

STATE OF NEW YORK
SURROGATE'S COURT : COUNTY OF BROOME

In the Matter of the Petition of the
Guardian of

PETITION TO INVEST FUNDS
File No.:

Infant/Mentally Retarded/Developmentally
Disabled Person

TO THE SURROGATE'S COURT OF THE COUNTY OF BROOME:

It is respectfully alleged that:

(1) Letters of guardianship of the person and property of _____, an [Infant/Mentally Retarded/Developmentally Disabled Person], were duly issued by this Court to petitioner[s] _____ residing at _____, on the _____ day of _____, 2002.

(2) That such [Infant/Mentally Retarded/Developmentally Disabled Person] was born on the _____ day of _____, _____.

(3) That such [Infant/Mentally Retarded/Developmentally Disabled Person] resides at _____ together with petitioner[s] [*or give full particulars as to residence*] _____.

(4) The last annual account of petitioner[s] as such guardian[s] was filed on the _____ day of _____, _____. A copy of such account is annexed to this petition.

(5) That the petitioner[s] [is/are] concerned that the present investments are limited solely to interest-bearing accounts and do not afford an opportunity for growth or to avoid erosion due to the effects of inflation.

(6) That accordingly the petitioner[s] [is/are] desirous of obtaining permission to withdraw the funds from the present depositories for the purpose of investment of those funds in accordance with the laws of the State of New York and more particularly the Prudent Investor Act (EPTL 11-2.3).

[STRIKE OUT ONE OF THE FOLLOWING ALTERNATIVES]

(7) That the petitioner[s] agree[s] as a condition of the funds being released from joint control with the depositories, to file a bond in the amount of the total value of the assets held in the guardianship fund.

OR

(7) That petitioner[s], in consideration of being permitted to withdraw the funds from the depositories with joint control, annex[es] the following documents:

(a) A custodial agreement acceptable to the court for the purpose of retaining control of all of the guardianship funds, which agreement prohibits a release of such funds without further order of the court.

(b) An investment management agreement acceptable to the court, which agreement must track the provisions of the Prudent Investor Act set forth in EPTL 11-2.3(c) relating to delegation of investment or management functions [NOTE: *both agreements may be incorporated in one document if both the custodian and the investment advisor are one and the same financial institution*].

(c) That petitioner[s] acknowledge[s] reading those provisions of the Prudent Investor Act dealing with delegation of investment powers to an investment advisor and agree in accordance with those provisions to take an active part together with the investment advisor in formulating a comprehensive investment program and to keep informed and knowledgeable concerning investments and the general market.

(8) That the guardian be permitted to pay the investment advisor and custodian in accordance with the attached agreement without further order of the court.

(9) That the guardian be permitted to pay any income taxes without further order of the court.

(10) That no persons other than those mentioned herein are interested in this application except _____. (NOTE: *In the guardianship of an infant over the age of fourteen (14), his or her consent is required to be annexed.*)

(11) That the petitioner[s] as guardian[s] acknowledge[s] the responsibility to account annually to the court.

[STRIKE OUT ONE OF THE FOLLOWING ALTERNATIVES]

(12) [*In the case of a guardianship of an infant*] That the petitioner[s] as guardian

acknowledge[s] that the guardianship funds cannot be distributed to the infant upon his attaining majority without further order of the court.

(12) *[In the case of a guardianship of a mentally retarded/developmentally disabled person]* That the petitioner[s] acknowledge[s] that the guardianship funds cannot be distributed upon termination of the guardianship by death of the [mentally retarded/developmentally disabled] person or otherwise without further order of the court.

(13) No other application has been made to the court for the relief prayed for herein except _____.

WHEREFORE, petitioner[s] pray[s] that an order be made permitting the petitioner[s] to withdraw the guardianship funds from the present depository and to reinvest them in accordance with the laws of the State of New York and in particular the Prudent Investor Act upon the conditions set forth above and to pay the investment advisor and custodian and any income taxes of the ward without further order of the court.

PETITIONER

PETITIONER

INFANT FOURTEEN YEARS OF
AGE OR OVER

STATE OF NEW YORK)
) ss:
COUNTY OF BROOME)

I, the undersigned _____, being duly sworn, say:

VERIFICATION: I have read the following petition subscribed by me and know the contents thereof, and the same is true of my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

(Signature of Petitioner)

(Signature of Petitioner)

(INFANT FOURTEEN YEARS OF AGE OR OVER)

Sworn to this ____ day of _____, 2002

(Notary Public)