

INSTRUCTIONS FOR SUBMISSION OF A PROPOSED ORDER DISCHARGING GUARDIAN AND SURETY

A guardian completing his or her responsibilities as such will apply for and obtain an order of the court that settles and approves his or her Final Report as guardian. Normally, one final step must thereafter be completed by the guardian in order for the guardianship to be brought to a proper conclusion. The Order Settling and Approving a Final Report typically specifies that, in order for the guardian to be formally discharged from that role and the bond (if any) cancelled, the guardian must submit to the court for its consideration a proposed ex parte Order Discharging Guardian and Surety, although in some instances the court may direct that the proposed Order be submitted on notice to interested parties (see below).

To apply for an Order Discharging Guardian and Surety, the guardian must do the following:

1. The guardian should prepare the Order that he or she seeks to have the court sign. A form of this proposed order can be found on the court's website at the following address:

www.nycourts.gov/suptctmanh/Guardianship_Cases%20Forms%20List.htm

The proposed order must be submitted together with the following documents.

2. An Affidavit (or Affirmation) in Support of Discharge. A form of this document is accessible on the web page cited above. This document explains how you as guardian carried out the provisions of the Order Settling and Approving a Final Report. It demonstrates that the total of your disbursements subsequent to the date of that Order equals the Balance on Hand set forth in the Order, leaving no funds under your control.

3. If applicable, a detailed reconciliation of any income that was received or disbursements that were made after the preparation of the Final Report and that are not explicitly provided for in the Order Settling and Approving a Final Report. You should explain any and all such transactions in your Affidavit (Affirmation). The form of the Affidavit (Affirmation) as posted on the web page should be modified accordingly.

4. Proof of each disbursement that is provided for in the Order Settling and Approving a Final Report, including any to yourself. Satisfactory proof consists of either: (a) copies of both the front and the back of each cancelled check, or (b) an original, notarized receipt from each recipient.

5. A copy of the Order Settling and Approving a Final Report.

The proposed Order Discharging Guardian and Surety and accompanying documents should be submitted to the court ex parte, that is, they need not be served on the other persons having an interest in the guardianship prior to being submitted; in some instances, however, the court may direct that the Order be served on interested persons. If the Order Settling and Approving a Final Report or other order provides for service of the proposed Order Discharging Guardian and Surety, service should be made as provided therein. The proposed Order and documents in support of it must be submitted to the Guardianship and Fiduciary Support Office at the address listed below.

GUARDIANSHIP AND FIDUCIARY
SUPPORT OFFICE
Supreme Court, Civil Branch
New York County
New York County Courthouse
60 Centre Street, Room 158
New York, New York 10007
Phone: 646-386-3328