



State of New York  
**UNIFIED COURT SYSTEM**  
**SUFFOLK COUNTY**  
**SUPREME COURT**  
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P.O. Box 9070  
Central Islip, New York 11722-9070  
Guardianship Department  
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C. RANDALL HINRICHS  
District Administrative Judge  
Suffolk County

MICHAEL SCARDINO  
Chief Clerk IV

WARREN G. CLARK  
Acting District Executive

October 26, 2016

Dear Court Examiner,

After consultation with Justices H. Patrick Leis III and Richard I. Horowitz regarding recent requests by some guardians to expend guardianship assets to pay an accountant or an attorney to prepare their annual reports in addition to receiving annual compensation/commission as guardian the following procedures will be implemented and put into effect immediately:

In most guardianship cases the preparation and submission of an annual accounting is considered as an ordinary duty of a guardian. Accordingly, in any matter where a guardian has requested both a commission and the authority to expend guardianship assets to pay an outside source for preparing the annual accounting such payments will only be approved by the Court to the extent that the amount awarded for preparing the annual accounting shall be subject to the Court's discretion and deducted from the amount of the guardian's commission. Such practice is, in most cases, an impermissible delegation of ordinary guardianship duties. Notwithstanding, if a Court Examiner feels that the payment of a full commission to the guardian and a secondary payment for the preparation of the annual accounting is warranted, specific reasoning must be provided in the Order submitted by the Court Examiner confirming said annual accounting.

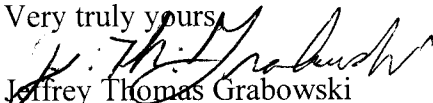
This rule shall also apply in any matter where a guardian receives compensation in the form of a monthly/yearly stipend. However, it shall not apply in those matters where a guardian has waived their right to receive compensation altogether. In such cases the amount of any compensation awarded for the preparation of the annual accounting shall remain subject to the Court's approval. Furthermore, this rule shall only apply to costs associated with preparing and filing an annual accounting and does not apply to the hiring of an accountant to prepare Federal and/or State income taxes.

In as much as Part 36 guardians cannot retain professionals this issue is most likely to

appear in those cases where non-part 36 lay guardians are appointed. However, there have been some reports of instances where Part 36 guardians have utilized their own personal staff in the preparation and filing of annual accountings and have sought additional compensation for such services. This type of arrangement is also impermissible and shall be subject to the same policies and procedures applied to non-part 36 guardians.

So as to avoid future issues, it is strongly recommended that Court Examiners immediately notify any guardians that have previously outsourced their annual accountings of these new policies and procedures.

Very truly yours,



Jeffrey Thomas Grabowski  
Guardianship Referee