

# **INVENTORY, ANNUAL REPORTS AND FIDUCIARY ACCOUNTINGS**

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## **INVENTORY**

The Inventory requirements for a Guardian are defined under 755 ILCS 5/14-11. This provision requires the guardian to file an Inventory within 60 days after the Letters of Office are issued appointing the Guardian. The Inventory is to be verified and include the real and personal estate as well as any cause of action the ward may hold granting the ward a right to sue. If new information comes to light a supplemental inventory is required to be filed within 60 days after the guardian receives the information on the new asset.

The Inventory shall describe all real estate and any encumbrances related to the real estate as well as list the personal estate and money on hand. The representative may hire an appraiser to ascertain the value of any assets of the estate of the ward. The appraiser must be a disinterested appraiser.

An example of an Inventory is attached in Appendix A.

## **ANNUAL REPORTS**

The duty to report by a personal guardian of a disabled adult is determined under 755 ILCS 5/11a-17(b). If the Court has appointed a guardian of the person and a guardian of the estate, the guardian of the person is the individual responsible for filing the Report with the Court. The duty to report is as directed by the Court in the time intervals as directed by the Court. Some Courts will send out an Order setting these guidelines. The Report should include:

1. The current mental, physical, and social condition of the ward and the ward's minor and adult dependent children;
2. Their present living arrangement, and a description and the address of every residence where they lived during the reporting period and the length of stay at each place;
3. A summary of the medical, educational, vocational, and other professional services given to them;
4. A resume of the guardian's visits with and activities on behalf of the ward and the ward's minor and adult dependent children;

5. A recommendation as to the need for continued guardianship;
6. Any other information requested by the court or useful in the opinion of the guardian. 755 ILCS 5/11a-7(b).

As the Report is as directed by the Court and tailored to the specifics of the disabled adult, this is a fluid document that will be different each time presented.

### **ACCOUNTINGS**

755 ILCS 5/24-11 outlines the duty to account for a ward's estate. Thus, if the Court has appointed a guardian of the person and a guardian of the estate, the guardian of the estate is the one responsible to file the accounting. The accounting should be verified and is due 30 days after the anniversary date of the issuance of the Letters of Office. This account is filed annually unless the Court otherwise directs.

An accounting sets forth the receipts and disbursements the Guardian handled during the time frame noted. Although only evidence of disbursements need to be filed, the Guardian should keep all receipts and be able to produce the same at the

Court's request to support any number on the accounting. The accounting should show the personal estate on hand as well. Please see the example in Appendix B.

When preparing the accounting the receipts should identify the date and basis for the receipt of the money – example – Dividend on Ameren Stock. The disbursements should also provide an adequate record and include the date, check number (if applicable) and description. If the check is written to an individual you should include a more detailed description – Paul Jones for lawn care. If the account is a bank account, you should make sure the account balances to the bank statements and that you are not missing any receipts or income.

When the accounting is filed with the Court a copy is also sent to the GAL and any other parties of record in the matter. If the main receipts are Veteran's benefits, a copy should also be filed with the Veteran's Administration Regional Office at least 10 days before the hearing on the approval of the accounting. In all other matters the local rule of the Court should be followed on the timeframe for notice before a hearing on approval of the accounting. In addition, some Court's will automatically approve the accounting if filed by the date provided in the Court's prior Order. Regardless, if an interested party objects to the accounting, they should file a written objection with the Court and provide a copy of the same to the

Guardian and set the matter for hearing. Any objection should define with specificity the item objected to and the grounds for the objection. If the Court automatically accepts and approves an accounting upon receipt by the required filing date, if you desire to object, you would phrase the objection as a motion to set aside the Court's order and file an objection.

In responding to an objection the Guardian should provide adequate documentation of the entry or matter objected to by the party. If the matter cannot be resolved between the parties and an agreed order entered related to the matter or withdrawing the objection, a hearing should be held on the record with testimony on the matter that is the subject of the objection. Depending upon the scope of the objection witnesses or experts may be needed as the objection could turn into a claim for self-dealing, fraud, breach of fiduciary duty, removal or other items.

Upon the death of the ward, the Guardian must file a final accounting which includes the approval of all final GAL and attorney fees' (once approved these can be paid by the probate estate). This must be filed within 30 days and meet all the requirements of above. Once approved, the Guardian should turn all personal assets, accounts and deeds over to the executor of the estate of the deceased ward to be handled in the probate process. The Guardian shall also deliver any final

order on approval of fees to the executor for payment as part of the administration of the probate estate. The Guardian cannot make any distributions/write any checks after the ward has died. This responsibility lies solely with the executor.

### **INVESTMENTS AND ALLOCATION OF ASSETS**

In general, a Guardian is charged to manage the assets of the ward frugally and apply the income and principal of the estate for the comfort and suitable support of the ward as well as the ward's education. 755 ILCS 5/11a-18(a). Within this general charge the Guardian should follow the conservative direction as provided under 755 ILCS 5/21-2 et seq. Upon review of these provisions the Guardian is charged to act conservatively with a ward's funds, but to handle them in such a manner as to preserve the principal (low to no risk) but generate income. Examples of proper investments are obligations of the United States, insured accounts, deposits and certificates, municipal bonds, certificates of deposit and other conservative investments. As with any investment the Guardian needs to consider the necessity for the money and the term for the investment to avoid any penalties or loss of principal.

As a fiduciary the items of receipt and disbursements should be categorized as income or principal to properly account for the funds and reflect the Guardian's proper management of the funds. A Guardian should first utilize any income for expenditures for the ward with the principal only being utilized if the income is insufficient. The Principal and Income Act at 760 ILCS 15/1 et seq provides an outline of how items should be categorized. Income is the amount (money or property) gained from the use of the principal. 760 ILCS 15/4(a) Principal is the amount set aside to eventually be distributed to the remainderman, if not necessary to be used for the benefit of the ward. 760 ILCS 15/4(b). Examples of income are dividends, interest, earnings, rent, etc. Examples of principal are real estate, sale proceeds from real estate, stock, stock dividends, etc. The Guardian needs to categorize all expenditures properly as chargeable against income or principal. 760 ILCS 15/14. Guardian fees and attorneys' fees are generally charged one-half to income and one-half to principal. Attorneys' fees incurred principally related to the income, however, are charged all to the income. Ordinary repairs and expenses like utilities are charged against income while extraordinary repairs and expenses like the remodeling of the house are charged against principal.

APPENDIX A  
INVENTORY

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
ST. CLAIR COUNTY, ILLINOIS

In the Matter of the Estate of \_\_\_\_\_ )  
 ) No. 13-P-\_\_\_\_\_  
\_\_\_\_\_, Deceased )

**INVENTORY**

The following is the original Inventory of the real and personal property of the ward that has come to the knowledge of the Guardian of this Estate and of any cause of action on which there is a right to sue:

Item No.	Description and Quality
1)	Real Estate located in _____ County, Illinois and described as follows:  a) 176.21 acres land with pole barn and pole shed  b) 146.51 acres land with old barn and sheds and old farm residence  Appraisal Letter with values attached as Exhibit A.
2)	Miscellaneous tangible personal property, including: a) Property stored in shed (Photos attached as Exhibit B) b) List of Property at home (Attached as Exhibit C)
3)	Guns (Attached list shown as Exhibit D)
4)	T300 Air Bobcat
5)	Zero Turn Mower
6)	Vehicles: a) _____ Ford Pickup, VIN # _____ b) _____ Ford Pickup, VIN # _____
7)	_____ Bank:

C.D. # \_\_\_\_\_ \$6,000.00  
C.D. # \_\_\_\_\_ \$60,253.45

8) \_\_\_\_\_ Bank:  
Checking \$3,965.75

\_\_\_\_\_  
Guardian

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AFFIDAVIT

\_\_\_\_\_, Guardian, on oath states that, on her information, knowledge and belief, the foregoing Inventory is complete and correct.

\_\_\_\_\_  
Guardian

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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

THIS DOCUMENT PREPARED BY:  
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**APPENDIX B  
ACCOUNTING**

STATE OF ILLINOIS  
 IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
 ST. CLAIR COUNTY, ILLINOIS -- IN PROBATE

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_,  
 \_\_\_\_\_, Deceased

)  
 ) CASE NO. 13-P-  
 )

ACCOUNTING  
 FOR THE PERIOD OF \_\_\_\_\_ to \_\_\_\_\_

	<u>Sub Total</u>	<u>Grand Total</u>
<b>A. 2008 Buick Lacerne</b>		
Value as of _____	18,000.00	
Date _____ Sold (Proceeds Deposited in _____ Bank Checking Account Number _____)	<u>\$18,000.00</u>	
<b>Total Available for Distribution</b>		<b>0.00</b>
<b>B. _____ Stock</b>		
_____ shares		
Value as of _____	_____	
Receipts:		
<u>Date</u> <u>Description</u>	<u>Amount</u>	
	\$0.00	
<b>Total Receipts:</b>	<u>\$0.00</u>	
Distributions:		
<u>Date</u> <u>Description</u>	<u>Amount</u>	
	\$0.00	
<b>Total Distributions</b>	<u>\$0.00</u>	
<b>Total Available for Distribution</b>		<b>0.00</b>
<b>C. _____ Street, _____, IL</b>		
Parcel Numbers:		
Value as of _____	\$ _____	
Receipts:		
<u>Date</u> <u>Description</u>	<u>Amount</u>	
	\$0.00	
<b>Total Receipts:</b>	<u>\$0.00</u>	
Distributions:		
<u>Date</u> <u>Description</u>	<u>Amount</u>	
	\$0.00	
<b>Total Distributions:</b>	<u>\$0.00</u>	
<b>Total Available for Distribution</b>		\$ _____
<b>D. _____ Credit Union</b>		
Savings Account		
Value as of _____	\$150.00	
Receipts:		
<u>Date</u> <u>Description</u>	<u>Amount</u>	
	\$0.00	
<b>Total Receipts:</b>	<u>\$0.00</u>	
Distributions:		
<u>Date</u> <u>Description</u>	<u>Amount</u>	
	\$0.00	
<b>Total Distributions:</b>	<u>\$0.00</u>	

**Total Available for Distribution**

**\$150.00**

**E. Bank**

Account Number \_\_\_\_\_

Opening Balance as of \_\_\_\_\_ \$0.00

Receipts:

<u>Date</u>	<u>Description</u>	<u>Amount</u>
	Deposit (Sale of 2008 Buick Lacerne)	\$18,000.00
	Deposit (Income Tax Refund)	\$5,000.00
<b>Total Receipts:</b>		<u>\$23,000.00</u>

Distributions:

<u>Date</u>	<u>Check</u>	<u>Description</u>	<u>Amount</u>
	95	Ameren IP (Electric)	\$92.00
	96	American Water (Water)	\$23.87
	97	Sandberg Phoenix & von Gontard, P.C.	\$1,908.50
	98	St. Clair County Collector (Real Estate Taxes)	\$1,602.22
<b>Total Distributions</b>			<u>\$3,626.59</u>

**Total Available for Distribution**

**19,373.41**

**TOTAL ASSETS AVAILABLE:**

**19,523.41**

**F. Personal Assets**

**AFFIDAVIT OF GUARDIAN**

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certify that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certify as aforesaid that they verily believe the same to be true.

\_\_\_\_\_  
\_\_\_\_\_, Guardian

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public