

State of Minnesota

District Court
Probate Division

County of _____

Judicial District: _____

Court File No. _____

Case Type: Guardianship/Conservatorship

In Re: Guardianship
 Conservatorship of

Order Appointing:
 Guardian
 Conservator

This matter came on for hearing before the district court on _____ on a petition seeking appointment of a Guardian Conservator for the Respondent named above. Petitioner appeared personally with the Petitioner's attorney, _____ The Respondent appeared personally with Respondent's attorney, _____. The matter, having been considered by the Court, and the Court being duly advised in the premises now makes the following:

FINDINGS OF FACT

1) FINDING OF INCAPACITY:

Guardianship: (i) The Respondent is incapacitated with regard to the person because Respondent is impaired to the extent of lacking sufficient understanding or capacity to make or communicate responsible decisions concerning Respondent's personal needs for medical care, nutrition, clothing, shelter or safety. The Respondent's inability is reflected by the following facts: _____

and (ii) the Respondent has demonstrated behavioral deficits evidencing inability to meet Respondent's needs for medical care, nutrition, safety and shelter. The Respondent's inability is reflected by the following facts: _____

Conservatorship: (i) The Respondent is unable to manage property and business affairs because of an impairment in the ability to receive and evaluate information or make decisions, even with the use of appropriate technological assistance. The Respondent's inability is reflected by the following facts: _____

and (ii) the Respondent has property which will be dissipated without proper management and funds are needed for the support, care, education, health, and welfare of the Respondent or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money. This conclusion is supported by the following facts: _____

2) No appropriate alternative to guardianship exists that is less restrictive of Respondent's civil rights and liberties including, but not limited to, the use of appropriate technological assistance, supported decision making, community or residential services, or appointment of a health care agent under Minn. Stat. § 145C.01, subd. 2. The Respondent's identified needs cannot be met by less restrictive means is reflected by the following facts: _____

No appropriate alternative to conservatorship exists that is less restrictive of Respondent's civil rights and liberties including, but not limited to, the use of appropriate technological assistance, supported decision making, the use of a representative payee, trusts, banking or bill-paying assistance, appointment of an attorney-in-fact under Minn. Stat. § 523.01, or a protective arrangement under Minn. Stat. § 524.5-412. The Respondent's identified needs cannot be met by less restrictive means is reflected by the following facts: _____

3) The Respondent is incapable of exercising the following rights and powers:

- All of the rights and powers under Minn. Stat. § 524.5-313(c)
- All of the rights and powers under Minn. Stat. § 524.5-417(c)

A limited guardianship or conservatorship is not appropriate because _____

(If the Respondent is capable of performing some but not all powers and duties, specify which powers and duties CANNOT be performed by the Respondent.)

- To establish the place of abode within or without the State;
- To provide for the Respondent's care, comfort and maintenance needs;
- To take reasonable care of the Respondent's clothing, furniture, vehicles and other personal effects;
- To give any necessary consent to enable, or to withhold consent for, the necessary medical or other professional care, counsel, treatment or service;
- Exercise supervisory authority over the Respondent;
- To pay reasonable charges for the support, maintenance, and education of the Respondent in a manner suitable to the Respondent's station in life and the value of Respondent's estate;
- To pay out of the Respondent's estate all just and lawful debts of the Respondent;
- To possess and manage the estate of the Respondent, collect all debts and claims in favor of the Respondent, or to compromise them, institute suit on behalf of the Respondent, or invest Respondent's assets not currently needed for debts, charges, and management of the estate;
- Exchange or sell an undivided interest in real property;
- To approve or withhold approval of any contract, except for necessities, which the Respondent may make or wish to make; and
- To apply on behalf of the Respondent for any assistance, services, or benefits available to the Respondent through any unit of government;
- To establish an Achieving a Better Life Experience Act of 2014 account under section 529A of the Internal Revenue Code (known as an ABLE account);
- To commence legal proceedings on behalf of and represent the person subject to guardianship in all civil proceedings (**only given if no conservator is appointed**);
- (other) _____

4) The Respondent is (not) a patient of a State Hospital for persons with mental illness or a person with developmental disabilities or dependent or neglected ward of the Commissioner of Human Services, or under the temporary custody of the Commissioner of Human Services.

5) The Respondent is in need of a

- guardian to protect Respondent's person,
- conservator to protect Respondent's estate.

- 6) a. The Respondent appears to understand the nature and effect of voting and maintains the right to vote.
- b. The Respondent does not appear to understand the nature and effect of voting and Respondent's right to vote is revoked. The basis for this is as follows:

- 7) The Court finds that the:
- a. Guardian is the most suitable and best qualified among those available and willing to discharge the trust and is not excluded from appointment pursuant to Minn. Stat. § 524.5-309(c) or such Guardian has been approved by prior Order of a court pursuant to Minn. Stat. § 524.5-302(d);
- b. Conservator is the most suitable and best qualified among those available and willing to discharge the trust and is not excluded from appointment pursuant to Minn. Stat. § 524.5-413(d).

CONCLUSIONS OF LAW

- 1) The Respondent is an incapacitated person whose needs cannot be met by less restrictive means.
- 2) The following should be appointed:
- A Guardian of _____;
 - A Conservator of _____.

ORDER

NOW, THEREFORE, IT IS ORDERED:

- 1) That: _____, is hereby appointed Guardian of _____;
- _____, is hereby appointed Conservator of _____.
- 2) That: letters of Guardianship shall issue to _____ upon the filing of an acceptance of appointment and such letters shall reflect that the Guardian is appointed by the Court.
- letters of Conservatorship shall issue to _____, upon the filing of an acceptance of appointment.
- 3) Appointment of powers and duties:

The Guardian shall have the power and duty to:

- Exercise all of the rights and powers on behalf of _____ under Minn. Stat. § 524.5-313(c) paragraphs 1, 2, 3, 4, 5, 6, 7, 9 and 10. A limited guardianship is not appropriate because _____
- _____
- _____
- _____

(If the Guardian is granted limited powers and duties, specify which powers and duties are vested in the Guardian by this Order.)

- Have custody of the person subject to guardianship and establish the place of abode for the person subject to guardianship within or without the State, Minn. Stat. § 524.5-313(c)(1);
- Provide for the care, comfort and maintenance needs of the person subject to guardianship, Minn. Stat. § 524.5-313(c)(2);
- Take reasonable care of the clothing, furniture, vehicles and other personal effects of the person subject to guardianship, Minn. Stat. § 524.5-313(c)(3);
- Give any necessary consent to enable, or to withhold consent for, the person subject to guardianship—to receive necessary medical or other professional care, counsel, treatment or service, Minn. Stat. § 524.5-313(c)(4);
- Approve or withhold approval of any contract, except for necessities, which the person subject to guardianship may make or wish to make (***only given if no conservator is appointed***), Minn. Stat. § 524.5-313(c)(5);
- Exercise supervision authority over the person subject to guardianship, but may not restrict the ability of the person subject to guardianship to visit, or interact with others, including receiving visitors or making or receiving telephone calls, personal mail, or electronic communications including through social media, or participating in social activities, unless good cause is shown by the guardian that the restriction is necessary due to risk of significant physical, psychological, or financial harm to the person subject to guardianship and there is no other means to avoid such significant harm, Minn. Stat. § 524.5-313(c)(6);
- Apply on behalf of the person subject to guardianship for any assistance, services, or benefits available to the person subject to guardianship through any unit of government, Minn. Stat. § 524.5-313(c)(7);
- Establish an Achieving a Better Life Experience Act of 2014 account under section 529A of the Internal Revenue Code (known as an ABLE account) for the person subject to guardianship, Minn. Stat. § 524.5-313(c)(9);

Commence legal proceedings on behalf of and represent the person subject to guardianship in all civil court proceedings (*only given if no conservator is appointed*), Minn. Stat. § 524.5-313(c)(10);

(other) _____
_____.

and to exercise all other powers, duties and responsibilities conferred on the Guardian under applicable law.

The Conservator shall have the power and duty to:

Exercise all of the rights and powers under Minn. Stat. § 524.5-417(c) paragraphs 1, 2, 3, 4, 5, 6 and 7. A limited conservatorship is not appropriate because _____

(If the Conservator is granted limited powers and duties, specify which powers and duties are vested in the Conservator by this Order.)

Pay reasonable charges for the support, maintenance, and education of the person subject to conservatorship in a manner suitable to their station in life and the value of their estate, Minn. Stat. § 524.5-417(c)(1);

Pay out of the estate of the person subject to conservatorship all lawful debts of the person subject to conservatorship, Minn. Stat. § 524.5-417(c)(2);

Possess and manage the estate of the person subject to conservator, collect all debts and claims in favor of the person subject to conservatorship, or with the approval of the court compromise them, institute suit on behalf of and represent the person subject to conservatorship in all civil court proceedings, and invest all funds not currently needed for debts, charges and management of the estate in accordance with the provisions of sections 48A.07, subd. 6, 501C.0901, and 524.5-423, or as otherwise as ordered by the court, Minn. Stat. § 524.5-417(c)(3);

Exchange or sell an undivided interest in real property, Minn. Stat. § 524.5-417(c)(4);

Approve or withhold approval of any contract, except for necessities, which the person subject to conservatorship may make or wish to make, Minn. Stat. § 524.5-417(c)(5);

Apply on behalf of the person subject to conservatorship for any assistance, services, or benefits available to the person subject to conservatorship through any unit of government, Minn. Stat. § 524.5-417(c)(6);

Establish and exercise all powers over an Achieving a Better Life Experience Act of 2014 account under section 529A of the Internal Revenue Code (known as an ABLE account) for the person subject to conservatorship, Minn. Stat. § 524.5-417(c)(7);

(other) _____
_____;

and to exercise all other powers, duties and responsibilities conferred on the Conservator under applicable law.

- 4) The conservator shall file a bond in the amount of \$_____.
- 5) Guardianship of a person under 30 years of age is of limited duration and must not exceed a period of 72 months. The guardianship is limited to a term of (insert years / months).
- 6) Any wages and salary earned by the person subject to conservatorship through employment shall shall not be a part of the conservatorship estate. Minn. Stat. § 524.5-417(g).
- 7) That the court appointed attorney for the person subject to guardianship or conservatorship, is hereby discharged.
- 8) That the person subject to guardianship's right to vote is retained revoked until further order of the court.

Order Recommended by:

Referee of District Court Date

Judge of the District Court Date