assets of the Respondent. The Court sets the bond amount based on the approximate value of the property and annual income of the Respondent. The bond amount can increase or decrease over time if the assets of the estate change.

- **How does the court oversee the activities of a Conservator/Guardian?**

Certain transactions of the Conservator or Guardian may only be taken with specific court approval. Conservator fees and attorney's fees are also subject to court approval. Always contact your attorney and the Clerk's office if you have any questions regarding seeking court approval before you spend the Respondent's or the minor's money.

- **What rights does the Respondent have once a Petition to appoint a Conservator is filed?**

The Respondent has a right to demand a hearing on the issue of disability, present evidence, testify, and choose witnesses, and attend any hearings. The Respondent may request an Attorney ad Litem be appointed to advocate for his/her interests. The Respondent has a right to appeal the final decision on the Petition, and request a protective order of the Court for Respondent's financial and/or health information to be protected, if not already protected under T.C.A § 34-3-105(f).

## **2. THE PROCESS OF APPOINTMENT AS CONSERVATOR OR GUARDIAN**

### **T. C. A. §34-3-104**

- **What is the first step to filing a Conservatorship or Guardianship?**

A Petition to appoint a Conservator or a Guardian is filed in the county where the individual resides. A sample Petition is included with this Handbook, and the Court suggests speaking with an attorney regarding help filling out and preparing the Petition to file (See T. C. A. §34-3-104). The Rutherford County Clerk and Master's office cannot provide you with any legal advice.

- **How much is the court filing fee?**

The filing fee is \$324.50, and the fee is made payable to the Rutherford County Clerk and Master's office by the person filing the Petition. Once the Conservatorship or Guardianship is established, the Petitioner may ask the court for reimbursement from the Respondent's estate for the filing fee.

- **What happens after the Petition is filed?**

You will work with the Clerk to schedule a hearing date, no less than five days and no more than sixty days, from the date the Petition is filed with the Clerk. In a Conservatorship case, the Clerk will issue a Summons to the Respondent that will be served by a Guardian ad Litem, if one shall be appointed. If there is no Guardian ad Litem, the Petitioner will serve the Respondent with the Summons and a Notice of Hearing prepared by the Clerk of the court's hearing date. The Clerk will then notify all the parties listed on the Petition as Next of Kin with a Notice of Hearing by Certified Mail.

- **What happens if the Respondent contests the Conservatorship when he/she is served?**

The Court is obligated to appoint an Attorney ad Litem. The Attorney ad Litem is a lawyer appointed to represent the individual and advocate for his/her wishes and best interests.

- **What happens at the hearing?**

The hearing is held at the courthouse before the Judge, and the Petitioner will present evidence on the need for a Conservator or Guardian. If appointed, the Guardian ad Litem and Attorney ad Litem will also appear at the hearing. The Respondent has a right to be present and to heard if he/she desires. The Judge will weigh evidence and make a determination of the needer for a Conservator or Guardian and will sign an Order appointing a Conservator or Guardian.



### **3. THE ORDER OF APPOINTMENT AS CONSERVATOR OR GUARDIAN**

#### **T. C. A. §34-3-107 and T. C. A. §34-2-105**

- **Who prepares the Order for the Judge to sign?**

If the Court determines a Conservator or Guardian is needed, the attorney representing the Petitioner will prepare the Order for the Judge's signature. If there is no attorney, and you are representing yourself, you will need to prepare the Order to reflect the ruling for the Judge to sign.

- **What must be included in the Order Appointing a Conservator (T. C. A. §34-3-107)?**

The Order shall name the Conservator or Co-Conservators, list the powers removed from the Respondent and those to be vested in the Conservator, as well as, any limitations in the Conservator's powers. If the Conservator will be managing the Respondent's finances and property, the Order must set the amount of the Conservator's bond, (unless waived by the Judge), approval of the Property Management Plan, and state if Annual Accountings are due.

**The rights of the Conservator may include, but are not limited to:**

***(A) The right to give, withhold, or withdraw consent and make other informed decisions relative to medical and mental examinations and treatment;***

***(B) The right to make end of life decisions:***

***(i) To consent, withhold, or withdraw consent for the entry of a "do not resuscitate" order or the application of any heroic measures or medical procedures intended solely to sustain life and other medications; and***

***(ii) To consent or withhold consent concerning the withholding or withdrawal of artificially provided food, water, or other nourishment or fluids;***

***(C) The right to consent to admission to hospitalization, and to be discharged or transferred to a residential setting, group home, or other facility for additional care and treatment;***

***(D) The right to consent to participate in activities and therapies which are reasonable and necessary for the habilitation of the respondent;***  
***(E) The right to consent or withhold consent to any residential or custodial placement;***  
***(F) The power to give, receive, release, or authorize disclosures of confidential information;***  
***(G) The right to apply for benefits, public and private, for which the person with a disability may be eligible;***  
***(H) The right to dispose of personal property and real property subject to statutory and judicial constraints;***  
***(I) The right to determine whether or not the respondent may utilize a Tennessee driver license for the purpose of driving;***  
***(J) The Respondent shall have the right to make everyday purchases for her own personal needs including food, clothing, and entertainment within the parameters set forth in this order;***  
***(K) The right to enter into contractual relationships;***  
***(L) The right to execute instruments of legal significance;***  
***(M) The right to pay the Respondent's bills and protect and invest the Respondent's income and assets;***  
***(N) The right to prosecute and defend lawsuits;***  
***(O) The right to execute, on behalf of the respondent, any and all documents to carry out the authority vested above; and***  
***(P) The right to communication, visitation, or interaction with other persons, including the right to receive visitors, telephone calls, or personal mail.***

- **What must be included in the Order Appointing a Guardian (T. C. A. §34-2-105)?**

The Order to Appoint a Guardian for a Minor shall include the name of the Guardian(s). If the Guardian is to manage the minor's property, the Order shall set the amount of the Guardian's bond, unless waived by the Court, and approval of the Property Management Plan. The Order shall state any other authority or direction the Court determines is appropriate to properly care for the person and property of the Minor.

- **What happens after the Order is signed and the bond (if required) is filed with the Court?**

You will need to come into the Clerk's office to have the Letters of Conservatorship/Guardianship issued. This is a separate document from the Order, and the Letters of Conservatorship/Guardianship are evidence of the authority to act as Conservator or a Guardian. ***Please ready your letters very carefully.*** The Clerk will then give you a copy of the Conservatorship and Guardianship Handbook and notify you of the timelines for filing your required Annual Accountings or Annual Status Reports with the Court.

- **When would the Letters of Conservatorship/Guardianship be used?**

You will need the Letters of Conservatorship/Guardianship to set up or transfer bank accounts, to apply for Social Security or become the Social Security Representative Payee for benefits. You may also be asked to present your Letters of Conservatorship/Guardianship to medical professionals or any educational/assistance program in which the Respondent is enrolled.



\*\*\*\*EXAMPLE\*\*\*\*

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: \_\_\_\_\_ CASE NO. \_\_\_\_\_  
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, [*name of Petitioner*], and files this petition for the  
appointment of a conservator of [*name of Respondent*], and would show to the  
Court as follows:

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

Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Residence: \_\_\_\_\_  
Mailing address: \_\_\_\_\_

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 his/her own affairs. Specifically, [*include case specific issues*]  
more particularly described in the sworn medical examination report of his/her  
treating physician which is attached hereto.

3. The name, age, residence and mailing address, relationship of the Petitioner, and statement of any felony or misdemeanor convictions of the Petitioner, if any, is as follows:

Name: \_\_\_\_\_

Age: \_\_\_\_\_

Residence: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Relationship to respondent: \_\_\_\_\_

A statement of any felony or misdemeanor convictions of the Petitioner, if any: \_\_\_\_\_

4. The Petitioner is seeking to have himself/herself appointed Conservator of the Respondent. *[In the event that the proposed Conservator and the Petitioner are not the same person, then the name, age, mailing address, relationship to the Respondent, and statement of any felony or misdemeanor convictions, if any, should be included in this paragraph. Also, the proposed Conservator should sign a statement acknowledging that he or she is aware of the petition being filed and his/her willingness to serve as conservator.]*

Attached to this Petition are current copies of the following reports on the Proposed Conservator:

- a. A search of the department of health's registry of persons who have abused, neglected, or misappropriated the property of vulnerable persons, established by tile 68, chapter 11, part 10;
- b. A search of the national sex offender registry maintained by the United State Department of Justice.

5. The name, mailing address, and relationship of the closest relative(s) of the Respondent are as follows:

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Relationship to Respondent: \_\_\_\_\_

*[Be sure to include any person or institution having care or custody of the Respondent, or with whom the Respondent is living. If the Respondent has no living spouse, child, parent, or sibling, then the Petition shall so state and more remote relatives are not to be listed. If any of the children of the Respondent are deceased, and the Respondent has surviving children, then the surviving children, even if they are 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. *[Describe here the facts supporting the Petitioner's allegation that the Respondent is in need of a Conservator.]*

7. The Respondent's treating physician or psychologist's name is *[doctor's name and location]*. A copy of *[doctor's, psychologist's, or senior psychological examiner's name]* sworn medical examination report is attached to this Petition *[or will be filed before the hearing]* 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 he/she cannot be examined or refuses to be voluntarily examined, the Petitioner can request the Court to enter an Order for 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.]*

8. The rights of the Respondent to be removed from the Respondent and transferred to the Conservator are \_\_\_\_\_.

*[The rights the court may remove may include, but are not limited to, the right to vote, dispose of property, execute instruments, make purchases, enter into contractual relationships, hold a valid Tennessee driver's license, give or refuse consent to medical and mental examinations and treatment or hospitalizations, do any other act of legal significance the Court deems necessary or advisable.]*

9. *[If the Petition is requesting the Conservator to manage the property of the Respondent, this Petition shall also contain all the financial information that is known to the Petitioner. Include a list of all of the property of the Respondent along with the approximate fair value. Also, include a list of the source, amount, and frequency of Respondent's income. These may include, but are not limited to, any social security, pension or retirement payments, annuity payments, disability payments, rental income, and interest on investments or dividends.]*

9. The list of the usual monthly expenses of the Respondent are as follows:

\_\_\_\_\_.

*[These may include, but are not limited to, mortgage or rent payments, costs of care at nursing home, utility bills, groceries, taxes and insurance, clothing and incidentals, or past due medical bills.]*

10. *[Describe how the income and expenditures have been handled up to this point, either by the Respondent or someone acting on their behalf, and why this arrangement is no longer feasible. Include a description of the proposed plan for the management of the Respondent's property. If the financial information*

*about the Respondent is unknown at the time of filing the Petition, a request shall be made for the Court to enter an Order authorizing the Petitioner to investigate the Respondent's property. A request can also be made for a Guardian ad Litem, Conservator, or Attorney ad Litem to be appointed with specific expertise in matters the Respondent may be facing. ]*

11. *[Describe the specific rights being requested to be assumed by Petitioner, including control of assets and decision-making capabilities, and the specific powers to be retained by the person with the disability. Also included should be information regarding the living arrangements of the Respondent and any changes to that as requested, any changes in the current investment selections, and the proposed disposal of any assets and the reason therefore. A separate property management plan should be submitted for approval unless specifically waived by the Court.]*

**WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:**

1. That proper notice and process be served upon the Respondent, *[Respondent's name]*, by the Guardian ad Litem *[if asking for Guardian ad Litem to be waived by the Court, then Petitioner will be responsible for service to the Respondent]* 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 and upon the person or institution, if any, 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 [*The Petitioner may ask the Court to waive or appoint*] a Guardian ad Litem to investigate the facts and report to the court as instructed by the statute and any order of the court; pursuant to T.C.A. § 34-1-107. The guardian ad litem serves as an agent of the court, and is not an advocate for the respondent or any other party;

3. The Petitioner, pursuant to T.C.A. § 34-3-104 (10), requests a Guardian ad Litem with **specific experience or expertise** in this matter as it is warranted by the circumstances. [If Petitioner is asking for a Guardian ad Litem to be appointed.]

4. That at a hearing of this cause, the Court appoint the Petitioner as Conservator of the person and property of the Respondent, [Respondent's name], upon furnishing bond in the amount of \$ \_\_\_\_\_, [*The Petitioner may ask the Court to waive the bond requirement*]; pursuant to T. C. A. § 34-1-105;

5. 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;

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

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**[NAME OF PROPOSED CONSERVATOR]**

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**ATTORNEY INFORMATION**

**STATE OF TENNESSEE  
COUNTY OF RUTHERFORD**

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

\_\_\_\_\_  
**[NAME OF PROPOSED CONSERVATOR]**

**SWORN TO AND SUBSCRIBED** before me this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
**NOTARY PUBLIC**

My commission Expires:

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*EXAMPLE\*\*\*\*

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: \_\_\_\_\_ CASE NO. \_\_\_\_\_  
MINOR / RESPONDENT

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

STATE OF TENNESSEE  
COUNTY OF RUTHERFORD

I, the undersigned physician (or psychologist or senior psychological examiner) state under oath as follows:

1. I am a duly licensed and practicing physician (or psychologist or senior psychological examiner) engaged in the active practice of medicine in Rutherford County, Tennessee.

2. I am personally familiar with the medical history and current condition of [Respondent's name], and have personally examined him/her within ninety (90) days hereof. His/her history, current condition, and a summary of his/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 [Respondent's name] is a disabled person and is unable to manage his/her personal and financial affairs. I recommend that a conservator be appointed for those purposes.

This the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

**[PHYSICIAN'S NAME]**

**SWORN TO AND SUBSCRIBED** before me this the \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_.

---

**NOTARY PUBLIC**

My commission expires:

\_\_\_\_\_

***NOTE: T. C. A. §34-3-105 states that the affidavit may be signed by a "physician, or where appropriate, a psychologist, or senior psychological examiner."***

\*\*\*\*EXAMPLE\*\*\*\*

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

---

IN RE: \_\_\_\_\_ CASE NO. \_\_\_\_\_  
MINOR

---

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

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

Comes now the Petitioner, [*name of Petitioner*], and files this petition for the appointment of a Guardian of [*name of Minor child*], and would show to the Court as follows:

1. The name, date of birth, residence and mailing address of the Minor

Child is as follows:

Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Residence: \_\_\_\_\_  
Mailing address: \_\_\_\_\_

The name, age, residence, mailing address and relationship of the  
Petitioner is as follows:

Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Residence: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Relationship to Minor Child: \_\_\_\_\_

*[If the proposed Guardian is someone other than the Petitioner, list the name, age, mailing address, and relationship of the proposed Guardian, and include a statement signed by the proposed Guardian acknowledging awareness of the Petition and willingness to serve.]*

2. The name, mailing address, and relationship of the closest relative(s) of the Minor Child are as follows:

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
Relationship to Respondent: \_\_\_\_\_

*[Be sure to include any person or institution having care or custody of the Minor Child, or with whom the Minor Child is living. If the Respondent has no living parent or sibling, then the Petition shall so state and more remote relatives are not to be listed.]*

3. *[Explain here the reason(s) for seeking appointment of a Guardian.]*

4. *[If the Petition is requesting the Guardian to manage the property of the Respondent, this Petition shall also contain all the financial information that is known to the Petitioner. Include a list of all the property of the Respondent along with the approximate fair value. Also, include a list of the source, amount, and frequency of Respondent's income. These may include, but are not limited to, any social security, pension or retirement payments, annuity payments, disability payments, rental income, and interest on investments or dividends.]*

5. The list of the usual monthly expenses of the Respondent are as follows:

\_\_\_\_\_

—

6. *[These may include, but are not limited to, mortgage or rent payments, costs of care, utility bills, groceries, taxes and insurance, clothing and incidentals, or past due medical bills.]*

7. The list of the usual monthly expenses of the Respondent are as follows: \_\_\_\_\_.

*[These may include, but are not limited to, mortgage or rent payments, costs of care at nursing home, utility bills, groceries, taxes and insurance, clothing and incidentals, or past due medical bills.]*

8. *[Describe how the income and expenditures have been handled up to this point, either by the Respondent or someone acting on their behalf, and why this arrangement is no longer feasible. Include a description of the proposed plan for the management of the Respondent's property if a Guardian is appointed. ]*

9. *[If the financial information about the minor is unknown to the Petitioner, you may request here for the Court to enter an Order authorizing the Petitioner to investigate the minor's property.]*

**WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:**

7. That notice by certified mail with return receipt requested be given to the closest relatives and upon the person or institution, if any, having care and custody of the Respondent or with whom the respondent is living in accordance with T. C. A. §34-1-106;

8. That this Court appoint [*The Petitioner may ask the Court to waive or appoint*] a Guardian ad Litem to investigate the facts and report to the court as instructed by the statute and any order of the court; pursuant to T.C.A. § 34-1-107. The Guardian ad Litem serves as an agent of the court, and is not an advocate for the respondent or any other party;

9. That at a hearing of this cause, the Court appoint the Petitioner as Guardian of the person and property of the Respondent, [Respondent's name], upon furnishing bond in the amount of \$ \_\_\_\_\_, [*The Petitioner may ask the Court to waive the bond requirement*]; pursuant to T. C. A. § 34-1-105;

10. 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;

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

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**[NAME OF PROPOSED GUARDIAN]**

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**ATTORNEY INFORMATION**

**STATE OF TENNESSEE  
COUNTY OF RUTHERFORD**

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

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**[NAME OF PROPOSED GUARDIAN]**

**SWORN TO AND SUBSCRIBED** before me this the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

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**NOTARY PUBLIC**

My commission Expires:

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\*\*\*EXAMPLE\*\*\*

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

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IN RE: \_\_\_\_\_  
Respondent

CASE NO. \_\_\_\_\_

**ORDER APPOINTING GUARDIAN AD LITEM**

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This cause came on to be heard upon the sworn petition of the Petitioner(s), filed herein for the appointment of a Conservator or Guardian of the Respondent; and upon the entire record in this cause from all of which it appearing to the Court that a guardian ad litem should be appointed as an agent of the Court to impartially investigate the facts and make a report and recommendation to the Court,

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

1. That \_\_\_\_\_, a lawyer licensed to practice in the State of Tennessee, be and is hereby appointed guardian ad litem in this cause;
2. That the said Guardian Ad Litem shall investigate the facts and report to the Court as instructed by statute (T.C.A §37-1-107), as well as recommendations to the Court as to whether a fiduciary should be appointed for the respondent, whether the proposed fiduciary is the appropriate person to be appointed;
3. That the said Guardian Ad Litem shall investigate the physical and mental capabilities of the respondent and shall include:

- (i) An in-person interview with the respondent;
- (ii) A review of the sworn report of the report of the physician, psychologist, or senior psychological examiner to verify that the sworn statement contains;
  - (a) a detailed description of the respondent's physical or mental conditions or both that may render the respondent a person with a disability; and
  - (b) a detailed description of how the respondent's physical or mental conditions or both may impair he respondent's ability to functions normally.

4. That the said guardian ad litem shall investigate;

- (i) the nature and extent of the respondent's property if applicable;
- (ii) the financial capabilities and integrity of the proposed fiduciary if applicable. In evaluating the financial capabilities and integrity of the proposed fiduciary, the guardian ad litem may take such actions as directed by the court and as the guardian ad litem deems necessary, which may include but are not limited to:
  - (a) Obtaining and reviewing the proposed fiduciary's credit report;
  - (b) Inquiring into whether and to what extent the proposed fiduciary has previous experience in

managing assets of the same or similar type  
and value as the respondent's assets;

- (c) Inquiring into how the proposed fiduciary plans to manage the respondent's assets;
- (d) Inquiring into how the proposed fiduciary has previously borrowed funds from the respondent or received any financial assistance or benefits from the respondents; and
- (e) Interview any persons with knowledge and review any documents pertinent to the financial capabilities and integrity of the proposed fiduciary.

5. That the said Guardian Ad Litem be and is hereby granted access to the records of the Respondent in any financial institution and to review any medical records pertaining to the Respondent; 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;
6. 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, and
7. That the Guardian Ad Litem shall make a written report to the court at least three (3) days prior to the date set for hearing the matter. The

report shall specifically state whether the respondent wants to contest (i) the need for a fiduciary, (ii) merely the person to be the fiduciary, or (iii) neither. If the respondent wants to contest any portion of the proceeding and the guardian ad litem's opinion is that there should be a fiduciary appointed, the guardian ad litem shall identify the adversary counsel or indicate there is none and request the appointment of an attorney ad litem. If the Guardian Ad Litem recommends that a fiduciary should be appointed, he/she shall recommend whether the proposed fiduciary should be appointed or if someone else, identified by the Guardian Ad Litem.

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

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**IN RE:  
THE CONSERVATORSHIP OF**

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**CASE NO. \_\_\_\_\_**

**ORDER APPOINTING ATTORNEY AD LITEM**

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This cause came on to be heard upon the sworn petition of the Petitioner(s), filed herein for the emergency appointment of a Conservator or Guardian of the Respondent; and upon the entire record in this cause from all of which it appearing to the Court that an Attorney ad Litem should be appointed to represent the Respondent in the proceeding pursuant to T.C.A §34-1-132.

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

1. That \_\_\_\_\_, a lawyer licensed to practice in the State of Tennessee, be and is hereby appointed Attorney ad Litem in this cause.

**\*\*\*EXAMPLE – TO BE SUBMITTED AT COURT HEARING\*\*\***

**IN THE CHANCERY COURT IN RUTHERFORD COUNTY, TENNESSEE**

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**IN RE:** \_\_\_\_\_ **CASE NO.** \_\_\_\_\_  
**RESPONDENT**

**This order, without letters of conservatorship, is not effective evidence of conservatorship authority. (T.C.A. § 34-1-109 (a).)**

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

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This cause came on to be heard upon the sworn Petition of Name of Petitioner, the Report of the Guardian Ad Litem, the medical report of (Name of Physician or Psychologist or Senior Psychological Examiner), 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.
- 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 (if waived, put here that the requirement for a property management plan is waived.)

H. (If bond is waived) It is in the best interests of the Respondent that bond for the Fiduciary be waived because (state the reason). (See T.C.A. § 34-1-105.)

I. The Conservator shall file timely Annual Accountings with the Court. (If Annual Accountings are waived, put that timely Annual Status Reports shall be filed.)

Based on these findings, the Court Orders that:

1. On making the required bond, Conservator's name is appointed Conservator of the person and property of name or 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 the powers removed from the respondent and those to be vested in the Conservator. To the extent not specifically removed,

the respondent shall retain and shall exercise all of the powers of a person without a disability.) T.C.A. §34-3-107

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.)

**APPROVED FOR ENTRY:**

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**Petitioner's name and signature**  
Murfreesboro, TN 37130

**\*\*\*EXAMPLE – TO BE SUBMITTED AT COURT HEARING\*\*\***

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

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**IN RE: \_\_\_\_\_ CASE NO. \_\_\_\_\_**  
**MINOR / RESPONDENT**

**This order, without letters of guardianship is not effective evidence of guardianship authority. T.C.A. § 34-1-109 (a).**

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**ORDER APPOINTING GUARDIAN**

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This cause came on to be heard upon the sworn petition of Name of Petitioner, upon the testimony of Name of Petitioner in open Court, and upon the entire record of this cause, from all of which it appears to the Court that (state the facts of the case that warrant a Guardian to be appointed for the minor child).

It further appears to the Court that the Petitioner, \_\_\_\_\_, is a fit and proper person to serve as the guardian of the person and property(if the minor does have assets) of the minor Respondent.

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

(State here if bond is required and the amount of the bond. If bond is waived, state the bond is waived.

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

1. That \_\_\_\_\_ be and he is hereby appointed Guardian with (or without) bond of William Smith, minor;

2. The Clerk shall issue Letters of Guardianship to Name of Guardian;
3. That the proposed property management plan be and the same is hereby approved(if required);
4. The Guardian shall file timely annual accountings with the Court (if accountings are waived, or the Guardian is only over the person since the minor does not have any assets, put that timely annual status reports shall be filed).
5. That the Petitioner be and is hereby authorized to (specifically list all authority and rights of the Guardian that the Court determined is appropriate for the care of the person and property of the minor).
4. The costs of this cause are charged to the estate for which execution may issue if necessary.

**APPROVED FOR ENTRY:**

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**Name and Signature of Petitioner  
Murfreesboro, TN 37130**

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

IN RE: \_\_\_\_\_  
MINOR / RESPONDENT

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
**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**

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

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 person with a disability:

**INVENTORY OF INCOME**

<b><u>SOURCE</u></b>	<b><u>AMOUNT</u></b>	<b><u>FREQUENCY</u></b>

I, \_\_\_\_\_, Conservator/Guardian for Respondent,  
\_\_\_\_\_, solemnly swear and affirm that the statements  
provided herein are true and correct to the best of my knowledge and belief.

Respectfully submitted, this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_.

\_\_\_\_\_  
Conservator/Guardian

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

\_\_\_\_\_  
Notary Public/Deputy Clerk

Commission Expires: \_\_\_\_\_

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

**IN THE MATTER OF:**

\_\_\_\_\_  
Respondent,

Case No: \_\_\_\_\_

**PROPERTY MANAGEMENT PLAN**

- **REVISED (check if modifying a previously approved Property Management Plan)**

Pursuant to T.C.A. § 34-1-115, a Property Management Plan must be approved by the Court for investments over \$25,000.00. This plan must be amended and approved by the Court when changes are made. The Conservator/Guardian shall review the plan annually when accountings are due for filing and make the necessary changes on an Amended Property Management Plan to be submitted along with the annual accounting.

I, \_\_\_\_\_, the Conservator/Guardian of the Property for the Respondent, \_\_\_\_\_, submit the following Property Management Plan pursuant to T.C.A § 34-1-115:

**1. Depository Accounts**

PRIMARY CHECKING ACCOUNT (it is suggested that you operate from only 1 account):

\_\_\_\_\_  
(Bank) (Last 4 digits of account #)

List ALL depository accounts (money markets, savings, CD's, etc):

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**2. Investment/Brokerage Accounts**

List ALL brokerage or investment accounts (annuities, stocks, bonds, Retirement accounts, IRA's, etc.):

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Any change from one type of investment to another investment type requires court approval, and an Amended Property Management Plan must be filed once any changes are allowed by the court.

**3. Life Insurance Policies**

List any life insurance policies for which the Respondent is the policy owner, the insured, and/or the beneficiary, along with the company name, benefit amount, policy type, policy number, and current cash surrender value:

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**4. Income and Expenses**

List the current monthly income sources of the Respondent:

\$ \_\_\_\_\_ from Social Security.

\$ \_\_\_\_\_ from pension/retirement.

\$ \_\_\_\_\_ from investment accounts.

\$ \_\_\_\_\_ from rental properties.

\$ \_\_\_\_\_ from trust income.

\$ \_\_\_\_\_ (other not specified)

\$ \_\_\_\_\_ TOTAL INCOME

List the current monthly expenses of the Respondent:

\$ \_\_\_\_\_ for allowance (cash/personal spending).

\$ \_\_\_\_\_ for burial/pre-need policy.

\$ \_\_\_\_\_ for caregiver services/home health care.

\$ \_\_\_\_\_ for cable/internet/phone services.

\$ \_\_\_\_\_ for clothing needs.

\$ \_\_\_\_\_ for court approved Conservator fees.

\$ \_\_\_\_\_ gifts (birthday, holidays).

\$ \_\_\_\_\_ for court approved credit card payments.

\$ \_\_\_\_\_ for food/dining/groceries/toiletries.

\$ \_\_\_\_\_ for home maintenance/supplies.

\$ \_\_\_\_\_ for housing (mortgage/rent/care facility).

\$ \_\_\_\_\_ for insurance premiums (medical/life/property).

\$ \_\_\_\_\_ for loan payments owed by Respondent.

\$ \_\_\_\_\_ for medical expenses (co-pays, dental, physical therapy).

\$ \_\_\_\_\_ for pet/animal expenses.

\$ \_\_\_\_\_ for prescriptions and medical supplies.

\$ \_\_\_\_\_ for professional services (accountant, attorney).

*All attorney fees must be approved by the Court.*

\$ \_\_\_\_\_ for taxes (property, income).

\$ \_\_\_\_\_ for transportation services.

\$ \_\_\_\_\_ for tuition/school supplies.

\$ \_\_\_\_\_ for utilities (electric/gas/water).

\$ \_\_\_\_\_ for vacation expenses.

\$ \_\_\_\_\_ for vehicles expenses (maintenance/gas/tags).

\$ \_\_\_\_\_ for vehicle insurance.

\$ \_\_\_\_\_ for vehicle payments.

\$ \_\_\_\_\_ (other not specified).

\$ \_\_\_\_\_ TOTAL EXPENSES

## 5. Real Property

List the addresses of all real property the Respondent may have an interest in and state how the property is currently held. State "None" if there is no real property:

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If you plan to sell or encumber any of the Respondent's property during

the period this Property Management Plan is in effect, you MUST first seek court approval to sell real property. An Amended Property Management Plan will need to be filed after the sale takes place.

**6. Personal Property**

List the status of the Respondent’s personal property listed in the Inventory:

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List the model and location of any vehicles owned by the Respondent:

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**7. Trust information**

Provide specific detail as to any trust benefits the Respondent may be receiving or may be entitled to, including the name of the Trustee, the current value of the Trust assets, and the purpose of the trust, as a beneficiary or otherwise:

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**8. Burial and Pre-Need Plan:**

Provide specific details as to any burial or pre-need funeral plan in which the Respondent has interest, including the company name and funeral home:

\_\_\_\_\_  
\_\_\_\_\_

**9. Revisions from Last Property Management Plan:**

Detail any revisions/changes from the last Property Management Plan (i.e., opening/closing new accounts, increases/decreases in expenses, changes in investments, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, Conservator/Guardian for Respondent, \_\_\_\_\_, solemnly swear and affirm that the statements provided herein are true and correct to the best of my knowledge and belief.

Respectfully submitted, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Conservator/Guardian

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

\_\_\_\_\_  
Notary Public/Deputy Clerk

Commission Expires:\_\_\_\_\_