

STATE OF MAINE

_____ COUNTY PROBATE COURT

DOCKET NO. _____

In Re: _____
Respondent

ORDER OF APPOINTMENT OF
CONSERVATOR (ADULT)

On petition for the appointment of a conservator for the above-named Respondent, and after hearing, the Court finds (1) that venue for this proceeding is proper; (2) by clear and convincing evidence that the Respondent was given proper notice of the hearing on the petition;¹ and (3) that all other notices were properly given or waived.²

1. The Court finds by clear and convincing evidence that the Respondent is unable to manage property or financial affairs because³

Of a limitation in the ability to receive and evaluate information or make or communicate decisions even with the use of appropriate supportive services, technological assistance and supported decision making that provide adequate protection for the Respondent; OR

The Respondent is missing, detained or unable to return to the United States;

AND appointment of a conservator is necessary to

Avoid harm to the Respondent or significant dissipation of the property of the Respondent; OR

Obtain or provide money needed for the support, care, education, health or welfare of the Respondent, or of an individual entitled to the Respondent's support, and protection is necessary or desirable to obtain or provide money for the purpose;

AND that the Respondent's identified needs cannot be met by less restrictive alternatives.

2. The Court hereby appoints the following person(s) as Conservator for the property and financial affairs of Respondent. Co-conservators shall each serve immediately and shall make decisions jointly unless otherwise specified below:⁴

The person(s) hereby appointed has/have priority to serve, or the Court otherwise finds that such person(s) is/are best qualified to serve as Conservator or appointment of such person(s) is in the Respondent's best interest.⁵

3. The Court hereby establishes a:

Full Conservatorship. The Conservator has all powers available under the Maine Uniform Guardianship, Conservatorship and Protective Proceedings Act.⁶ The basis for granting a full conservatorship and the specific findings that support the Court's conclusion that a limited conservatorship would not meet the functional needs of the Respondent are as follows:⁷

Limited Conservatorship. The property placed under the control of the Conservator and the powers granted to the Conservator are as follows:⁸

4. Unless otherwise ordered below, the Conservator must give notice to persons entitled to notice as provided for in paragraph 6 of this Order (or as provided under 18-C M.R.S. § 5-403(4)) and receive specific authorization by the Court **before** the Conservator may exercise the power to: (a) make gifts, except gifts of *de minimus value* and as provided in 18-C M.R.S. § 5-421(2)(Y), (b) sell, encumber an interest in or surrender a lease to the primary dwelling of the Respondent; (c) convey, release or disclaim contingent or expectant interests in property, including marital property and any right of survivorship incident to joint tenancy; (d) exercise or release a power of appointment; (e) create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the Respondent; (f) exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value; (g) exercise a right to an elective share in the estate of a deceased spouse or domestic partner of the Respondent or to renounce or disclaim a property interest; (h) grant a creditor a priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the Respondent and preferential treatment otherwise would be impermissible under 18-C M.R.S. § 5-428(5); and (i) make, modify, amend or revoke

the will of the individual subject to conservatorship, with the conservator treated as the individual making, modifying, amending or revoking the will:⁹

5. The Court hereby appoints the following person(s) as successor Conservator to the Conservator(s) named in Paragraph 2 above.¹⁰

The successor Conservator shall serve upon the following future event:¹¹

The successor Conservator hereby appointed shall succeed to the predecessor Conservator's powers as provided in Paragraphs 3 and 4 above OR the Successor Conservator's powers shall be modified from those provided in Paragraphs 3 and 4 above as follows:¹²

6. The Conservator shall provide notice to Respondent's spouse, domestic partner and/or adult children, unless modified below, and to others listed in this paragraph, and access to reports and plans pertaining to the individual subject to guardianship, as required in 18-C M.R.S. § 5-411(5) (A) through (J).

The provision of notices and access to reports and plans provided in 18-C M.R.S. § 5-411(5) to one or more of the Respondent's spouse, domestic partner, and/or adult child(ren) would be contrary to the preferences or prior directions of the Respondent or is not in the best interest of the Respondent, as follows:¹³

The following additional person(s) is/are entitled to notices and to access to reports and plans as provided below:¹⁴

7. The Conservator shall furnish a bond with a personal/corporate surety in the amount of \$ _____ and/or an alternative asset-protection arrangement as follows:¹⁵

OR

No bond or alternative asset-protection arrangement is required because:

The estate is valued at less than \$50,000 and the Court does not otherwise find that a bond is required;¹⁶

Conservator is a regulated financial service institution qualified to do trust business in this state;¹⁷

Conservator is Respondent's spouse and the Court, in its discretion, waives the requirement of a bond or alternative asset-protection arrangement;¹⁸ or

A bond or other asset-protection arrangement is not necessary to protect the interests of the Respondent for the following reason(s):¹⁹

8. The Conservator shall file an Inventory with the Court within 90 days according to law.²⁰

9. The Conservator shall file, using the official probate court form, a report in a record with the Court regarding the administration of the conservatorship estate upon the following occasions: (a) annually beginning on _____, (b) on resignation or removal of the Conservator; and (c) on termination of the conservatorship. A copy of the report must be provided to the individual subject to conservatorship and to all persons entitled to notice as provided for in paragraph 6 of this Order.²¹

10. The Conservator shall give a copy of this Order together with a notice of the right to request termination or modification to the Respondent unless the Respondent is missing, and to all other persons given notice under 18-C M.R.S. § 5-403 not later than 14 days after the date of this Order.²²

Pursuant to M.R.Prob.P. 79(a) and at the specific direction of the Court, the Register shall enter on the docket that this Order is incorporated by reference.

Dated: _____

Judge of Probate

¹ 18-C M.R.S. §§ 5-411(2), 5-403(2).

² 18-C M.R.S. § 5-403(3); 5-402(2)(A)-(C).

³ 18-C M.R.S. §§ 5-401(2), 5-411(2)(A).

⁴ Include name and address of each Conservator hereby appointed. The Court may appoint a co-Conservator to serve immediately or when a designated future event occurs. 18-C M.R.S. § 5-110(1).

⁵ 18-C M.R.S. § 5-410(1)-(3).

⁶ 18-C M.R.S. § 5-102(8); 5-421.

⁷ 18-C M.R.S. § 5-411(3).

⁸ 18-C M.R.S. § 5-411(4).

⁹ 18-C M.R.S. § 5-414.

¹⁰ 18-C M.R.S. § 5-111. Include name and address of each successor Conservator hereby appointed.

¹¹ 18-C M.R.S. § 5-111(3).

¹² 18-C M.R.S. § 5-111(4).

¹³ 18-C M.R.S. § 5-411(6). Except as modified in this paragraph, the Respondent's spouse or domestic partner, if any, and adult children, if any, are entitled to the notices and to access to reports and plans provided in 18-C M.R.S. § 5-411(5).

¹⁴ 18-C M.R.S. § 5-411(5).

¹⁵ 18-C M.R.S. § 5-416.

¹⁶ 18-C M.R.S. § 5-416(1).

¹⁷ 18-C M.R.S. § 5-416(3).

¹⁸ 18-C M.R.S. § 5-416(4).

¹⁹ 18-C M.R.S. § 5-416(1).

²⁰ 18-C M.R.S. § 5-420.

²¹ 18-C M.R.S. § 5-423.

²² 18-C M.R.S. § 5-412.