

# **BERWITZ & DiTATA LLP**

Attorneys and Counselors at Law

310 Old Country Road Suite 101  
Garden City, New York 11530  
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen R. DiTata

## **Guardians Have A Duty To Account**

Sometimes Property Management Guardians, appointed in an Article 81 proceeding, do not realize until after they have been appointed that it is their obligation to manage all of the assets and income of their ward and prepare an annual report, for the Court, detailing their activities during the year, including the income and receipts collected on behalf of their ward and expenses and disbursements incurred during the year.

As we approach year end, we like to remind Property Management Guardians to organize the financial records and begin compiling the information that must be included in their annual report. The following is a checklist that will help a Guardian prepare for the task of managing the finances for their ward and compile the information needed for the yearly accounting:

- Identify all of the assets that your ward owns, including bank and brokerage accounts, retirement accounts, insurance policies and annuities
- The IRS can help you find bank accounts that belong to your ward, use IRS form 4506T (Request for Transcript of a Tax Return)
- If you are married to your ward, divide joint accounts
- If your ward has joint account(s) with others, ascertain that portion of each account that belongs to your ward and segregate it
- Retitle all accounts in accordance with the Court's direction and request that all correspondence concerning the accounts be delivered to you
- Make sure to open and fund a Guardianship checking account

- Ask that copies of all checks be included with the monthly statements for the Guardianship checking account and close all other accounts
- Identify all sources of your ward's monthly income
- Make arrangements to have your ward's income deposited directly into the Guardianship checking account
- Determine your ward's monthly expenses
- Arrange to have invoices forwarded to you, as Guardian
- Pay expenses by check only, with funds from the Guardianship account
- If there are debts, arrange for their payment
- If there are insufficient assets to pay creditors, notify the Court
- Search for other unclaimed property, like unclaimed tax returns and insurance reimbursements
- Locate safe deposit boxes owned by your ward and, if jointly held, separate your ward's belongings and rent a separate box
- You will also have to identify valuable personal property, documents and real property

Once you begin receiving statements, review them monthly. Keep them in a binder for easy reference. Keep receipts for purchases and services. separate them into categories such as food, clothing, utilities, household expenses, medical expenses.

In your annual report, you must account for all income received, monies earned, expenses paid and previous and current balances of the estate. Under your stewardship, you will be able to provide a safe harbor for your ward and safeguard his or her resources.