

IN THE CIRCUIT COURT OF FAIRFAX COUNTY, VIRGINIA

In re: Estate of Arcadius Hakim, an incapacitated adult | Commissioner's Report
Fiduciary No. FI-2006-0001005

To the Honorable Judges of the Circuit Court of Fairfax County, Virginia:

On June 26, 2006, this Court entered an order appointing Needham Mitnick & Pollack, PLC as guardian and conservator over the estate of Arcadius Hakim, an incapacitated adult. In its order of appointment, the Court directed that "The Conservator shall be paid their usual hourly rates for professional services."

The fiduciary filed an inventory with your commissioner listing assets over which it has control as \$146,959.91. The fiduciary filed five accounts with your commissioner. Your commissioner approved the first account but has not yet approved the remaining four accounts. The fiduciary's sixth account is not yet due.

This estate is related to and funded by a Court approved living trust for Arcadius Hakim, dated November 17, 2006, and administered before your commissioner as Fiduciary Number FI-2006-0001005A. The fiduciary in the conservatorship is also the trustee of the trust. The fiduciary maintains that accounts for both the conservatorship and the trust should be reviewed together. The fiduciary also states that "in most instances we have posted our time to the Conservatorship Estate rather than the Trust since it would be difficult, if not impossible, to allocate time between the Trust and the Conservatorship." Your commissioner notes that the fiduciary fees billed to the trust are nominal and it does appear that the bulk of the reported services are being recorded in the conservatorship. Your commissioner finds that the fees charged to the trust are within the guidelines established in the Court's Fiduciary Compensation Schedule for Trustees and therefore, your commissioner approves these trust fiduciary fees.

The more important issue in this analysis is what allowance should be given the fiduciary in light of the nominal billing to the trust. The inquiry before your commissioner is whether the fiduciary fees charged in the conservatorship are reasonable. The trust provides that the fiduciary "shall be entitled to receive a reasonable compensation based on the hourly rates of the attorneys, legal assistants, and other personnel who perform services in

connection with the administration of the trust at the time the services are rendered.” Trust at § 11.04. As this standard is consistent with the reasonable fee standard set forth in Virginia Code § 26-30, your commissioner is of the opinion that the trust standard of compensation does not affect the analysis of the reasonableness of the fiduciary fees charged in the conservatorship estate. Nevertheless, as billing is done principally in the conservatorship estate, your commissioner is also of the opinion that the guideline fees in this matter should reflect combined guideline fees for both the trust and the conservatorship.

Set forth below is a breakdown of fiduciary fees taken and guideline fiduciary fees for each account in both the conservatorship and the trust:

Account	<i>Conservatorship</i>		Guideline Fiduciary Fees
	Fiduciary Fees Billed	Fiduciary Fees Paid	
1 (4 mo.)	\$52,381.39	\$27,405.39	\$696.00
2	\$66,409.17	\$86,688.27	\$1,960.76
3	\$31,770.94	\$36,015.32	\$934.74
4	\$13,964.05	\$13,752.31	\$890.24
5	\$7,516.57	\$7,774.17	\$1,096.92

In all accounts other than the first account and a single large payment in the second account, substantially all of the fiduciary fees were paid directly from the trust and were not reported in the conservatorship accounts. While such treatment misstates the conservatorship account, your commissioner is capable of determining the true fiduciary fees charged in the conservatorship and will not require a restatement of the conservatorship accounts.

Account	<i>Trust</i>		Guideline Fiduciary Fees
	Fiduciary Fees Billed	Fiduciary Fees Paid	
1 (2 mo.)	\$959.00	\$0.00	\$1,756.73
2	\$2,078.25	\$3,037.25	\$10,272.12
3	\$235.11	\$235.11	\$8,833.71
4	\$162.50	\$162.50	\$8,578.33
5	\$62.50	\$62.50	\$8,282.22

As your commissioner has approved the fiduciary fees charged to the trust, all further discussion will relate to the fiduciary fees charged to the conservatorship.

Your commissioner has significant concerns about the reasonableness of the fees charged in connection with the first account that covered only a four month period. The fiduciary charged \$52,381.39 during that period and was paid \$27,405.39. The Court's guideline fee schedule for an estate of this size during that the first four months would be \$696.00. Nevertheless, your commissioner did approve the first account on April 17, 2007. Unlike decedent's estates, fiduciary fees in conservatorships are calculated separately for each accounting period. Your commissioner is of the opinion that his approval of the first account constrains his review of the payments made to the fiduciary in that account; however, your commissioner is of the opinion that he did not approve the fees billed but unpaid during that accounting period, which total \$24,976.00. Therefore, your commissioner will limit his review of the first account to whether it is reasonable that the fiduciary be paid any fees in excess of the amount of \$27,405.39 previously paid and approved.

Your commissioner notes that the total fees the fiduciary billed in connection with the fourth account in both estates was \$14,126.55. The Court's total guideline fee for the two estates is \$9,468.57. Your commissioner is of the opinion that the difference between the amount charged in the fourth account and the Court's guideline fee schedule is not shocking to the conscience. Your commissioner therefore finds the fees charged in the fourth account to be reasonable without further review. Your commissioner also notes that the total fees the fiduciary billed in connection with the fifth account in both estates was \$7,579.07, which amount is less than the Court's total guideline for the two estates of \$9,379.14. Therefore, your commissioner therefore finds the fees charged in the fifth account to be reasonable without further review. Based upon the foregoing, your commissioner will limit his review to the billed but unpaid fees in the first account, and to the fees billed in the second and third accounts.

On July 24, 2009, your commissioner advised the fiduciary of concerns regarding the reasonableness of its compensation, noting that "[t]he amount of fiduciary fees charged is significantly higher than the amount allowed by the Court's guidelines in similar situations." Your commissioner requested the fiduciary provide your commissioner with an analysis of the

reasonableness of the fees using the criteria set forth in Virginia Rules of Professional Conduct 1.5. The fiduciary did not respond and your commissioner renewed his request by letters dated October 27, 2009 and October 30, 2009. The fiduciary responded on December 2, 2009, stating that it had changed its address and it had not received the letters timely.

The court order appointing the fiduciary provides “The Conservator shall be paid their usual hourly rates for professional services.” The fiduciary states that its “fees are those we customarily charge for the service we perform and, thus, comply with the Court’s order authorizing us to bill for our services.” Your commissioner respectfully disagrees. The Court authorization to bill at hourly rates does not preclude your commissioner’s review of the reasonableness of those fees. The Virginia Code provides that the commissioner of accounts “shall have a general supervision of all fiduciaries admitted to qualify in such court or before the clerk thereof and make all ex parte settlements of their accounts.”¹ A commissioner, as a quasi-judicial officer charged with responsibility for fiduciary matters, has a duty to render a complete opinion on the matters that are before him. When a party brings an action to settle an account, the court has a duty “to try all the issues, administer full relief to the parties, and to either render an order for the amount found to be due, or to issue an order showing that there is nothing due. The court enjoys broad discretionary power in account matters to make any order or decree as justice requires.”² The commissioner of accounts has a similar duty. The Circuit Court for the City of Norfolk had occasion to consider the limitations upon the inquiries of the commissioner of accounts in the matter of *Trustee’s Sale of the Property of Willie Brown*.³ The Court stated

To perform his duties on behalf of the court, a Commissioner’s authority must extend to every aspect of law or fact related to a fiduciary’s duties, qualifications, and actions that may affect the rights of a beneficiary of an estate or a fund before him. No question of law, equity, or disputed fact concerning an account should be insulated from a Commissioner’s inquiry. Were a Commissioner of Accounts to be prohibited from considering such matters, how could he accurately and effectively assist the court?

¹ VA. CODE ANN. § 26-8.

² 1 AM. JUR. 2d *Accounts and Accountings* § 67 (2006).

³ 67 Va. Cir. 204 (2005).

Thus, within the scope of the commissioner's statutory duties, the commissioner has broad authority to address all the issues affecting those duties.

Judge Lamb described the commissioner of accounts eloquently, stating

If the probate courts are "the courts of widows and orphans", as they are sometimes called, the Commissioner of Accounts is the executive arm of the court, supporting the shield by which protection is afforded to those inadequately armed to protect themselves.⁴

Fundamental to the commissioner's oversight of fiduciaries is the review of the reasonableness of the fees fiduciaries charge. Virginia Code § 26-30 provides that "The commissioner, in stating and settling the account, shall allow the fiduciary any reasonable expenses incurred by him as such; and also, except in cases in which it is otherwise provided, a reasonable compensation . . ." In the *Estate of Hyman J. Fine*, the Circuit Court of the City of Norfolk reviewed the commissioner's determination to reduce Crestar Bank's executor's fee from the amount dictated in its standard fee schedule to an amount that the commissioner determined to be reasonable.⁵ The Court stated that the testator's agreement that the fee should be in accordance with the Bank's fee schedule did not establish a definite and ascertainable provision concerning the amount of the fee, as the fee schedule could change from time to time and there was no limit upon the amount of that fee.⁶ The Court held that

Absent a clear, definite provision setting the compensation of an executor, the Court had not only the authority but also the duty to inquire as to the reasonableness of the executor's compensation. This inquiry is normally done through the Commissioner of Accounts, the officer of the Court to whom

⁴ Lamb, VIRGINIA PROBATE PRACTICE § 107 (1957).

⁵ In re Estate of Hyman J. Fine, 41 Va. Cir. 597 (Norfolk Cir. Ct. 1995).

⁶ 41 Va. Cir. at 598-599.

this responsibility is delegated. His findings and recommendations are subject to review by the Court.⁷

In the opinion of your commissioner, when the Court authorizes a lawyer fiduciary to charge his or her standard hourly rate in connection with a matter under the supervision of your commissioner, the Court has not determined that that hourly rate is the standard for determining the reasonableness of compensation to that lawyer for acting as a fiduciary. To the contrary, any fee calculated pursuant to that hourly rate is indefinite, subject to change, and without limit as to amount. In such circumstances, the Court and its commissioner have both the authority and the duty to review the reasonableness of the fees which the lawyer fiduciary seeks.

Rule 1.5 of the Virginia Rules of Professional Conduct governs the determination of the reasonableness of a lawyer's fee.⁸ The rule requires that "a lawyer's fee shall be reasonable." In *Trotman v. Trotman*,⁹ the Court stated that the word "reasonable" as used in Virginia Code § 26-30 "is but another way of saying that they [commissions] are to be measured by the conscience of the court."¹⁰ While there is no hard and fast rule regarding the proper amount of fiduciary fees, the Court has stated that factors to be considered include: the value of the estate, the character of the work, the difficulties encountered, the results obtained, the responsibilities assumed, and the risks incurred.¹¹ These factors, however, do not stand alone. The Court has further instructed that said factors are to be evaluated in light of the fiduciary's duty to exercise "the highest fidelity and utmost good faith" in their administration of the estate.¹²

While Virginia law does not forbid a fiduciary from hiring his own company to perform services for the estate he is administering, the Virginia Supreme Court has repeatedly stated that "[A fiduciary cannot] unite his

⁷ In re Estate of Hyman J. Fine, 41 Va. Cir. 597, 599 (Norfolk Cir. Ct. 1995). It should be noted that in 2005, the General Assembly amended Virginia Code § 26-30 to provide an express provision authorizing the adoption of institutional fiduciaries fee schedules in a will or trust; nevertheless, the General Assembly still allowed review of that fee for reasonableness if "such compensation is excessive in light of the compensation institutional fiduciaries generally receive in similar situations."

⁸ See *Dickerson v. Ford Motor Company*, 74 Va. Cir. 509 (Roanoke Cir. Ct. 2008); *O'Neil v. Chrysler Corp.*, 54 Va. Cir. 64 (Loudoun Cir. Ct. 2000).

⁹ 148 Va. 860 (1927).

¹⁰ *Trotman* at 868

¹¹ *Pritchett v. First Nat. Bank of Danville*, 195 Va. 406, 432, 78 S.E.2d 650, 653 (1953)

¹² *Id.* at 412

personal and fiduciary character in the same transaction without consent of the *cestui que* trust.”¹³ Indeed, it is a long standing principal that

as long as the confidential relation lasts, the trustee or other fiduciary owes an undivided duty to his beneficiary, and cannot place himself in any other position which would subject him to conflicting duties, or expose him to the temptation of acting contrary to the best interests of his original *cestui que* trust. The rule applies alike to agents, partners, guardians, executors and administrators, directors and managing officers of corporations, as well as to technical trustees.¹⁴

When the fiduciary engages itself to perform services for the ward’s estate, it places itself in a position which inherently subjects it to conflicting duties.

Your commissioner has significant concerns about the reasonableness of the fees charged in connection with the first three accounts. During the first account period that covered only four months, the fiduciary charged \$52,381.39 and was paid \$27,406.39. The Court’s combined guideline fee schedule for an estate and trust during that the first four months would be \$2,452.73. Your commissioner does recognize that disproportionate time is required at the beginning of a conservatorship to take charge of the assets of the ward and arrange for his care; however, an allowance of disproportionate charges is not the same as an allowance of exorbitant charges. In the second account, the fiduciary billed \$66,409.17 and was paid \$86,688.27. The Court’s combined guideline fee schedule for an estate and trust of this size during that period would be \$12,232.88. In the third account, the fiduciary billed \$31,770.94 and was paid \$36,015.32. The Court’s combined guideline fee schedule for an estate and trust of this size during that period would be \$9,768.45.

The fiduciary’s response of December 2, 2009, does not provide a breakdown of services between legal, trustee, guardian and conservatorship services; however, the fiduciary notes that it had extensive involvement in two lawsuits to recover the ward’s property, that it drafted the Trust Agreement under which it serves, that it had difficulty marshalling the ward’s assets, and that the family members of the ward were not cooperative. Your commissioner is of the opinion that in addition to its

¹³ *Rowland v. Kable*, 174 Va. 343 at 368 (1940)

¹⁴ *Id.* at 367

appropriate compensation as conservator, the fiduciary may also be compensated for legal work which it performs on behalf of the conservatorship. Your commissioner finds the hourly rates that the fiduciary charges reasonable for legal services, consistent with the Court's order. The only issue before your commissioner is whether the number of hours billed is reasonable.

Your commissioner has reviewed the billing statements in connection with the first account. Based upon that review, it does appear that the fiduciary spent at least 66.8 hours and billed \$19,471.50 in connection with the ongoing litigation. Your commissioner notes that the ward had litigation counsel, that litigation counsel drafted most of the documents involved and conducted the depositions. Your commissioner is unable to determine to what extent the fiduciary's extensive involvement in the litigation was necessary; however, there is no issue that there was involvement. As the ward had competent litigation counsel and as the role of the fiduciary was advisory rather than one of direct responsibility, your commissioner is of the opinion that reasonable compensation for the fiduciary's assistance to counsel in the litigation matters during the first account is \$12,250.00.

Your commissioner has also reviewed the billing statements in connection with the second and third accounts. Based upon that review, your commissioner finds that the fiduciary continued its involvement in the ongoing litigation for a time, spending 9.7 hours and billing \$2,910.00 for such services. Consistent with the prior analysis, your commissioner is of the opinion that reasonable compensation for the fiduciary's assistance to counsel in the litigation matters after the first account is \$2,000.00. The fiduciary also was the principal drafter of the Trust under which it serves. That work consumed 17.65 hours for which the fiduciary billed \$4,938.75. Your commissioner is of the opinion that the hours are reasonable and in proportion to the task. Therefore your commissioner will allow such charges in full. Finally, your commissioner determined that the fiduciary had substantial involvement in income tax planning for the ward, spending 5.2 hours on the task and billing \$1,463.50 to the estate. Such services are not a part of the normal duties of a conservator and your commissioner will also allow such charges in full. Based upon the foregoing, your commissioner will allow the fiduciary \$8,402.25 in compensation for legal services after the first account, in addition to its other proper compensation.

It is also apparent from a review of the billing records that there are services performed that might more properly be classified as guardian services. While legal services to the estate and the services that a conservator routinely performs, such as the management and investment of assets, the accounting for receipts and expenditures, and the protection of the ward's estate, involve professional judgment and require a certain level of expertise, not all the services that a guardian routinely performs require the same level of skill or judgment. The guardian of the person of the ward often acts as a companion, a caretaker, and a personal assistant to the ward. The tasks can be as routine as accompanying the ward on a shopping trip, planning a birthday party or scheduling a hair appointment.

This Court has adopted fiduciary compensation guidelines for conservators but not for guardians. The Code does provide that a guardian is entitled to reasonable compensation for his or her services.¹⁵ In the opinion of your commissioner, to the extent the conservator pays himself for services that the fiduciary rendered as guardian, there is an inherent conflict of interest which requires special scrutiny. *See discussion infra*. When the fiduciary engages itself to perform services for the ward's estate, it placed itself in a position which inherently subjected it to conflicting duties.

As a general rule, when the conservator and the guardian are the same person, your commissioner requires separate time records to support fees for guardian services. Moreover, as a general rule, your commissioner does not allow a professional fiduciary to charge at his or her professional hourly rate for guardian services. It is the opinion of your commissioner that any such compensation paid to a professional fiduciary serving as guardian should be commensurate with the fees charged by lay firms or individuals who routinely provide such services. In the instant case, these fees must be reasonable and the Virginia Supreme Court has determined that any fees must be evaluated in light of the fiduciary's duty to exercise "the highest fidelity and utmost good faith" in their administration of the estate.¹⁶

A conservator has a fiduciary duty to manage the property of his ward with "the judgment of care, skill, prudence and diligence . . . that a prudent person familiar with such matters and acting in his own behalf would exercise . . ." ¹⁷ In the opinion of your commissioner, it is reasonable that the

¹⁵ VA. CODE ANN. § 37.2-1022.

¹⁶ *Pritchett v. First Nat. Bank of Danville*, 195 Va. 406 at 412 (1953).

¹⁷ VA. CODE ANN. § 26-45.1.

fiduciary charge its normal hourly rate for the management of guardian services and for undertaking those guardian services that require professional skill and judgment; however, not all guardian services require such professional skill and judgment. In the case of guardian services that require no professional skill or judgment, such services are more properly delegated to commercial services which bill at substantially lesser rates, usually, in the experience of your commissioner, between \$25 to \$50 per hour.¹⁸ Rates for managers of such care services are also less than the fiduciary's hourly rates, usually in the experience of your commissioner between \$70 to \$100 per hour.¹⁹ The fiduciary has recognized the requirements of prudent management, using the services of a geriatric care management agency to reduce costs in many instances. Nevertheless, there are significant charges at the fiduciary's hourly rate for services not requiring professional judgment or expertise.

To the extent that the fiduciary elects to perform such services through legal professionals, it has a fiduciary duty to the ward not to bill at rates in excess of those rates commercially available for the same services. As the Circuit Court of Warren County decided in the *Estate of Beulah Mae Stokes*,²⁰ when a fiduciary engages services at a rate significantly above the market rate charges for such services, the fiduciary fails to manage the estate with reasonable prudence. In such cases, the fiduciary will be responsible for the difference between the rates charged to the estate and the market rates for the same services.²¹

In the instant case, the Court's order allowing compensation at the usual hourly rate does not refer to guardian services. Guardian services are necessary and reasonable services for the care and maintenance of the ward; however, it is neither necessary nor reasonable that such services be performed by lawyers billing at \$250 per hour. Your commissioner is of the opinion that the fiduciary is entitled to compensation for its guardian services, but at a substantially lesser rate than its professional billing rate.

¹⁸ According to the American Association of Homes and Services for the Aging, the national average hourly rate in 2008 for a certified home health aide was \$32. The average hourly rate for non-certified workers was \$19.

¹⁹ *Cf.* In re Larry Banton, FI-2004-72484, CL-2006-999, Circuit Court of Fairfax County (Letter opinion dated June 26, 2007)(allowed \$70 per hour as "reasonable fee").

²⁰ In re Estate of Beulah Mae Stokes, 37 Va. Cir. 3 (Warren County 1995).

²¹ *Accord*, In re Larry Banton, FI-2004-72484, CL-2006-999, Circuit Court of Fairfax County (Letter opinion dated June 26, 2007).

Your commissioner has reviewed the billing records for the first account and finds that the fiduciary charged approximately \$6,890.00 of the total billing for services normally classified as guardian services, such as arranging visitation, reviewing medical records and supervising care, and dealing with family issues. While such services are necessary and reasonable services for the care and maintenance of the ward, it is neither necessary nor reasonable that such services be performed by lawyers billing at \$250 per hour. Your commissioner is of the opinion that \$2,500.00 is reasonable compensation for the guardian services rendered in the first account.

Your commissioner has also reviewed the guardian services performed in the second and third accounts. The level of such activity increased and the fiduciary billed approximately \$29,377.75 for services such as mediating family disputes, supervising care, arranging trips, vacations and family gatherings, and dealing with medical appointments and services. Again, while such services are necessary and reasonable services for the care and maintenance of the ward, it is neither necessary nor reasonable that such services be performed by lawyers billing at \$250 per hour. Your commissioner is of the opinion that \$10,000.00 is reasonable compensation for the guardian services rendered in the second and third account.

The final matters which your commissioner must address are the charges for conservator services in the three accounts. In the first account, there remains approximately \$26,019.89 in billable time not accounted for as legal or guardian services. In the second account, there remains approximately \$38,219.17 in billable time not accounted for as legal or guardian services. In the third account, there remains approximately \$21,270.94 in billable time not accounted for as legal or guardian services.

Your commissioner is of the opinion that the analysis of Judge Ney in *Unger v. Beatty*²² is on all fours with the instant case. Judge Ney stated

The major reservation the Court has with the amount of fees claimed is that the total amount of the fees - albeit legitimately incurred - seem out of proportion to the nature of the lawsuit. The underlying suit, its successful defense, the fee claim were

²² 52 Va. Cir. 289 (Fairfax 2000).

straightforward matters involving nothing especially complex. Simply put, this litigation should not have cost this much.²³

In the instant case, this administration should not have cost this much. The total amount of the fees is out of proportion to the size of the estate and the administration was a straightforward matter involving nothing especially complex. As the Circuit Court of the City of Richmond noted, in *Iuorno v. Ford Motor Co.*, “[a]ttorneys should not be rewarded for excessively working a case simply because they know that their requested fees will be forthcoming.”²⁴ This is the general rule throughout the United States.²⁵

Simply put, there was nothing novel or difficult in the instant proceeding; the fees charged exceeded the combined fee guidelines that this Court adopted more than fourfold; the ward’s estate could not support the fees paid to the fiduciary and required that the fees be paid from the trust created for the ward; there was no long term professional relationship with the ward; and the fiduciary bore no risk for payment of its fees other than its own actions in exhausting the ward’s estate.²⁶ Your commissioner finds that the charges for conservatorship services in the first, second and third accounts are unreasonable and not a prudent management of the ward’s estate notwithstanding the Court’s authorization that the fiduciary may bill for conservatorship services at its usual and customary hourly rate. Your commissioner is of the opinion that a reasonable fee for the services rendered is in the first account is \$12,500.00; for the services rendered in the second account \$20,000.00; and for the services rendered in the third account \$15,000.00.

In accordance with the foregoing, your commissioner finds that the reasonable fee for the services rendered during the first account totals \$27,250.00, including \$12,250.00 in legal services, \$2,500.00 in guardian services, and \$12,500.00 in conservator services. As the fiduciary has already received more than that amount in payment for the first account, your commissioner directs that no further fees be paid in connection with the services rendered during the period covered in the first account.

²³ 52 Va. at 293.

²⁴ 40 Va. Cir. 387 (1996).

²⁵ See, e.g., *In re Comstock*, 664 N.E.2d 1165 (Ind. 1996); *In re Estate of Langland*, 2006 WL 1752261 (Mich. Ct. App. 2006); *In re Coffey’s Case*, 880 A.2d 403 (N.H. 2005); *In re Dorothy*, 605 N.W.2d 493 (S.D. 2000).

²⁶ See Rule 1.5, Virginia Rules of Professional Conduct, setting out eight factors to be considered in determining the reasonableness of attorney’s fees.

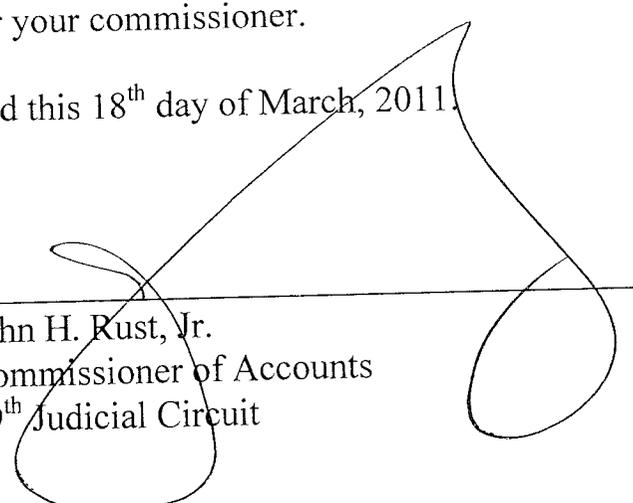
Your commissioner finds that the reasonable fee for the services rendered during the second account totals \$34,902.25, including \$8,402.25 in legal services, \$6,500.00 in guardian services, and \$20,000.00 in conservator services. The fiduciary has been paid \$86,688.27 for services rendered in the second account and for arrearages in the amounts owed for the first account, which your commissioner has determined is not reasonable or appropriate to pay. Of the payment received, \$162.38 was to reimburse for out of pocket expenses. Therefore, the fiduciary is directed to restore the sum of \$51,623.64 to the ward's estate.

Your commissioner finds that the reasonable fee for the services rendered during the third account totals \$18,500.00, including \$3,500.00 in guardian services, and \$15,000.00 in conservator services. The fiduciary has been paid \$36,015.32 for services rendered in the third account, of which \$1,781.23 was to reimburse for out of pocket expenses. Therefore, the fiduciary is directed to restore the sum of \$15,734.09 to the ward's estate.

In summary, your commissioner finds that the fiduciary is entitled to reasonable compensation for the periods covered in the first, second and third accounts of \$80,807.64 (1st Account - \$27,405.39 previously approved; 2nd account - \$34,902.25 and 3rd account - \$18,500.00). The fiduciary is directed to restore the sum of \$67,357.73 to the ward's estate.

Your commissioner is of the further opinion that any fees, costs or expenses incurred in any objection to the findings in this report as to the reasonableness of the fiduciary fees are not properly expenses of the estate. Your commissioner directs that the fiduciary may not bill for its time or for any expense it may incur with respect to any exception to this report or other objection to the determination of reasonable fees herein without the express authorization of the Court or your commissioner.

Respectfully submitted this 18th day of March, 2011.



John H. Rust, Jr.
Commissioner of Accounts
19th Judicial Circuit

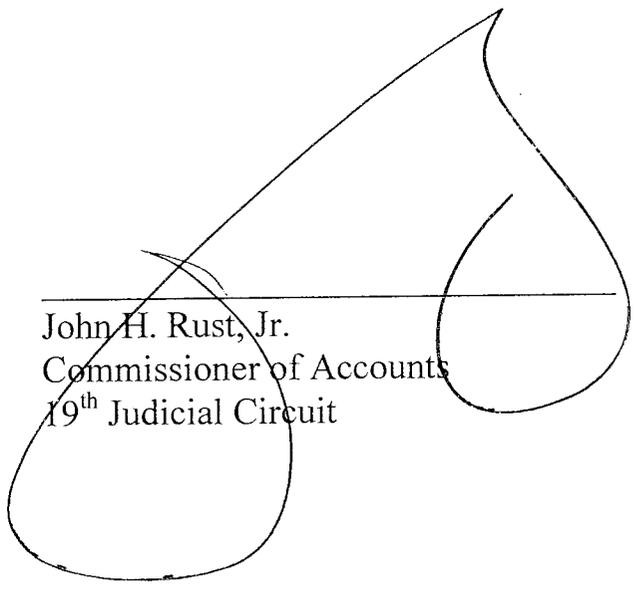
CERTIFICATE OF MAILING

I hereby certify that on this 18th day of March, 2011, a true and correct copy of the above Commissioner's Report was mailed, first-class mail, postage prepaid, to the following persons at the addresses shown below:

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