
**Professional
Guardian
Investigation**



**Phil Diamond, CPA
County Comptroller
Orange County, Florida**

www.occompt.com



July 8, 2019

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The mission of the Orange County Comptroller's Office is to serve the citizens of Orange County and our customers by providing responsive, ethical, effective, and efficient protection and management of public funds, assets, and documents, as specified in the Florida Constitution and Florida Statutes.

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The vision of the Orange County Comptroller's Office is to be recognized as a highly competent, cohesive team leading the quest for continuing excellence in the effective safeguarding and ethical management of public funds, assets, and documents.



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Monday, July 8, 2019

TO: Wynter A. Solomon-Cuthbert, Court Monitor, Ninth Judicial
Circuit Court of Florida

FROM: Phil Diamond, CPA, Orange County Comptroller *PAD*

SUBJECT: Professional Guardian Investigation

This memo is in response to your request for assistance on July 1, 2019, regarding a current investigation into a professional guardian in Orange County. According to Odyssey system records, the Professional Guardian, Rebecca Fierle, has petitioned to be appointed in over 400 cases since 2007 with approximately 100 currently active in Orange County. According to current applications filed by the Professional Guardian, she also has numerous open cases in other counties in Florida.

During the limited time available, we were able to scan over 30 current case dockets to identify those requiring further review. Based on our experience with guardianship filings, we reviewed higher risk docket events. These included but were not limited to:

- Petitions for Sale/Disposition of Assets;
- Annual Accountings;
- Petitions for Appointment of Guardian;
- Petitions for Attorney Fees; and,
- Petitions for Guardian Fees.

Our review concentrated on reviewing specific documents. We did not perform a complete audit on any of the reported cases. Had we performed additional procedures, other information might have come to our attention that would have been included in this memo.

In addition to the items listed below that relate to specific cases, we found the following problems prevalent throughout most, if not all, of the cases:

- Disbursements submitted with no receipt or support.
- If there was a car sale, it was supported only by a cash or check deposit slip.
- An Application for Appointment as Guardian is filed by a professional guardian with each new case. The Application lists all of the guardians current and previous cases. We compared the listing of Orange County Guardianship cases assigned to the Professional Guardian and identified over 70 cases not included on the Application. In addition, cases were listed with incorrect names and case numbers were listed multiple times with different wards names.

Potential Issues Identified

1. CASE [Case Number Redacted]

Issue 1: Petition for Guardianship dated 04/09/19 states, “The relationship and previous association of the Proposed Guardian to the Ward are none.” However there is evidence that the Professional Guardian and/or the Guardian’s Attorney may have entered into a legal contract regarding the Ward prior to the petition. This could also represent duplicate fee payments to the Guardian and/or Attorney based on the payment agreement¹ that was not disclosed to the Court.

The Guardian also may not have acted in the best interest of the Ward if 29 days passed from the first notice that a guardian was necessary until the petition was submitted. The Attorney’s detailed billing states that the paralegal should proceed with matter the day the signed fee agreement was received.

06/25/19 Petition or Motion for Attorney’s Fee’s — The following entries were included as support for the attorney fees:

3/11/19 “Receipt and review of email from Rebecca Fierle re:new guardianship; draft payment agreement...email to Case Manager at AdventHealth for signature”.

¹ We do not have the authority to obtain a copy of the payment agreement from AdventHealth as part of the review. As a result, we are unable to review the terms of the agreement.

3/21/19	“...AdventHealth should be returning agreement to us this week...”
4/1/19	“Receipt and Review of email from R. Fierle with signed payment agreement from AdventHealth copy to HYO to proceed with matter.”
4/2/19	“Correspondence from facility including signed fee agreement: correspondence with client including same and requesting attorney information sheet...”

Potential Violation of:

F.S. 744.334 (1) Every petition for the appointment of a guardian shall be verified by the petitioner and shall contain... the relationship and previous relationship of the proposed guardian to the ward...

F.S. 744.446 (1) It is essential to the proper conduct and management of a guardianship that the guardian be independent and impartial. The fiduciary relationship which exists between the guardian and the ward may not be used for the private gain of the guardian other than the remuneration for fees and expenses provided by law. The guardian may not incur any obligation on behalf of the guardianship which conflicts with the proper discharge of the guardian’s duties.

(2) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: **(a)** Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship...

2. CASE [Case Number Redacted]

Issue 1: Professional guardians are required to register annually by filing an application with the Office of Public & Professional Guardians (OPPG) that lists employees with fiduciary duties. All professional guardians and their employees, who have a fiduciary responsibility to a ward, are required to submit to a credit history investigation and to undergo level 2 background screening. The Professional Guardian may have employee(s) who have not been registered with OPPG or the Court as of January 30, 2019. No Professional Guardian fee petitions were filed so we were unable to definitively confirm who transported the ward to the medical appointments.

- 2/13/17 Annual Accounting <=\$25,000 —The following AMEX receipts with the last 4 digits 1161 and a cardholder name other than the Professional Guardian were attached to the Accounting:
- 1/27/16 Dr. Marie Tartibi OD
 - 02/08/16 Central Florida Neurosurgery
 - 03/07/16 Central Florida Neurosurgery
- 04/11/19 Final Accounting — Additional purchases were noted with AMEX number ending in 1161 with the same cardholder name listed above were attached to the accounting:
- 11/15/17 Central FI Endo & Diabetes Con
 - Conflicting Dates on Receipt and Accounting Vascular Vein Center

Possible Violation of:

F.S. 744.2002 (1) A professional guardian must register with the Office of Public and Professional Guardians established in part II of this chapter. (2) Annual registration shall be made on forms furnished by the Office of Public and Professional Guardians... The forms furnished by OPPG are included at Appendix A and state “Please complete the section(s) below for each employee, other than professional guardians, that has fiduciary responsibility to wards. Fiduciary responsibility is defined as having a position of trust.”

F.S. 744.3135 The Court shall require all guardians seeking appointment by the court, other than a corporate guardian as described in s. 744.309(4), and all employees of a professional guardian, other than a corporate guardian as described in s. 744.309(4), who have a fiduciary responsibility to a ward, to submit, at their own expense, to a credit history investigation and to undergo level 2 background screening as required under s. 435.04...

Issue 2: The Ward sent the Clerk of Court’s Office a hand written letter on 04/21/2017 with a copy of a lien sale notice for her personal storage unit. She also wrote directly on the sale notice that it needed to be paid. The storage unit bill totaled \$299.28, including rent of \$86.28, insurance of \$16, and nonpayment related fees of \$197. According to a public notice in the Apopka Chief, the contents were scheduled for auction on [Redacted Date of Auction], two months after her plea to pay the bill was recorded in the case. There is no documentation showing the Professional Guardian paid the storage

fee. There is no evidence that the belongings were not recovered for the Ward or next of kin.

According to the Ward's death certificate, her son reported her death indicating she had family members that might have wanted her belongings. The Petition for Guardianship failed to list full names of family members. The Professional Guardian included first names only with a last name of unknown and address of unknown. The first name of the son on the petition was the same name on the death certificate. There is no evidence included in the file showing that the family members were notified of the guardianship case.

Possible Violation of:

F.S. 744.334 (1) Every petition for the appointment of a guardian shall be verified by the petitioner and shall contain statements, to the best of petitioner's knowledge and belief, the names and addresses of the next of kin of the incapacitated person or minor, if known to the petitioner; ...

F.S. 744.361 (3) The guardian shall act in good faith.

F.S. 744.361 (4) A guardian may not act in a manner that is contrary to the ward's best interests under the circumstances.

F.S. 744.361 (10) (a) A guardian who is given authority over any property of the ward shall: Protect and preserve the property and invest it prudently as provided in chapter 518, apply it as provided in s. 744.397, and keep clear, distinct, and accurate records of the administration of the ward's property. **(b)** Perform all other duties required of him or her by law. **(c)** At the termination of the guardianship, deliver the property of the ward to the person lawfully entitled to it.

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

F.S. 744.361 (13) (a) Recognizing that every individual has unique needs and abilities, a guardian who is given authority over a ward's person shall, as appropriate under the circumstances: Consider the expressed desires of the ward as known by the guardian when making decisions that affect the ward.

3. CASE [Case Number Redacted]

Issue 1: Professional guardians are required to register annually by filing an application with OPPG that lists employees with fiduciary duties. All professional guardians and their employees, who have a fiduciary responsibility to a ward, are required to submit to a credit history investigation and to undergo level 2 background screening. The Professional Guardian may have fiduciary employee(s) who have not been reported to OPPG or the Court as of January 30, 2019. The Petition for Guardian Fees indicates an employee of the Professional Guardian billed time for services related to the Ward's care.

Petition or Motion for Guardian's Fees –Invoices on 12/7/16 and 3/16/17 from Geriatric Management, LLC, owned by the Professional Guardian was attached as support for the Professional Guardian's billing hours. The invoice contained the following entries:

- 12/7/16 “drafted letter regarding date of death to [Redacted Name], review with Rebecca Fierle.”
- 6/15/16 “p/c from [Redacted Name] to discuss notice, emailed RF”
- 6/21/16 “p/c to Richard to set up apt to meet RF, emailed RF”
- 7/27/16 “p/c from Solaris rehab regarding care plan, emailed RF”
- 8/11/16 “p/c from son emailed RF”
- 8/16/16 “p/c from Solaris regarding payment, emailed RF”
- 8/24/16 “drafted letter and filled out application for duplicate title and review with RF”
- 8/25/16 “Preparing Initial Plan, comm with RF, PC to SNF”
- 8/25/16 “drafted letter to Verizon to cancel, p/c to [Redacted Name] to follow up, p/c to State Farm regarding claim, comm with RF”
- 8/26/16 “follow up p/c to [Redacted Name], p/c to operations, comm with RF”
- 8/29/16 “drafted letter to State Farm regarding claim, reviewed with RF, emailed Claim adjuster letter”
- 8/30/16 “p/c to [Redacted Name] to confirm RF has been added to account, confirmed, comm with RF”
- 8/30/16 “p/c from Omnicare regarding payment, emailed RF”
- 9/1/16 “p/c with AXA regarding paperwork needed for inventory, comm with RF”

- 9/2/16 “emailed Ben from State Farm regarding check issue, drafted letter to the court for more LOG, drafted letters to AXA, TECO, Orange County Utilities and Duke energy, review with RF”
- 9/13/16 “p/c to Orange Co Utilities, drafted letter for COA, and comm with RF”
- 9/14/16 “comm with RF and utility company regarding splitting invoice for two different locations, p/c from [Redacted Name] regarding doctor apt and schedule meeting, emailed RF”
- 9/16/16 “p/c from Speech therapist, emailed RF”
- 9/20/16 “p/c to Teco gas regarding COA, p/c to Verizon, drafted letter to Verizon, review with RF, drafted letter to silver script regarding COA”
- 9/26/16 “p/c from Solaris regarding DNR status, emailed RF”
- 9/27/16 “p/c from Verizon, emailed RF”
- 9/30/16 “fill out AXA lump sum docs, drafted cover letters and reviewed with RF”
- 01/30/17 “review when property taxes were paid, review online, update SS, review with RF”

Possible Violation of:

F.S. 744.2002 (1) A professional guardian must register with the Office of Public and Professional Guardians established in part II of this chapter. (2) Annual registration shall be made on forms furnished by the Office of Public and Professional Guardians...

The forms furnished by OPPG are included at Appendix A and state “Please complete the section(s) below for each employee, other than professional guardians, that has fiduciary responsibility to wards. Fiduciary responsibility is defined as having a position of trust.”

F.S. 744.3135 The Court shall require all guardians seeking appointment by the court, other than a corporate guardian as described in s. 744.309(4), and all employees of a professional guardian, other than a corporate guardian as described in s. 744.309(4), who have a fiduciary responsibility to a ward, to submit, at their own expense, to a credit history investigation and to undergo level 2 background screening as required under s. 435.04...

4. CASE [Case Number Redacted]

Issue 1: An individual (Service Provider B) hired to perform services has a previous relationship with the Professional Guardian. The Professional Guardian was the guardian on his mother's case and is currently the Trustee for a family trust where the service provider currently has an ownership interest in property with the Professional Guardian as Trustee. This was not disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained.

4/14/17 Petition for Approval to Donate and/or Dispose of Ward's Tangible, Personal Property, and to Hire Steve Richardson — Service Provider B was hired to perform services based on a flat fee of \$4,275 with a potential conflict of interest that was not disclosed to the court to evaluate pricing.

5/14/18 First and Final Accounting — Payments to Service Provider B for work with no petition to spend or approval by the Court and no receipts for support.

- 8/10/17 Steve Richardson lawn maint and info on car
- 9/1/17 Steve Richardson
- 11/8/17 Steve Richardson

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

5. CASE [Case Number Redacted]

Issue 1: An individual (Service Provider B) hired to perform services has a previous relationship with the Professional Guardian not disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained.

- 8/8/17 Petition For Approval to Hire Steve Richardson — Service Provider B was hired for \$2,375 to perform services based on a flat fee with a potential conflict of interest that was not disclosed to the court to evaluate pricing.
- 8/10/17 Annual Accounting — Payment for 360.00 to Service Provider B for work on 7/14 to “change locks, put on lock box, took pics, secured broken window, mowed front and back yard” – No petition to spend or approval by the court.

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian’s spouse or any of the guardian’s lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

Issue 2: Professional Guardian sold the Ward’s vehicle to Service Provider B who had a previous relationship with the Professional Guardian which was not disclosed to the Court for evaluation of any conflicts of interest and to ensure competitive pricing was obtained.

- 8/16/17 Petition for Approval to Sell Ward’s Automobile -- Comments: for Approval to Sell Wards Automobile for \$1,373, or as close to the price as practical. Blue Book Value of \$1,373 attached as support.
- 8/23/17 Verified Inventory – Fair Market Value of Vehicle listed as \$1,200. This was only seven days after petition filed for \$1,373. Although vehicle not sold until 11/02/17.
- 9/7/18 Annual Accounting
- 11/02/17 Image of a check from Service Provider B for \$1,200
For: GMC Jimmy dated.

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

Issue 3: Conflicting services performed by Service Provider A for Inventory, Valuation, and Sale of personal property.

- 8/9/17 Receipt for \$500 to Service Provider A for Pack and Move
- 8/23/17 Inventory of Guardianship over \$25,000
- Attached support for inventory of personal property, which included numerous jewelry items, dated 7/20/17 valued at \$3,000 Prepared By Deborah Stoll
- 9/07/18 Annual Accounting
- Partial sale of property to unrelated party for \$1,000 less \$350 Commission = \$650
 - Remaining purchased by Service Provider A for \$1,000 less \$350 Commission = \$650
 - Estate Sale Contract states 30% although 35% was withheld from all sales
 - Loss of \$1,000 based on Service Provider A Estimate

Possible Violation of:

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

6. CASE [Case Number Redacted]

Issue 1: The Professional Guardian filed an Annual Accounting with an Invoice attached from Geriatric Management, LLC owned by the Professional Guardian. The invoice was addressed to Florida Hospital Medical Center. If the fees are billed to Florida Hospital this creates the potential for fees to be reimbursed multiple times or a separate financial arrangement exists. All financial arrangements should be reported to the Court.

08/16/18 Annual Accounting — Invoice dated 05/03/18; Bill to: Florida Hospital Medical Center, 701 E Altamonte Dr. Ste 2000, Altamonte Springs, FL 32701

Possible Violation of:

F.S. 744.446 (1) It is essential to the proper conduct and management of a guardianship that the guardian be independent and impartial. The fiduciary relationship which exists between the guardian and the ward may not be used for the private gain of the guardian other than the remuneration for fees and expenses provided by law. The guardian may not incur any obligation on behalf of the guardianship which conflicts with the proper discharge of the guardian's duties.

(2) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: **(a)** Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship;

7. CASE [Case Number Redacted]

Issue 1: Conflicting services performed by Service Provider A for Inventory, Valuation, and Sale of personal property. Paid Service Provider A \$400 to prepare inventory and \$1,995 to clean out house. Inventory prepared by Service Provider A lists \$800 - \$1000 as value. It appears to be a lump sum valuation and does not appear to be based on the individual items. The items may be undervalued. After payment for removal and inventory, no payment received for tangible property.

5/12/16 Petition for Approval of Sale, Donation, Distribution and/or Disposal of Ward's Tangible Personal Property -- (8) In order to prepare the home for sale, it

must be cleaned and have items of tangible personal property removed. A list of the Ward's tangible personal property owned is attached. An estimate proposal to prepare inventory and clean out the Ward's home, from Deborah Stoll.

- Inventory Prepared on 04/06/16 valued at \$800 - \$1,000 by Service Provider A.
- Paid Service Provider A \$400 on 04/06/16 to prepare inventory
- Paid Service Provider A \$1,995 on 4/6/16 for dumpster rental and clean out of personal property
- Estate Sale contract indicates 30% commission to Service Provider A with a sale date of 5/13/16 & 5/14/16.

06/15/17 Annual Accounting — Tangible Personal Property is listed as \$0 on the first Annual Accounting. There is no deposit listed for the sale.

Possible Violation of:

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

Issue 2: Professional Guardians are required to register annually by filing an application with OPPG that lists employees with fiduciary duties. All professional guardians and their employees, who have a fiduciary responsibility to a ward, are required to submit a credit history investigation and to undergo level 2 background screening. The Professional Guardian may have employee(s) that have not been reported to OPPG or the Court as of January 30, 2019. Employee emailed regarding preparing check for haircut payment from the Ward's bank account according to the Annual Accounting. An Annual Accounting contained an email prepared by a potential employee, Jenny Brown (jenny@geriatricllc.com) of Geriatric Management, LLC. Another potential employee was included on the email Crystal Henson (crystal@geriatricllc.com), and Rebecca Fierle (rebecca@geriatricllc.com), the Professional Guardian and owner of Geriatric Management, LLC

6/15/17 Annual Accounting
5/2/16 Salon Professionals \$40
9/21/16 Salon Professionals \$17

Petition or Motion for Guardian's Fees -- The Petition for Guardian Fees indicates an employee of the Professional Guardian billed time for services related to the Ward's care. An invoice from Geriatric Management, LLC, owned by the Professional Guardian was attached as support for the Professional Guardian's billing hours. The invoice contained the following entries:

11/27/15	"FV to see client for initial assessment. Assisted client in completing Medicaid app and forwarded to HO. Completed attorney questions. Comm with RF and HO."
12/1/15	"Comm with RF regarding client status."
12/2/15	"PC to client's neighbor, name #, and comm with RF."
12/3/15	"PCs to/from friend. Comm with RF."
12/4/15	"PC to client's sister. P/u mail, clothes, and keys to house and car from client's friend. PC from client caregiver at ALF. Comm with JB and RF."
12/4/15	"email from RF to locate bank stmt. Found and emailed to RF."
12/7/15	"PCs to/from clients sister and RF."
12/8/15	"FV to see client at ALF. Delivered clothing from his house. PC to client's sister and comm with RF."
12/18/15	"PC from client. Comm with RF."
12/23/15	"p/c from Sincerity and emailed RF"
12/28/15	"fv to see client at ALF. Assisted client in writing ALF January check. Comm with RF."
1/18/16	"Comm with RF regarding client status. PC to client's sister."
1/21/16	"Comm with JB and RF regarding client's status."
1/28/16	"PCs to State Farm to reinstate policy and comm with RF. Policy paid for next 6 months."
2/5/16	"drafted letter to Sincerity ALF, emailed to RF"
2/8/16	"Comm with RF regarding 30 day notice."
2/9/16	"FV to see client at ALF. Assisted client in completing DD214 form. Discussed move to different ALF and comm with RF. Client's mood appears to be stable. He states that he is ready and wants to return home."
2/22/16	"PC to FHE and client's sister. Comm with RF."
2/23/16	"Visit client at FHE. Comm with nurse, CM, and RF and PC to client's sister."
2/24/16	"PCs to/from FHE CM and comm with RF."
2/25/16	"Multiple PCs to hospital and comm with RF."

3/30/16	“p/c from Dr. Cambell about psych eval, emailed JS and RF.”
4/6/16	“pc, comm to RF.”
4/6/16	“locate Clearview acct info, fill out request docs, p/c to Clearview, fax requests, emailed RF.”
4/8/16	“p/c from name about buying home, emailed RF.”
4/18/16	“Call Clearview, F/U with RF.”
5/10/16	“filled out VA care provider reqs, reviewed with RF.”
5/17/16	“p/c from name regarding property, emailed RF.”
5/23/16	“filled out VA applications and docs, review with RF.”
5/25/16	“emailed Wright insurance to provide supplemental Ins., emailed RF.”
7/11/16	“inventoried personal belongings, reviewed with RF.”
7/22/16	“drafted letter to Gulf stream insurance to close account, review with RF.”
8/1/16	“drafted letter to Citibank to close acct, review with RF.”
8/2/16	“drafted letter to VA, review with RF.”
6/2/17	“review file, emailed Rebecca Fierle bank account info and physical address”

Possible Violation of:

F.S. 744.2002 (1) A professional guardian must register with the Office of Public and Professional Guardians established in part II of this chapter. (2) Annual registration shall be made on forms furnished by the Office of Public and Professional Guardians....

The forms furnished by OPPG are included at Appendix A and state “Please complete the section(s) below for each employee, other than professional guardians, that has fiduciary responsibility to wards. Fiduciary responsibility is defined as having a position of trust.”

F.S. 744.3135 The Court shall require all guardians seeking appointment by the court, other than a corporate guardian as described in s. 744.309(4), and all employees of a professional guardian, other than a corporate guardian as described in s. 744.309(4), who have a fiduciary responsibility to a ward, to submit, at their own expense, to a credit history investigation and to undergo level 2 background screening as required under s. 435.04...

Issue 3: An individual (Service Provider B) hired to perform services has a previous relationship with the Professional Guardian not disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained.

- Service Provider B was hired to perform services based on a flat fee with a potential conflict of interest that was not disclosed to the court to evaluate pricing.
 - a) Payment for \$220 to Service Provider B for work on 3/6/16 to gain access to condo, change locks and put on new lock box, gathered paperwork and took pictures. Delivered all to office. – No petition to spend or approval by the court.
 - b) Payment for \$182 to Service Provider B for work on 03/15/16 for “purchased bed in a bag set pillows and towels, picked up bedroom furniture delivered all and set up in [Redacted Name] room.”
 - c) Payment for \$40 to Service Provider B for work on 04/19/16 for located checkbooks in condo, returned to office.

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian’s spouse or any of the guardian’s lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

8. CASE [Case Number Redacted]

Issue 1: The Petition for Guardianship listed two individuals as next of kin. There is no evidence included in the file showing that the family members were notified of the guardianship case. The Clerk of Court filed an Observation that the next of kin were not noticed. To date, there is no evidence in the file that the family was ever noticed and the Observation was never complied with. In addition, the Ward had a joint bank account with one of the next of kin listed on the petition.

5/17/17 Petition to Appoint Guardian -- Petition lists 2 family members as next of kin

- 5/18/17 Observation – The following must be filed before the hearing: Notice to Next of Kin
- 9/5/17 Proof of Service of Initial Guardianship Report of Guardian of the Person – Ward’s Court appointed attorney was the only individual serviced.
- 9/8/17 Inventory – Joint bank account with Ward and next of kin

Possible Violation of:

F.S. 744.334 (1) Every petition for the appointment of a guardian shall be verified by the petitioner and shall contain statements, to the best of petitioner’s knowledge and belief,... the names and addresses of the next of kin of the incapacitated person or minor, if known to the petitioner; ...

F.S. 744.447 (2) Notice of a petition to perform any other acts under s. 744.441 or s. 744.446 shall be given to the ward, to the next of kin, if any, and to those interested persons who have filed requests for notices and copies of pleadings, as provided in the Florida Probate Rules, unless waived by the court. Notice need not be given to a ward who is under 14 years of age or who has been determined to be totally incapacitated.

Issue 2: Conflicting services performed by Service Provider A for Inventory, Valuation, and Sale of personal property. Paid Service Provider A \$300 to prepare inventory and lists \$0 value. The house contained multiple appliances, furniture, numerous jewelry items and four pages of various household items. In addition, a petition to abandon property was filed without noticing the next of kin.

- 9/8/17 Inventory – 4 page Personal Tangible Property Inventory prepared listing value as \$0
- 9/25/17 Petition to Abandon Contents of Home

9. CASE [Case Number Redacted]

Issue 1: The Professional Guardian paid for vehicle repairs at Mickey’s Place for Automotive Repair which is owned by a family member of the Professional Guardian. The relationship to the owner has not been disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained.

12/20/13 Annual Accounting — receipt attached lists repairs done to the wards vehicle at Mickeys Place for Automotive Repair for \$527.14.

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

Issue 2: An individual (Service Provider B) hired to perform services has a previous relationship with the Professional Guardian not disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained.

11/8/12 Petition for Order Authorizing Payment for Services of Steven Richardson — Service Provider B was hired to perform services based on a flat fee of \$525 and \$40 totaling \$565.00 with a potential conflict of interest that was not disclosed to the court to evaluate pricing.

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

10. CASE [Case Number Redacted]

Issue 1: The Ward was a patient at Florida Hospital when the Professional Guardian filed the Petition for Appointment of Guardian. The Petition for Appointment of Guardian lists the father, a brother from San Francisco, and a sister from St. Augustine as the

next of kin. The Professional Guardian did not provide notice to the mother of the Ward on the Petition for Guardianship filed on 08/02/16. However, the Professional Guardian stated on the Initial Plan filed 11/20/16 that, "The Ward's mother visits intermittently". Based on this information, it appears the Professional Guardian knew she had a mother but did not include her in the next of kin or provide the required notice of the proceedings.

Although three next of kin were listed on the Petition for Appointment of Guardian, none of the family members were noticed when it was filed. The Clerk of Court filed an observation on 08/04/16 notifying the Professional Guardian that the next of kin had not been noticed.

The mother subsequently filed a Petition to Remove Guardian on 12/14/16. The case file includes letters and emails from the mother concerned about her daughter's care and money that had been spent. The Ward died shortly after on 01/15/17.

8/2/16	Petition for Appointment of Plenary Guardian — Included three next of kin but the mother was not listed
8/4/16	Observation —Filed by the Clerk of Court that next of kin had not been noticed
11/20/16	Initial Plan —Stated the Ward's mother visited intermittently
12/14/16	Petition to Remove Guardian — filed by mother
01/15/17	Certificate of Death

Possible Violation of:

F.S. 744.334 (1) Every petition for the appointment of a guardian shall be verified by the petitioner and shall contain statements, to the best of petitioner's knowledge and belief, ... the names and addresses of the next of kin of the incapacitated person or minor, if known to the petitioner; ...

11. CASE [Case Number Redacted]

Issue 1: The Professional Guardian filed a Petition for Guardian Fees. The invoice attached was addressed to Florida Hospital Medical Center. The rate was \$120 per hour. An observation sheet was filed by the Clerk of Court about the hourly rate and unallowable expenses. This rate is much higher than the \$65 allowed by the Court. If the fees are billed to Florida Hospital this creates the potential for fees to be reimbursed

multiple times or a separate financial arrangement exists. All financial arrangements should be reported to the Court.

It is also concerning that the Attorney Expense Billing Log had an entry on 02/13/17 stating, "Communications with client regarding guardian fees and any necessary response." This could be an indication that they were preparing a response to the inadvertently filed bill intended for Florida Hospital Medical Group.

01/24/17 Petition for Order for Fees Authorizing Expenses of Guardian — Guardian fees submitted totaling \$2,332.99. Some of the changes are listed below in issue 2 on this case.

02/01/17 Observation Filed by Clerk of Court

06/13/17 Petition for Attorney's Fees

- 02/13/17 "Communications with client regarding guardian fees and any necessary response."

Possible Violation of:

F.S. 744.446 (1) It is essential to the proper conduct and management of a guardianship that the guardian be independent and impartial. The fiduciary relationship which exists between the guardian and the ward may not be used for the private gain of the guardian other than the remuneration for fees and expenses provided by law. The guardian may not incur any obligation on behalf of the guardianship which conflicts with the proper discharge of the guardian's duties.

(2) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: **(a)** Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.

Issue 2: Professional guardians are required to register annually by filing an application with OPPG that lists employees with fiduciary duties. All professional guardians and their employees, who have a fiduciary responsibility to a ward, are required to submit a credit history investigation and to undergo level 2 background screening. The Professional Guardian may have employee(s) who have not been reported to OPPG or the Court as of January 30, 2019.

Petition or Motion for Guardian's Fees -- Geriatric Management, LLC, owned by Professional Guardian, invoice attached as support for billings for hours charged contained the following entries:

10/4/16	"Comm with RF"
10/12/16	"FV to see client at San Jean. Client in room going ballistic regarding Invega shot during visit, screaming and cursing. Met with Santhia and ARNP. Comm with RF"
10/13/16	"Comm with RF"
10/14/16	"email to RF regarding inventory"
11/21/16	"review file and face sheet to confirm DNR and atty info in file, comm with RF"
12/29/16	"p/c from Mr. [Redacted Name] regarding money, emailed RF"

In addition, credit card receipts were submitted with purchases with the same AMEX number with the last 4 digits 1161 noted in Case 2 :

10/16/2018	Annual Accounting
• 02/13/18	Monas Mini Mart – \$121.38 Cigarettes
• 02/19/18	Wawa – \$92.86 Cigarettes
• 03/13/18	Walmart - \$9.97 Coke
•	Numerous other receipts

Possible Violation of:

F.S. 744.2002 (1) A professional guardian must register with the Office of Public and Professional Guardians established in part II of this chapter. (2) Annual registration shall be made on forms furnished by the Office of Public and Professional Guardians.... The forms furnished by OPPG are included at Appendix A and state "Please complete the section(s) below for each employee, other than professional guardians, that has fiduciary responsibility to wards. Fiduciary responsibility is defined as having a position of trust."

F.S. 744.3135 The Court shall require all guardians seeking appointment by the court, other than a corporate guardian as described in s. 744.309(4), and all employees of a professional guardian, other than a corporate guardian as described in s. 744.309(4), who have a fiduciary responsibility to a ward, to submit, at their own expense, to a credit history investigation and to undergo level 2 background screening as required under s. 435.04...

12. CASE [Case Number Redacted]

Issue 1: Conflicting services performed by Service Provider A for Inventory, Valuation, and Sale of personal property. A Petition was filed for Service Provider A to clean out all personal property for a fee of \$1,995. The Inventory filed valued the property at \$700, \$300 for personal property and \$400 for fine jewelry. The value is listed as a lump sum and does not include the value of each item. The Annual Accounting on 12/7/17 lists a negative value for the personal property and there is no record of any monies received from the sale.

In addition, it appears that Service Provider A was paid double the amount originally estimated for dumpster rental and clean out.

5/24/16 Petition for Approval of Sale, Donation, Distribution and/or Disposal of Ward's Tangible Personal Property -- (7) To prepare the home for sale, it must be cleaned and have items of tangible personal property removed.

- Inventory Prepared on 03/22/16 valued at \$700 Prepared by Deborah Stoll.
- Paid Service Provider A \$300 on 04/11/16 to prepare inventory
- Paid Service Provider A \$1,995 on 8/1/16 for dumpster rental and clean out of personal property and paid the same amount again on 8/1/16 for a second dumpster rental and additional fee and clean out of personal property.

12/7/17 Annual Accounting — Tangible Personal Property and Fine Jewelry have a negative value.

Possible Violation of:

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

Issue 2: An individual (Service Provider B) hired to perform services has a previous relationship with the Professional Guardian not disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained. Service Provider B was hired for \$150 to change the locks.

06/15/17 Annual Accounting — Payment of \$150 to change Locks. No petition to spend or approval by the court.

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

13. CASE [Case Number Redacted]

Issue 1: The Professional Guardian took possession of the Ward's property and filed numerous property related petitions including selling assets prior to receiving Letters of Guardianship of the Property. Additionally, the First and Final Accounting filed on 2/19/15 included a bank statement in the name of the Ward and Professional Guardian as support. The account was opened on 9/24/13, weeks before being appointed as Guardian of the Property on 10/07/13.

07/29/13	Petition to Appoint Guardian
9/16/13	Inventory
9/27/13	Petition to sell donate and or dispose of the wards tangible personal property — No Support Attached
9/27/13	Petition for Approval to Sell Wards Vehicle
9/27/13	Petition or Motion Authorizing Listing of Real Property
10/01/13	Petition for Authority to Act – Successor Trustee.
10/07/13	Letters of Guardianship of the Person and Property
2/19/15	First and Final Accounting

Issue 2: Attached to the First and Final Accounting was Geriatric Management Check register for payments on various accounts. This register included 4 check payments to unrelated guardianship cases to the Professional Guardian's attorney where the Professional Guardian was appointed as guardian. Under the column titled "Client to Reimburse" is recorded, "No - FL Hospital Paid GCM". If the fees are billed to Florida Hospital this creates the potential for fees to be reimbursed multiple times or a separate financial arrangement exists. All financial arrangements should be reported to the Court.

Possible Violation of:

F.S. 744.446 (1) It is essential to the proper conduct and management of a guardianship that the guardian be independent and impartial. The fiduciary relationship which exists between the guardian and the ward may not be used for the private gain of the guardian other than the remuneration for fees and expenses provided by law. The guardian may not incur any obligation on behalf of the guardianship which conflicts with the proper discharge of the guardian's duties.

(2) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: **(a)** Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.

Issue 3: The Professional Guardian petitioned to open the Ward's safe deposit box on 10/24/13 and filed the box inventory on 12/23/13 which included two pages of jewelry. The First and Final Accounting filed on 2/15/15 did not include the sale of the jewelry from the safe deposit box in the beginning inventory balance.

An Observation to file a Supplemental Inventory and an Amended Accounting showing the jewelry sale was filed by the Clerk of Court on 8/5/15. The Supplemental Inventory filed on 10/30/15 valued 1 of the 2 pages of jewelry at \$2,084. Nine pieces of jewelry noted on the box inventory were not included in the Supplemental Inventory and the jewelry was reported as sold for \$1,962 less the \$588.60 commission.

10/24/13	Petition to Open Safe Deposit Box
12/23/13	Safe Deposit Box Inventory
10/30/15	Supplemental Inventory of Guardian — missing nine jewelry items

Possible Violation of:

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

Issue 4: An individual (Service Provider B) hired to perform services has a previous relationship with the Professional Guardian not disclosed to the Court for evaluation of

any conflicts of interest and ensure competitive pricing is obtained. No petition to spend or approval by the court for any of the transactions.

2/19/15 First and Final Accounting — Service Provider B was hired to perform services based on a flat fee with a potential conflict of interest that was not disclosed to the court to evaluate pricing.

11/27/13	Steve Richardson Maint	\$60
11/27/13	Steve Richardson Maint	\$50
2/3/14	Steve Richardson Maint	\$185
2/26/14	Steve Richardson Maint	\$40
5/23/14	Steve Richardson Maint	\$185

Possible Violation of:

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

Issue 5: Professional guardians are required to register annually by filing an application with OPPG that lists employees with fiduciary duties. All professional guardians and their employees, who have a fiduciary responsibility to a ward, are required to submit a credit history investigation and to undergo level 2 background screening. The Professional Guardian may have employee(s) who have not been reported to OPPG or the Court as of January 30, 2019.

2/19/15 Final Accounting

Credit card receipts were submitted using an AMEX with a cardholder name other than the Professional Guardian. In addition, the cardholder for the 9/10/13 purchase is also a family member of the Professional Guardian.

- 9/10/13 Geico \$539.52
- 11/11/13; Kmart \$57.50
- 11/12/13, Zappos.com \$84.95

Possible Violation of:

F.S. 744.2002 (1) A professional guardian must register with the Office of Public and Professional Guardians established in part II of this chapter. (2) Annual registration shall be made on forms furnished by the Office of Public and Professional Guardians....

The forms furnished by OPPG are included at Appendix A and state “Please complete the section(s) below for each employee, other than professional guardians, that has fiduciary responsibility to wards. Fiduciary responsibility is defined as having a position of trust.”

F.S. 744.3135 The Court shall require all guardians seeking appointment by the court, other than a corporate guardian as described in s. 744.309(4), and all employees of a professional guardian, other than a corporate guardian as described in s. 744.309(4), who have a fiduciary responsibility to a ward, to submit, at their own expense, to a credit history investigation and to undergo level 2 background screening as required under s. 435.04...

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian’s spouse or any of the guardian’s lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, or has any financial interest.

Issue 6: Conflicting services performed by Service Provider A for Inventory, Valuation, and Sale of personal property.

- | | |
|----------|---|
| 10/21/13 | Receipt for \$420 from Service Provider A for Pack and Move |
| 9/16/13 | Inventory — Personal property valued at \$3,000 <ul style="list-style-type: none">• Inventory of personal property dated 9/9/13 valued at \$3,000 - \$5,000 by Deborah Stoll. |
| 2/19/15 | Annual Accounting – Total Amount received for personal property was \$2,699.50. <ul style="list-style-type: none">• Partial Sale of Inventory to a related party for \$400, net remaining \$2,600. Purchased by a potential employee of Geriatric |

Management, LLC with AMEX ending in 1161 noted in Case 2 above.

- Remaining purchased by Service Provider A for \$3,285 minus 30% commission of \$985.50 = \$2299.50

Possible Violation of:

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, has any financial interest.

Issue 7: The Professional Guardian sold the Ward's vehicle for approximately half the value reported on the Petition for Approval to Sell Ward's vehicle. The support attached listed the cars value at \$12,490. Car sale supported only by a deposit receipt for \$6,500 in cash dated 2/25/14 with no bill of sale.

In addition, the Professional Guardian paid for vehicle repairs at Mickey's Place for Automotive Repair which is owned by a family member of the Professional Guardian. The relationship to the owner has not been disclosed to the Court for evaluation of any conflicts of interest and ensure competitive pricing is obtained.

9/27/13 Petition to Sell Wards Vehicle — Kelly Blue Book value attached for \$12,490, which matches the verified inventory amount recorded

2/19/15 First and Final Accounting

11/19/13 Mickey's Place for Automotive Repair \$502.19

2/25/14 Deposit for Sale of vehicle for \$6,500

Possible Violation of:

F.S. 744.361 (11) The guardian shall observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another.

F.S 744.446 (2) (d) Unless prior approval is obtained by court order, or unless such relationship existed prior to appointment of the guardian and is disclosed to the court in the petition for appointment of guardian, a guardian may not: Directly or indirectly purchase, rent, lease, or sell any property or services from or to any business entity of which the guardian or the guardian's spouse or any of the guardian's lineal descendants, or collateral kindred, is an officer, partner, director, shareholder, or proprietor, has any financial interest.