

**CHANCERY COURT OF RUTHERFORD COUNTY,
TENNESSEE**

**SO NOW YOU ARE A
CONSERVATOR / GUARDIAN**

HANDBOOK

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Revised: January 26, 2010

TABLE OF CONTENTS

1. Information.....	3
2. Inventory.....	7
3. Accounting worksheets.....	9
4. Statement from Corporate Surety.....	14
5. Statement of Fiduciary.....	15
6. Statement as to Filing of Tax Returns.....	16
7. Property Management Plan.....	17
8. Election of Accounting Year.....	19
9. Accounting Checklist (Non-VA Cases).....	20
10. Accounting Checklist (VA Cases).....	21

CHANCERY COURT OF RUTHERFORD COUNTY, TENNESSEE

“SO NOW YOU ARE A GUARDIAN OR CONSERVATOR”

INFORMATION FOR GUARDIANS AND CONSERVATORS:

To help you perform your guardianship or conservatorship duties properly, described below are the general duties and obligations of a guardian or conservator. This document is **not** intended to be an exhaustive list of possible requirements or situations that you might encounter. Please consult your attorney for details.

1. If you fail to meet your obligations as a guardian or conservator, under the law, you may be personally liable. If in doubt, **consult your attorney**.

2. Your appointment as a conservator or guardian becomes effective upon the entry of an order appointing you, and the administration of the statutory oath in addition to the posting of any required bond. The only effective evidence of your appointment are letters of guardianship or conservatorship duly issued by the Clerk and Master. (See T. C. A. §34-1-109).

3. Checking accounts, saving accounts, and certificates of deposit should be in your name as guardian or conservator for your ward (the person for whom you are guardian or conservator). All of your ward's funds **must** be kept separate and apart from your own.

4. Within sixty (60) days after your appointment as conservator or guardian, you must file a sworn inventory containing a list of the property of the minor or disabled person, together with the approximate fair market value of each property and a list of the source, amount, and frequency of each item of income, pension, social security benefits, or other revenue. If the required information was included in the petition but not separately stated as an inventory, the inventory shall repeat the information provided in the petition and add any later discovered property or income sources. Forms for completing the inventory are provided by the Clerk and Master's Office in this Handbook. (See T. C. A. § 34-1-110).

5. You must take possession of all of your ward's assets and determine which should be retained and which should be disposed of. The ward's funds should be invested to earn income, but may be invested only according to law. **Losses from unauthorized or imprudent investments may render you personally liable.** (See T. C. A. § 34-1-115).

6. As guardian or conservator, you may not spend the ward's money, even for the ward's benefit, without Court approval. This applies even if your ward is your child or another relative. Court approval may be on a continuing basis allowing you to spend a budgeted sum each month. (See T. C. A. § 34-1-122).

7. Complete and accurate records must be kept of all money or other assets received and disbursed by you as guardian or conservator. A running list of receipts and expenses may be helpful. (See T. C. A. §34-1-111 and § 34-1-122).

8. Each year you will be required to file an accounting showing in detail all receipts and expenditures during the preceding year. Each item must be explained, and accountings must be accompanied by verifications of banks or depositories confirming the assets on hand. **Failure to timely file accountings could result in removal of a guardian or conservator.** The accounting must be provided within sixty (60) days after each anniversary date of your appointment or any other end of an accounting period selected by the fiduciary not to exceed twelve (12) months. For VA cases, the accounting must be provided on the anniversary date of your appointment. See the Clerk and Master's Accounting Checklists for both Non-VA and VA cases in this Handbook for detailed accounting requirements. The VA as well as the Clerk and Master's office require original or certified copies of bank statements. Certified copies of bank account printouts will suffice in place of originals. (See T. C. A. § 34-1-111 and § 34-5-111).

9. Except in certain enumerated circumstances, you may not **sell, trade, lease, mortgage, transfer or discard your ward's property without Court approval,** even though the ward is your child or other relative. (See T. C. A. § 34-1-116).

10. In the event your ward dies or you or your ward move from one address to another, you have a duty to **notify the Court in writing of such death or new address, as soon as possible.** (See T. C. A. § 34-3-108).

11. If you are a guardian or conservator for more than one ward, be sure to keep separate accounts for each ward.

12. Bond premiums may be paid out of the estate. You may reduce the costs by placing excess funds in restricted deposits subject to withdrawal only on Court order, or at the Court's discretion. Proof of bond must be filed with the Clerk and Master annually. (See T. C. A. § 34-1-108). Bonds are subject to increase or decrease after each year's accounting or at anytime upon order of this Court.

13. In certain cases when assets will not be needed, or when there are no assets for the ward's support, the Court may order that no formal accountings will be required, or that only a copy of the annual Social Security Reports be filed until the guardianship or conservatorship is terminated. **Consult your attorney.** (See T. C. A. § 34-1-111).

14. If you are a guardian or conservator for an incompetent person, a most important duty will be to place your ward where he or she will receive care and treatment appropriate to his or her condition, and in the least restrictive environment. A Court order may be required. (See T. C. A. § 34-1-127).

15. You may use your ward's funds to pay for your attorney's services, in regard to the guardianship/conservatorship, after obtaining court approval. If your public ward has only very limited funds and/or receives public assistance (welfare), you may qualify for free legal aid.

16. **Your compensation.** You may receive reasonable compensation for your services as a guardian or conservator. However, the Court shall set the actual compensation to be paid and no compensation shall be paid without **prior** court approval. (See T. C. A. §34-1-112).

17. **Payments by the conservator or guardian.** The conservator or guardian is entitled to pay from the property of the minor or disabled person the costs of any required medical examination, the guardian ad litem fee, bond premium, court costs, attorney's fees, fees for income tax preparation and court accountings, investment management fees, taxes or governmental charges for which the minor or disabled person is obligated and such other expenses as the Court determines are necessary for the fiduciary. The fiduciary shall not pay any attorney's fee, guardian ad litem fee, fees for income tax preparation and court accountings or investment management fees until the amount of such fees is approved by the Court. (See T. C. A. §34-1-113).

18. **Investments.** A management plan must be approved by the Court. A conservator or guardian is limited in its investments to the investments permitted by law. **Consult your attorney.** All funds held by a fiduciary shall be invested within forty-five (45) days of receipt of the funds unless otherwise allowed by the Court. The proposed guardian or ward must present an outline of the proposed management plan for the ward's property prior to appointment. If the proposed property management plan cannot be presented at the appointment hearing, the conservator or guardian shall submit the proposed property management plan to the Court for approval before any property is invested. **Consult your attorney.** Court permission must be obtained before changing the nature of the conservator or guardian's investments. This does not mean if the change in the investment is of the same type such as changing from one certificate of deposit to another but changing the type of investment such as from a certificate of deposit to a savings bond. (See T. C. A. §34-1-115).

19. Once a guardian or conservator has been appointed, he or she serves until relieved by order of the Court. Death or the reaching of the majority by the ward **does not** automatically terminate the guardianship or conservatorship. **Consult your attorney.** (See T. C. A. §34-2-108 and §34-3-108).

20. Transferring the Guardianship / Conservatorship from or to this jurisdiction (court) see T.C.A. § 34-1-117.

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

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

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 disabled person:

INVENTORY OF INCOME

SOURCE

AMOUNT

FREQUENCY

Guardian/Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

AT MURFREESBORO

T.C.A. § 34-1-111

T.C.A. § 34-1-130

IN RE: _____ CASE NO. _____
MINOR / RESPONDENT

ACCOUNTING DATES: _____ TO _____
(ANNUAL, INTERIM, FINAL)

AS _____ OF THE ESTATE OF
(CONSERVATOR/GUARDIAN)

_____.

THE UNDERSIGNED FIDUCIARY WOULD RESPECTFULLY STATE THAT
HE IS CHARGEABLE WITH THE FOLLOWING INCOME BELONGING TO
SAID ESTATE.

DATE	FROM WHOM RECEIVED	AMOUNT

TOTAL RECEIPTS _____

SUMMARY

MONEY ON HAND AT START OF ACCOUNTING PERIOD \$ _____

MONEY RECEIVED DURING ACCOUNTING PERIOD \$ _____

TOTAL \$ _____

MONEY DISBURSED DURING ACCOUNTING PERIOD \$ _____

BALANCE OF MONEY ON HAND AT END OF ACCOUNTING PERIOD \$ _____

**ASSETS ON HAND TO REFLECT ABOVE BALANCE:
CD'S, STOCKS, BONDS, BANK ACCOUNTS**

TYPE	FINANCIAL INSTITUTION	AMOUNT

**STATE OF TENNESSEE
COUNTY OF RUTHERFORD**

I, _____, solemnly swear that the foregoing accounting of the estate of _____ exhibits a full, true and just statement of each and every asset of said estate with which I should be charged, and to the expenditures to which I am entitled, to the best of my knowledge and belief, so help me God.

CONSERVATOR/GUARDIAN

Subscribed and sworn to before me, this the ____ day of _____, 20____.

**CLERK OF THE COURT
OR NOTARY PUBLIC**

STATEMENT FROM CORPORATE SURETY

TO THE CLERK OF THE COURT:

We, _____ pursuant
(Name of Corporate Surety)
to T. C. A. §34-1-111 (d), hereby submit the following statement.

That we are surety on the bond of _____
(Name of Fiduciary)
as _____ for
(Conservator/Guardian)

(Respondent/Minor)

and that the bond is presently in the amount of \$ _____.

**We further state that said bond is in force for the next annual period,
and will remain in effect until Surety is discharged by Court Order.**

This the _____ day of _____, 20_____.

(Name of Corporate Surety)

By: _____
Attorney in Fact

Address: _____

**STATEMENT OF FIDUCIARY AS TO
PHYSICAL OR MENTAL CONDITION OF THE DISABLED PERSON
T.C.A. § 34-1-111(c)(2)**

IN RE: _____ CASE NO. _____
 MINOR / RESPONDENT

Comes now, _____, the duly
appointed and qualified Conservator of _____,
and would respectfully show unto the Court the following:

That the ward, _____
continues to need a Conservator due to _____

(Specify physical or mental condition of the disabled person)

That the ward is presently residing at the following address:

This statement is furnished to demonstrate to the Court the need, or lack
of need, for the continuation of the fiduciary's services.

This the _____ day of _____, 20____.

(Conservator)

Address: _____

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO
T.C.A. § 34-1-111(c)(1)(C)**

IN RE: _____ **CASE NO.** _____
MINOR / RESPONDENT

**STATEMENT AS TO FILING OF UNITED STATES
OR TENNESSEE INCOME TAX RETURN**

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

This Guardianship or Conservatorship is not required to file either a federal or state tax return for the period of this accounting because the taxable income for its most recent taxable year was within the exemption provided by Internal Revenue Code and / or T. C. A. §67-2-104. The gross income for the last year was \$ _____.

Dated this the _____ day of _____, 20_____.

Guardian or Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: _____
MINOR / RESPONDENT

CASE NO. _____

Fiduciary

PROPERTY MANAGEMENT PLAN

Pursuant to Tennessee Code Annotated §34-1-115, the undersigned guardian or conservator submits the following proposed Property Management Plan: (Check one of the following)

_____ All assets held by the undersigned for the ward will be invested in accounts or certificates of deposit fully insured by an agency of the federal government. All such investments shall be in financial institutions located in Rutherford County, Tennessee.

OR

_____ Investments are to be made other than as stated below:

It is understood that the purpose of this Property Management Plan is to advise the Court of the general type of property in which the ward's property will be invested so that the Court will be assured the guardian or conservator will be making approved investments. It is understood that the undersigned must request **Court Approval** to change the nature of investments to be made.

This the _____ day of _____, 20_____.

Conservator/Guardian

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

IN RE: _____
MINOR / RESPONDENT

CASE NO. _____

ELECTION OF ACCOUNTING YEAR
T.C.A. § 34-1-111(a)

The undersigned was appointed Conservator for the above named respondent by order of this Court entered _____.

Your Conservator is presently filing an annual accounting ending _____(month / day / year).

Your Conservator elects and requests the Court to allow the filing of the annual accounting on the basis of a year ending _____(month / day / year).

Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

CLERK AND MASTER'S ACCOUNTING CHECKLIST

IN RE: _____
MINOR / RESPONDENT

CASE NO. _____

CONSERVATOR / GUARDIAN

DATE DUE _____

**AUTHORITY: T. C. A. §34-1-111
REGULAR (NON-V. A.)**

- _____ 1. Original or certified copy of each bank statement. Certified copies of bank printouts will suffice.
- _____ 2. Brokerage statement
- _____ 3. Other documents reporting any financial information List.

(A.)

(B.)

(C.)

(D.)

- _____ 4. Original of each check
- _____ 5. Copy of U. S. Tax Return or the code section evidencing the availability of the claimed exemption
- _____ 6. Copy of Tennessee Income Tax Return or the code evidencing the availability of the claimed exemption
- _____ 7. Statement from Corporate Surety (Bond)
- _____ 8. Sufficiency of Bond
- _____ 9. Statement of continuing need for Conservator

IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE

CLERK AND MASTER'S ACCOUNTING CHECKLIST

V. A.

IN RE: _____
MINOR / RESPONDENT

CASE NO. _____

CONSERVATOR / GUARDIAN

DATE DUE: _____

AUTHORITY: T. C. A. §34-5-101
T. C. A. §34-5-111(d)

- _____ 1. V. A. Form 27-4706, _____
- _____ 2. Securities or Investments Review
- _____ 3. Certified copy sent to V. A. by Guardian
- _____ 4. Hearing waived by V. A.
- _____ 5. Hearing waived by all others entitled to notice
- _____ 6. Hearing set within 30 days if no waiver
Date _____
- _____ 7. Guardian is accountable for property derived from sources other than V. A.
 - _____ (a). Original or certified copies (printout or actual) of each bank statement
 - _____ (b). Brokerage statement
 - _____ (c). Other documents reporting any financial information. List.
 - (1).
 - (2).
 - (3).
 - _____ (d). Original of each check if provided by bank, if not, a certified printout will suffice.

- _____ (e). Copy of U. S. Tax Return or the code section evidencing the availability of the claimed exemption
- _____ (f). Copy of Tennessee Income Tax Return or the code section evidencing the availability of the claimed exemption
- _____ (g). Statement from Corporate Surety (Bond)
- _____ (h). Sufficiency of Bond
Amount required \$ _____
- _____ (i). Statement of continuing need for Conservator/Guardian