

ATTORNEYS REPRESENTING PRIVATE PROFESSIONAL GUARDIANS

OR ... HELP ME HELP YOU

WHERE CLIENT IS GUARDIAN OF ESTATE

- strong suggestion – review order appointing pre-hearing
- the usual – notice to creditors, inventory, annual account
- who are players ... who filed, role of family/others
- if case is messy – to gain understanding of background, protect client, help determine assets
 - relevant pleadings
 - 1102
 - CME
 - GAL or Court Investigator report
- review order appointing, underlying applications
- advise client to get statements in anticipation of first annual account **THE DAY THEY REMOVE THE FUNDS**

PREPARE THE INVENTORY

- consult w client re known assets
- search deed records for surprises
- watch out for exploiters!!
- search Central Appraisal District
- search unclaimed property
- search court records for outstanding litigation

SALE OF PERSONAL PROPERTY: TEC Ch. 1158

- permission? forgiveness? ratify an emergency sale
- abandonment?
- GOE shall apply to sell all property liable to deteriorate in value or that will be a drain on the estate (TEC 356.051)
 - exceptions: exempt property, specific legacy, needed to operate business
- estate sale of household items, artwork
- www.publicdata.com – research TXDL, VIN, plate
- if car went missing, advise client to request title history from State ... need VIN or plate #
- send demand letter w deadline, get proof of delivery
- advise client to FILE POLICE REPORT

SALE OF REAL PROPERTY: TEC Ch. 1158

- legal standard: whether necessary or advisable
- determine whether the ward actually owns the house
- CAD – do not rely on for ownership info!!
- deed records
- 2nd mortgages, liens
- be careful to determine if house is underwater
- protect the asset – insurance (vacant? homeowners?)
- if needed, exterior cameras & alarm system

FINANCIAL PLANNING & TAXES

- TEC 1161.001 – living expenses aside, GOE “shall invest any funds and assets of a ward's estate available for investment”
- TEC 1161.002 – legal standard: as would a person of ordinary prudence, discretion and intelligence
- acceptable investment w no court approval:
 - U.S. bonds
 - Texas tax-supported bonds from state, county, city
 - Texas S&L or savings bank
 - ABLE account
- standard waivable on application to court (TEC 1161.002)
- advise client to seek advice of a broker & CPA
- IRS Form 56, Notice Concerning Fiduciary Relationship

WHERE CLIENT IS GUARDIAN OF PERSON

- when a GOP needs an attorney ...
- fact based
- GOP not a litigation tool for attorneys representing warring family members
- HIPAA concerns
- TRO, show cause, motion to compel, mediation
- advise GOP client to refer all inquiries to you