

STEP 1

- Complete the Application for Letters of Guardianship/ Guardianship of the Estate
 - NC AOC E-206

(TYPE OR PRINT IN BLACK INK)
STATE OF NORTH CAROLINA
 County _____

IN THE MATTER OF THE ESTATE OF:
 Name of Person: _____ Date: _____

APPLICATION FOR LETTERS OF:
☐ GUARDIANSHIP OF THE ESTATE
☐ GUARDIANSHIP OF THE PERSON
☐ LIMITED GUARDIANSHIP OF THE PERSON
☐ LIMITED GENERAL GUARDIANSHIP FOR AN INCOMPETENT PERSON

Date of Application: _____ Date of Qualification: _____
 Name of Person: _____ Name of Person: _____
 Date of Birth: _____ Date of Birth: _____
 Address: _____ Address: _____
 City: _____ City: _____
 State: _____ State: _____
 Zip: _____ Zip: _____

STEP 2

- Calculate Bond
 - Total Part 1 of NC AOC E-206
 - E.g. personal property, banks, etc = 160,000 bond = 160 x 110 = \$176,000
 - The Bar Plan guardianship bond quote (thcbarplan.com - \$850)
 - Apply for and get your Bond
 - Bond is an amount that is payable by the Ward
 - NC GS 35A Article 7

STEP 3

- Letters of Appointment
- Get your Letters of Appointment from the Clerk of Court

Powers and Duties of Guardian of the Estate

- NC GS 35A Article 9
 - NC GS 35A-1251 Guardian's powers in administering incompetent ward's estate
 - NC GS 35A-1252 Guardian's powers in administering minor ward's estate
 - NC GS 35A-1253 Specific duties of guardian of estate

NC § GS 35A-1251

- The power to perform in a reasonable and prudent manner every act that a reasonable and prudent person would perform regarding the collection, preservation, management and use of the ward's **estate** to administer the ward's estate legally and in the ward's best interest
 - **Estate** is defined as any interest in real property, intangible personal property, tangible personal property, and any interest in joint accounts or jointly held property

Responsibilities as the Guardian of the Estate

- Take possession, for the ward's use, all of the ward's estate
- Receive assets due to the ward from any source
- Obtain the ward's digital assets
- Complete or refuse to complete contracts of the ward
- Abandon property when it is valueless or no benefit to the ward
- Renounce interest in property
- Vote shares of stock, pay money owed
- Insure ward's assets, at the expense of ward's estate (including bond)

Responsibilities cont

- Pay taxes (10)
- Sell or exercise stock subscriptions (11)
- Expend estate income on ward's behalf (12)
- Pay from ward's estate expenses of administering the ward's estate (13)
- Employ persons to assist guardian in the performance of his duties (14)
- Continue business/venture/farming (15)
- Acquire investments (16)
- Lease ward's property for up to 3 years (17)

Last One

- Sell wards property up to \$5000 in a year (17)
- Foreclose on a debt (18)
- Borrow money to pay debts, taxes, and other claims and to use ward's property to secure the debt (19)
- Create a Special Needs Trust or Pooled Trust for the ward (23)

Petitions required to the court

- Petition the court for approval to expend estate principal (1251(12))
- Petition the court to lease the ward's property for a term of more than 3 years (1251(17)a)
- Petition the court to sell the ward's tangible personal property if the total is greater than \$5000 in one year (1251(17)a)
- Petition the court for prior approval to expend estate principal for the support, maintenance and education of ward's spouse, minor children and dependents (21)
- Petition the court for a revocable trust (24)
 - Revocation
 - Amendment
 - Additions
 - Dispose of trust property
 - Creation of the trust
- BUT trust cannot alter the beneficiaries to receive property on the ward's death

Duties (35A-1253)

- Take possession, for ward's use, of all his estate (1)
- To collect all bonds, notes, money due the ward (2)
- Pay income, property and other taxes and be liable if ward's lands are sold for nonpayment (3)
- To observe the standard of judgment and care of a ordinarily prudent person but if the guardian has special skills or is named a guardian on the basis of those special skills or expertise, to use those skills (4)
- Obey all orders and comply with accounting requirement (5)

Types of Accountings

- Inventory AOC-E-510
 - Filed within 3 months from date of qualification giving the values of all real and personal property as of the date of qualifying along with signature cards of joint accounts
- Annual Accounting AOC E-506
 - The guardian must file an annual accounting no later than 30 days after the anniversary from the date of qualifying.
- Final Accounting
 - Final accounting must be filed no later than 60 days after the guardianship is terminated.

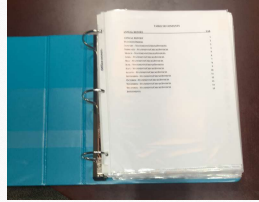
Proofs

- Accountings must be accompanied by
 - Canceled checks
 - Receipts or Invoices
 - Bank statements
 - Brokerage statements
 - Vehicle title
 - Recorded deed to real estate

BEFORE



AFTER



Tips for accounting

- AOC-SP-850 Responsibilities of Guardians in North Carolina
 - You must keep accurate records of the ward's accounts and investments
 - You must file timely and accurate accounting
 - You shall not write checks for "cash" unless regular cash distributions to the ward are authorized by the court

Personal tips for accounting

- Get accounting software to keep track of expenses
- Use a file system/envelopes to keep receipts/invoices/bank statements for each month
- Balance each month to make sure you have all receipts/check copies/invoices
- Do not use debit cards – so easy to lose receipts and track of spending
- Use your smart phone – take picture of receipts when at the store (that way if you lose the actual receipt you have a copy)

Personal tips for accounting

- Sign up for electronic bank/brokerage statements to ensure that you have access to copies
- Don't forget - Unrealized gain/loss must be accounted for on accounting
- Close all joint accounts – you will be held responsible for all of the transactions occurring in the account even if you did not make the transaction

Lessons I've Learned



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