

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION *[insert county]* COUNTY
PROBATE PART

In the Matter of *[insert the incapacitated person's name]*, an Incapacitated Person

Docket No.

CIVIL ACTION

JUDGMENT OF LEGAL INCAPACITY AND
APPOINTING A GUARDIAN OF THE PERSON
AND ESTATE

THIS MATTER being opened to the Court by *[insert the plaintiff attorney's name]*, attorney for *[insert the plaintiff's name]*, in the presence of *[insert the court appointed attorney's name]*, attorney for the then alleged incapacitated person, and *[insert the incapacitated person's name]*, the then alleged incapacitated person, and no demand having been made for a jury trial, and the Court sitting without a jury having found from the report of *[insert the court appointed attorney's name]*, Esq., together with the report of the examining physicians *[insert the name of the physician]* M.D. and *[insert the name of the physician]* M.D. (alternate licensed practicing psychologist) and proofs given that *[insert the incapacitated person's name]* is an incapacitated person who lacks sufficient capacity to govern himself/herself and manage his/her affairs, and it further appearing that *[insert the proposed guardian's name]* consents to serve as Guardian of the Person and Estate of *[insert the incapacitated person's name]* and for good cause shown:

IT IS on this ___ day of _____, 20 ___ ORDERED AND ADJUDGED that:

1. *[Insert the incapacitated person's name]* is an incapacitated person and is unfit and unable to govern himself/herself and manage his/her affairs, except that *[insert the incapacitated person's name]* is fully able at this time to govern himself/herself and manage his/her own affairs with respect to the following areas: *[insert areas of decision making that the incapacitated person retains, such as, living arrangements, marriage, advance directives, voting, gifting, manage finances, execute a will, establish a trust, execute contracts, make judgments regarding daily activities et cetera]*.

2. *[Insert the proposed guardian's name]* be and hereby is appointed Guardian of the Person and Estate of *[insert the incapacitated person's name]* and that Letters of Guardianship of the Person and Estate be issued upon his/her (a) qualify according to law, (b) acknowledging to the Surrogate of *[insert county]* County, upon receipt of a copy of the guardian's manual and annual report form, the receipt of the same and (c) entering into a surety bond unto the Superior Court of New Jersey in the amount of \$_____, which bond shall contain the conditions set forth N.J.S.A. 3B:15-7 and R. 1:13-3. The court shall approve the bond as to form and sufficiency.

3. Upon qualifying, the Surrogate of *[insert county]* County shall issue Letters of Guardianship of the Person and Estate to *[insert the proposed guardian's name]* and thereupon *[insert the proposed guardian's name]* be and hereby is authorized to perform all the functions and duties of a Guardian as allowed by law, except as limited herein or in areas where *[insert the incapacitated person's name]* retains decision making rights.

4. The Guardian of the Estate may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval. Said limitation shall be stated in the Letters of Guardianship.

5. The court having reviewed the affidavit or certification of services of *[insert the court appointed attorney's name]*, Esq., previously filed with the court, *[insert the proposed guardian's name]* shall pay *[insert the court appointed attorney's name]*, court-appointed attorney for *[insert the incapacitated person's name]*, a fee of \$_____ for professional services rendered and \$_____ for expenses incurred, which disbursements are hereby approved.

6. The court having reviewed the affidavit or certification of services of *[insert the plaintiff attorney's name]*, Esq., previously filed with the court, *[insert the proposed guardian's name]* shall pay *[insert the plaintiff attorney's name]*, attorney for plaintiff, a fee of \$_____ for professional services and \$_____ for expenses incurred, which sum includes reimbursement or payment of the cost of the physician affidavits or certifications, which disbursements are hereby approved.

7. *[Insert the proposed guardian's name]* is hereby directed to file annually a report of the well-being of *[insert the incapacitated person's name]*. The report must be filed each year on the anniversary date of this Judgment with the Surrogate of *[insert county]* County.

[IF APPLICABLE]

A copy of the report must also be served upon *[insert the court appointed attorney's name or next-of-kin]*.

8. *[Insert the proposed guardian's name]* is directed to file an annual informal accounting on the anniversary date of this judgment, or any time as ordered by this court, with the Surrogate of *[insert county]* County. Said annual informal account does not replace or satisfy the duty to file and bring on for approval a formal accounting as required by law or as ordered by the court.

[IF APPLICABLE]

A copy of the informal accountings must also be served upon *[insert the court appointed attorney's name or next-of-kin]*.

9. *[Insert the proposed guardian's name]* is hereby directed to advise the Surrogate of *[insert county]* County within ten (10) days of any changes in the address or telephone number of himself or herself or the incapacitated person or within thirty (30) days of the incapacitated person's death or of any major change in status or health.

10. *[Insert the proposed guardian's name]* shall cooperate fully with any Court staff or volunteers until the guardianship is terminated by the death or return to competency of *[insert the incapacitated person's name]* or the Guardian's death, removal or discharge.

11. *[Insert the plaintiff attorney's name]*, attorney for plaintiff, shall serve a copy of this Judgment upon all interested parties and attorneys of record within seven (7) days from the receipt hereof.

12. *[Insert the proposed guardian of the estate's name]* shall file with the Court within 90 days, an inventory of all of the incapacitated person's property and income. Within said period a copy of the inventory shall be served on all next-of-kin and parties in interest.

13. *[Insert the court appointed attorney's name]*, court appointed attorney for *[insert the incapacitated person's name]*, having reported to the court and advocated on behalf of the incapacitated person, be and hereby is discharged from any further obligation to act as attorney for *[insert the incapacitated person's name]*.

[USE IF APPLICABLE]

14. It appearing that the plaintiff and the attorney appointed to represent the alleged incapacitated person have inquired about powers-of-attorney, health care directives and trusts for the benefit of the incapacitated person that were executed by the incapacitated person and proof of service having been made on the attorneys-in-fact, representative or trustee designated in such document or documents, and good cause shown appearing that the authority therein contained should be revoked *[alternate language: modified]*

It is *ORDERED and ADJUDGED* that the power and authority conferred by *[insert an appropriate description, such as, a power of attorney executed on (date) designating [insert the agent's name] as attorney-in-fact, health care representative or trustee]* be and hereby is revoked *[alternate language: modified as follows (insert narrative of modification)]*.

[USE IF APPLICABLE]

Nothing herein shall affect or limit the *[insert an appropriate description of any power of attorney, health care directive or revocable trust that will not be revoked or modified, notwithstanding the principal's incapacity and the report by the attorney for the alleged incapacitated person]*.

[USE IF APPLICABLE]

It further appearing that *[insert the name]* *[insert appropriate description, such as, attorney-in-fact or trustee]* under a *[insert date executed]* *[insert appropriate description, such as, power of attorney or revocable trust]* has power and control over the incapacitated person's real and personal property and doubt or concern, whether the *[insert attorney in fact or trustee]* is acting within the powers delegated or is acting solely for the benefit of the incapacitated person, having been raised.

It is hereby *ORDERED* and *ADJUDGED* that *[insert name]* *[insert appropriate description, such as, attorney-in-fact or trustee]* under the herein revoked *[alternate modified]* *[insert appropriate description, such as, power of attorney or revocable trust]* shall within sixty (60) days serve upon the guardian of the incapacitated person's estate an accounting that reports all corpus and income receipts and disbursements under the said *[insert appropriate description, such as, power of attorney or revocable trust]*.

[USE IF APPLICABLE]

15. It appearing that the best interest of the incapacitated persons requires that the attorney appointed for the incapacitated person should review and report on the *[initial]* ability of the Guardian to perform and fulfill the duties required. *[Insert the court appointed attorney's name]*, be and hereby is directed to continue to act on behalf of the court and *[insert the incapacitated person's name]* for a period of *[insert the number of months, years or until the ward dies or is returned to competency that the court determines is appropriate]*. During said continuing period *[insert the court appointed attorney's name]* must review all reports, accountings and *[here insert any special functions, i.e., confirm the placement of the incapacitated person in a nursing home, confirm marshalling of assets, confirm that the Guardian has created estate books and records et cetera]* and shall communicate to the court through the surrogate's office any matters or issues that he or she perceives are necessary to be identified and raised for the best interest of *[insert the incapacitated person's name]*. While acting pursuant to the terms of this order, *[insert the court appointed attorney's name]* shall be vested with such immunities or other defenses that an agent of the court is entitled to claim.

16. *[Here insert any additional powers, limitations or conditions deemed necessary to protect the*

incapacitated person and his/her estate.]

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