

INVENTORIES, ANNUAL ACCOUNTS AND REPORTS

Oakland County Probate Court

and

Circuit Court – Family Division

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A series of brochures presented to you by the Oakland County Probate Court

COMMUNICATION

One of the major duties of a Personal Representative, Conservator or Guardian is communication with interested persons.* Common sense and Michigan law require that interested persons be advised in writing of the progress of estate administration, the status of a protected person's property, and/or the condition of the Legally Incapacitated Individual (LII) or Individual with Developmental Disability (DD). The most critical communications are made through the forms that are described in this brochure.

** "Interested persons" is a legal term. The identity of interested persons will vary depending on the facts of your particular matter.*

COURT FORMS

When you act in the capacity of a personal representative, conservator or guardian, you are called a "fiduciary." Probate laws and court rules require that fiduciaries prepare certain forms depending on the circumstances. These include: *Inventory, Proof of Restricted Account and Verification of Funds, Account and Annual Report*. You may add information to the required form that will further explain your fiduciary actions to the interested persons and to the court. The forms are available at the court or on the court's website. This brochure gives you an overview of all of these forms.

INVENTORY (PC 577)

What Is An Inventory?

An inventory is a list that describes and places a monetary value on all of the property of the estate or protected person. All Personal Representatives, Conservators, and Guardians of the Estate (DD) are required to prepare inventories.

What Does It Contain?

The inventory must list all assets owned by the deceased as of the date of death, or owned by the protected person or the individual with developmental disability as of the date of fiduciary appointment. You should:

- Describe real estate by using both the legal description and street address
- List the names and addresses of all financial institutions where assets are held along with the amounts.
- Describe motor vehicles by stating make, model and vehicle identification number (VIN)
- Combine ordinary items into categories such as clothing, furniture, household items, and tools
- Separately list items with special value (i.e. stamp/coin/figurine collections, antiques, art, oriental rugs, fine silverware and dishes)
- List property the protected person owns with others, along with the type of ownership (joint tenancy or tenancy in common)

How is Property Valued?

In addition to identifying assets, an inventory also shows the monetary value of the property. You should:

- Use the fair market value as of the date of death or date of fiduciary appointment
- Calculate real estate value by doubling the State Equalized Value (SEV)* or by using an appraised value
- Obtain qualified and disinterested appraisals for valuable assets, when necessary
- List the type and amount of any encumbrance, mortgage, or lien on any particular asset
- List the value of any interest in land contracts
- Keep accurate records of each valuation
- Estimate the resale value of common household items or personal effects
- Deductions are allowed for secured loans

* *All real estate is given a SEV (State Equalized Value) for tax purposes – double it to obtain the fair market value. You may value real estate at more than double the SEV. If you value the real estate at less than double the SEV you must state your reasons.*

Interested persons may object to the value given to any particular asset. Be prepared to defend your valuation.

Who Gets a Copy?

You must serve a copy on “*interested persons*” for that particular matter.

Who Must File? When?

Personal Representative

Supervised Administration:

Must be filed within 91 days of the date your letters of authority were issued.

Unsupervised Administration:

Inventories do not need to be filed, but they must be submitted for computation of the inventory fee within 91 days of the date your letters were issued. (The court will file at your request)

Conservator

Must be filed within 56 days of your appointment

Guardian of the Estate (DD)

Must be filed within 56 days of your appointment

Any Fees?

The inventory fee (also known as the gross estate fee) is calculated according to Michigan law from the value of the assets listed on the inventory. It only applies to decedent’s estates. The inventory fee must be paid by the personal representative no later than one year after the appointment of the personal representative or no later than the date a *Petition for Complete Estate Settlement* or *Sworn Statement* is filed, whichever is earlier. The court will calculate the fee for you. You may call for an estimate as well. The fee is rounded up for a value ending in .50 or more, and down for less than .50.

There is no separate filing fee for inventories.

What about Mistakes?

Inventories must be supplemented when you discover property that was not included in the original inventory or when you learn that a value or description listed in the original inventory is wrong or misleading. Copies must be served on the same persons entitled to receive an original inventory.

PROOF OF RESTRICTED ACCOUNT AND VERIFICATION OF FUNDS (PC 669)

The conservator of a minor must prepare and file this form within 28 days of the conservator's qualification if the assets are ordered to be placed in a restricted account. The conservator must obtain the signature of the authorized representative of the financial institution/insurance company/brokerage firm. It must then be filed annually with a copy of the corresponding financial institution statement attached (at the same time the account is filed). This form allows the court to verify that the minor's assets are protected. A conservator for an adult may file this form in lieu of presenting a Financial Institution Statement. It is not required for adult conservatorships.

ACCOUNT (PC 583)

What Is an Account?

An account is a statement that shows the yearly income and expenses for an estate or protected person. *Personal Representatives, Conservators, and Guardians of the Estate (DD)* are required to prepare accounts.

What Does It Contain?

- An itemized list of income and expenses for the accounting period and assets remaining.
- A written description of services by the fiduciary if compensation is requested.

Who Gets a Copy?

All fiduciaries must serve accounts on interested persons annually and prepare a proof of service.

When to File?

Personal Representative

Supervised Administration:

Annually, within 56 days after the end of the accounting period

A final account must be filed when supervised estate administration is completed and when any fiduciary resigns or is removed

Unsupervised Administration:

Not required, but the court will accept for filing if requested

Conservator

Annually, within 56 days after the end of the accounting period unless otherwise directed by the court

Conservators must file a proof of service when the accounts are filed or prior to any hearings for their allowance

Guardian of the Estate (DD)

Must be filed within 56 days after the end of the accounting period.

Hearing?

Supervised Estates

The court requires that accounts be filed on supervised estates, but they do not need to be set for hearing.

Conservatorships

The court reviews or allows accounts annually. Accounts shall be set for hearing to determine whether they will be allowed at least once every 3 years.

All Matters

If there is a hearing required, the court sets the date and time. You must send a Notice of Hearing together with a copy of the account as filed with the court to all interested persons (including the protected person if 14 or older). You must also file a Proof of Service with the court. You may avoid a formal hearing on your account if all interested persons acknowledge receiving the account, consent to its allowance, and sign a Waiver and Consent.

Account Preparation

Use the Account forms (PC 583 or PC 584). Most of the blanks are described sufficiently for you to complete the form. Additional instructions:

Accounting Period

The accounting period begins on the date that the fiduciary qualifies to act by filing a bond or an *Acceptance of Appointment*. The accounting period ends one year later unless the court orders a shorter period. Your Letters will indicate your accounting period. All accounts except for those by Guardians of the Estate (DD) require a \$20 filing fee.

Identifying the Account

To identify the account and the accounting period, you should state, for example: "First Annual Account," "Second Annual Account," "Third and Final Account," as applicable. The account date must start on the day of your qualification and end one year later (unless the estate is closed sooner).

Income and Expenses

The income column should list all income of the estate. Each source should be separately listed, but payments from each source may be totaled, i.e., "Social Security \$9,600 (\$800/month for 12 months.)"

The expense column must be identified in such a way that expenses may be easily verified. Amounts in the same category may be combined for the year (such as groceries for the year). Please remember that the accounts must be sent to interested persons, therefore, the accounts must be easy to understand.

Summary

The “summary” on the form summarizes what has happened during the accounting period. Start with the inventory value (if this is your first account), or with the balance on hand from the previous account (if this is any subsequent account). Add the sum of your income to the above figure. This total represents the assets for which you are responsible. Subtract the total expenses. The balance is the dollar value of those assets that you hold at the end of the accounting period. This amount will be the beginning balance of your next account.

Balance of Assets Remaining

The balance is made up of assets such as bank accounts, stocks, bonds, real estate, etc. Each item must be identified so that it can be compared with your inventory. Real estate must be shown by the legal description shown in your inventory.

Interested Persons

Additional interested persons must be named if they were not identified on the initial petition or if addresses have changed. Also, creditors must be named if claims were filed during an accounting period. If you enter nothing in this section, the court and all persons receiving a copy of the account will assume that there are no additional interested persons and there are no changes to those named in the first petition filed.

Additional Representations

You are also representing to the court and to all persons receiving the account that it is correct and contains all of the income and expenses.

FINANCIAL INSTITUTION STATEMENT

All conservators of adults must present financial institution statements dated within 30 days after the end of the accounting period for all liquid assets (anything except real or personal property) to verify assets on hand, or they may file a *Proof of Restricted Account and Verification of Funds* (PC 669) instead. For minor files, the Financial Institution Statement must be filed with each *Annual Account*.

ANNUAL REPORTS

If you are Guardian of a Minor, an Incapacitated Individual, or an Individual with Developmental Disability you are required to file a report annually with the court. You must use the form that applies:

Annual Report of Guardian on Condition of Minor, PC 654

Annual Report of Guardian on Condition of Incapacitated Individual, PC 634

Report of Guardian on Condition of Individual with Developmental Disability, PC 663

These forms will guide you in evaluating your ward's condition. Areas covered are the ward's living arrangements, physical health, mental health, social activities, and any unmet needs. If you need to further explain any condition, you may add additional pages.

- *Note that while all Guardian reports are extremely important, you, as Guardian, must follow through by petitioning the court or taking any other action you believe necessary for the well-being of your ward. Your failure to act will not be excused because you have merely indicated an unsatisfactory situation or condition on your report.*

Who Gets a Copy?

The *Annual Report of Guardian* must be filed with the court and served on the ward, the person who has principal care and custody of the ward, and the spouse, adult children, or the presumptive heirs of the individual.

When to File?

The *Annual Report of Guardian* is due each year within 56 days of the anniversary of your appointment and at other times as the court may order.

Any Fees?

There is no fee to file an *Annual Report of Guardian*.

FURTHER QUESTIONS?

If you have questions after reading this pamphlet, you should call an attorney of your choice. Also, the probate court may be able to assist you if the answers to your questions do not require the giving of legal advice.

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For more information and forms go to:

www.oakgov.com/probate