

**IN THE THIRTEENTH JUDICIAL CIRCUIT COURT
FOR HILLSBOROUGH COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. S-2002-005

VETERANS' GUARDIANSHIP CASES

WHEREAS under Chapter 744, Florida Statutes, the United States Department of Veterans Affairs (“VA”) and the circuit court of the Thirteenth Judicial Circuit have a mutual concern for the benefit of VA beneficiaries under veterans’ guardianships; and

WHEREAS it is necessary to ensure compliance with the statutory time frames established in Chapter 744; and

WHEREAS it is necessary for the prompt and efficient administration of justice in this circuit that uniform procedures be adopted to ensure the best interests of VA beneficiaries; and

WHEREAS these procedures shall only apply to veterans’ guardianships initiated under Chapter 744, Part VIII, Florida Statutes; it is therefore

ORDERED:

1. **VA Audit and Approval Authority:** VA audit and approval authority as to the accounting audit function (sections 2, 3, 4, and 5 of this order) and also as to the approval of guardian and attorney fees function (sections 6, 7, and 8 of this order) will be conditioned upon the following requirements:

- a. VA files the annual accounting that VA has audited in the court file;
- b. VA requests a waiver of the customary Clerk of the Circuit Court’s (“clerk”) annual accounting audit and a waiver of the clerk’s audit fee for new veterans’ guardianships as well as for existing ones;
- c. Independent VA audit and approval authority will come into effect only in those cases where the court has expressly granted VA’s request for waiver of the annual accounting audit and waiver of the audit fee; and

d. If the court does not expressly grant VA's request for waiver of the annual accounting audit and waiver of the audit fee, then the clerk will continue to audit the annual accounting and will be entitled to the audit fee.

2. **Accounting Initially Filed With VA:** An original, plus one copy of a balanced, notarized accounting with Certificates of Balance on Deposit will be presented to VA for audit and approval. The accounting need not be submitted through the attorney of record.

3. **Accounting and Certification Filed by VA With Court:** After VA has audited the accounting, a form entitled "VA CERTIFICATION OF AUDIT AND APPROVAL OF ANNUAL ACCOUNTING" (see Attachment A) will be attached to the original accounting and forwarded to the clerk for filing in the court file. Accountings which cannot be approved will be returned to the guardian for correction. The certification of audit and approval will include VA review and approval of guardian and attorney fees, special expenditures or investments and a request for an increase or decrease in the bond, when appropriate.

4. **Unusual and Extraordinary Expenditures or Investments:** It is the guardians' responsibility to contact VA for approval of any unusual or extraordinary expenditures or investments. VA will advise the guardian when it is necessary to request the attorney of record to petition the court for approval of the expenditure(s) or investment(s). Sections 744.441, 744.624, 744.625, and chapter 518, Florida Statutes, specify the types of expenditures and investments requiring court approval. In addition to these statutory provisions, unless otherwise ordered by the court, VA will advise the guardian to obtain court approval of expenditures in excess of \$1,000.00. Each unusual or extraordinary expenditure or investment approved by VA will be summarized on the "VA CERTIFICATION OF AUDIT AND APPROVAL OF ANNUAL ACCOUNTING" (see Attachment A).

5. **Petitions for Increase (or Decrease) in Bond or for Freeze Orders:** Each time an

accounting is audited by VA, the bond value will be reviewed. If VA finds that the bond is too high or too low, that finding will be indicated by VA on the “VA CERTIFICATION OF AUDIT AND APPROVAL OF ANNUAL ACCOUNTING” (see Attachment A), and the guardian will be notified. The additional bond or bond reduction must be presented by the guardian to the VA and the court within sixty (60) days from the date of the certification. VA will advise the guardian to obtain a freeze order **only** in cases where this would be more economical to the estate of the ward than an increase in the bond. Bond reductions will not be directed by VA where the savings in bond premiums is outweighed by the cost of the attorneys fees to reduce the bond.

6. **Guardian Fees:** Guardians are entitled to a maximum fee of five per cent (5%) of receipts shown in the accounting that is presented for audit. Petitions are no longer required. Requests by guardians for fees will be made in letters to VA. Extraordinary fees will only be approved under very unusual circumstances. If VA has not preapproved extraordinary fees in writing, the fees will not be allowed. Professional guardians are expected to possess the basic skills needed to prepare accountings for their wards. If a guardian hires a person to prepare the annual accounting, the charge for this service will be borne by the guardian, not the ward. For example, if the guardian is entitled to \$1,000.00 for the year and an accountant charges \$500.00, the guardian will receive \$500.00 for the guardian’s services for the year.

7. **Permission to Take Guardianship Fee on Monthly Basis:** VA will automatically present the court with a VA authorization which will allow the guardian to take an estimated fee of no more than five per cent (5%) of receipts as compensation for his or her services on a monthly basis (see Attachment B). If the guardian wishes to take the fees quarterly, semi-annually or annually, this will be permitted, as long as the estimated fee does not exceed five per cent (5%) of receipts at the end of the accounting period. A final determination of the appropriate fee will be made at the time of the audit of the accounting and appropriate adjustments will be made at that time.

8. **Attorney Fees**: Requests by attorneys for fees will be made in letters to VA. Attorney fees will be approved by VA upon receipt of a letter from the attorney. Attorney fees will not be reviewed by the court unless a dispute as to the fees arises. VA may submit a form entitled “OBJECTION TO FEES AND REQUEST FOR HEARING” (see Attachment C) to the court if VA believes a fee is too high and cannot resolve the dispute with the attorney.

9. **Initial Inventory**: The attorney of record should include the beginning inventory in the petition for appointment of a guardian under a veterans’ guardianship. By including the estate data, the court can set the bond immediately. If assets are discovered later, an amended inventory can be filed. A petition for appointment of a guardian should be accompanied by authorization of VA.

DONE AND ORDERED, in chambers in Tampa, Hillsborough County, Florida this 23rd day of January, 2002.

\s\ Manuel Menendez, Jr.
Manuel Menendez, , Jr., Chief Judge

Original to: Richard Ake, Clerk of the Circuit Court
Copies to: Honorable Susan Sexton, Probate, Guardianship and Trust Division
Nick Ficarrota, General Master in Probate, Guardianship and Trust Division
Patricia Wright, Department of Veterans Affairs

ATTACHMENT A

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
GUARDIANSHIP, PROBATE AND MENTAL HEALTH DIVISION

IN RE: THE GUARDIANSHIP OF

V.A. FILE NO.: _____

COURT FILE NO.: _____

Incapacitated.

DIVISION: A

(VETERANS' GUARDIANSHIP)

_____ /

VA CERTIFICATION OF AUDIT AND APPROVAL OF ANNUAL ACCOUNTING

_____ The United States Department of Veterans Affairs (VA) has authorized the guardian to receive payment for services on a monthly basis which is calculated at a maximum fee of five per cent (5%) of receipts for the month. VA further requests a waiver of the audit fee by the court and provides herein a certification of audit for the accounting.

Accounting period audited: _____

Guardian fees approved for this accounting period: _____

Attorney fees approved for this accounting period: _____

_____ Bond has been reviewed and is adequate.

_____ Bond should be increased (decreased) to a total of \$ _____.

EXPENDITURES AUTHORIZED BY VA:

\$ _____ for _____
\$ _____ for _____
\$ _____ for _____
\$ _____ for _____
\$ _____ for _____
\$ _____ for _____

DATED this _____ day of _____, 20____.

U.S. DEPARTMENT OF VETERANS AFFAIRS
BILL BRYANT
VETERANS SERVICES OFFICER

FIDUCIARY AND FIELD ACTIVITY
Unit 272B
VA Regional Office
P.O. Box 1437
St. Petersburg, Florida 33731
(727) 893-3266

ATTACHMENT B

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
GUARDIANSHIP, PROBATE AND MENTAL HEALTH DIVISION**

IN RE: THE GUARDIANSHIP OF V.A. FILE NO.: _____

COURT FILE NO.: _____

Incapacitated.
_____ /

DIVISION: A

AUTHORIZATION FOR VETERANS' GUARDIANSHIP

_____The United States Department of Veterans Affairs (VA) has authorized the guardian to receive payment for services on a monthly basis which is calculated at five per cent (5%) of receipts for the month.

VA requests a waiver of the accounting and audit fee by the court and will provide a Certificate of Audit and Approval of Accounting for each accounting audited in this guardianship.

The beginning inventory for this guardianship has been determined to be \$_____. If additional assets are discovered, the attorney of record will be required to file an amended inventory with the court and the bond will be reset accordingly.

DATED this _____ day of _____, 20____.

U.S. DEPARTMENT OF VETERANS AFFAIRS
BILL BRYANT
VETERANS SERVICES OFFICER

FIDUCIARY AND FIELD ACTIVITY
Unit 272B
VA Regional Office
P.O. Box 1437
St. Petersburg, Florida 33731
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ATTACHMENT C

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
GUARDIANSHIP, PROBATE AND MENTAL HEALTH DIVISION**

IN RE: THE GUARDIANSHIP OF _____ **V.A. FILE NO.:** _____
_____ **COURT FILE NO.:** _____
Incapacitated. **DIVISION: A**
(VETERANS' GUARDIANSHIP)
_____ /

OBJECTION TO FEES AND REQUEST FOR HEARING

_____ The United States Department of Veterans Affairs (VA) has reviewed the request for fees and cannot approve the request as submitted. VA objects to the fees shown below and asks that a hearing be scheduled.

The attorney of record has requested \$ _____ in fees for the period from _____ to _____.

The guardian has requested \$ _____ in fees for the period of _____ to _____.

DATED this _____ day of _____, 20 ____.

U.S. DEPARTMENT OF VETERANS AFFAIRS
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VETERANS SERVICES OFFICER

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