

At a Term of the Supreme Court of the State of New York held in and for the County of _____ at the Courthouse, _____, New York on the ____ day of _____, _____.

PRESENT: HON. EUGENE E. PECKHAM
Acting Supreme Court Justice

E

STATE OF NEW YORK
SUPREME COURT : COUNTY OF _____

L

**ORDER AND JUDGMENT
APPOINTING GUARDIAN OF THE
PERSON AND PROPERTY**

In the Matter of the Application of

(NAME OF PETITIONER), Petitioner,
Pursuant to Article 81 of the Mental Hygiene Law for the Appointment of Guardian of the Person and Property of

P

Index No.:

(NAME OF INCAPACITATED PERSON),
an Alleged Incapacitated Person.

_____ RJI No:

M

An Order to Show Cause having been duly signed on _____, directing that (NAME OF INCAPACITATED PERSON) an alleged incapacitated person show

A

cause why a Guardian of the Person and Property should not be appointed for

(NAME OF INCAPACITATED PERSON), and granting other relief set forth therein,

S

and (NAME OF COURT EVALUATOR) having been appointed as Court Evaluator and

having duly appeared as same and having given his report as required by

law, and (NAME OF COURT-APPOINTED COUNSEL) having been appointed as Counsel

to (NAME OF INCAPACITATED PERSON), the Alleged Incapacitated Person, and

having duly appeared as same, and (NAME OF PETITIONER), petitioner herein,

and (NAME OF PETITIONER'S ATTORNEY), attorney for the petitioner, having appeared, and this matter having regularly come on for hearing on (DATE OF HEARING), and the parties having submitted their proof, and the Court having made the findings required by Section 81.15 of the Mental Hygiene Law in a decision made on the record on _____, and upon all the pleadings and proceedings heretofore had herein, and due deliberation having been had;

NOW, on motion of (NAME OF PETITIONER'S ATTORNEY), attorney for the petitioner, it is

ORDERED AND ADJUDGED, that (NAME OF GUARDIAN), residing at _____, is hereby appointed guardian (the "Guardian") of the person and property of (NAME OF INCAPACITATED PERSON); and it is further

ORDERED AND ADJUDGED, that the Guardian file with this Court a bond in the principal amount of (INSERT AMOUNT DESIGNATED BY JUDGE) and it is further

ORDERED AND ADJUDGED, that the Guardian will file the designation required by Section 81.26 of the Mental Hygiene Law; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.27 of the Mental Hygiene Law, within five days after the guardian has filed the above bond and designation, a commission in the due form of law shall be issued by the Clerk of the Court; and it is further

ORDERED AND ADJUDGED, that the Guardian shall send a copy of the signed guardian order to the Appellate Division, Third Department, State of

New York, Supreme Court Appellate Division, Third Judicial Department, P.O. Box 7288 Capital Station, Albany, New York 12224-0288, and to the Court Examiner (Insert name and address of Court Examiner in pertinent county),

and it is further

ORDERED AND ADJUDGED, that the Guardian shall **E** file a certified copy of the Commission with the Court and shall serve a copy on the Court Examiner promptly upon issuance; and it is further

ORDERED AND ADJUDGED, that the authority **L** of the Guardian shall extend to all of the property of (NAME OF INCAPACITATED PERSON), both real and personal; and it is further

ORDERED AND ADJUDGED, that all **P** persons are hereby directed and commanded to deliver to the Guardian upon demand and presentation of a certified copy of the commission, all personal property of (NAME OF INCAPACITATED PERSON) **M** of every kind and nature which may be in their possession or under their control; and it is further

ORDERED AND ADJUDGED, that pursuant to Sections 81.21 and 81.22 of the **A** Mental Hygiene Law, the Guardian shall have the following powers:

INSERT POWERS DESIGNATED BY JUDGE

S
and it is further

(IF APPLICABLE) ORDERED AND ADJUDGED, that the Guardian is authorized to retain _____ as _____, with compensation as follows:

(INSERT LANGUAGE DESIGNATED BY JUDGE); and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.20 of the Mental Hygiene Law the Guardian shall:

(a) exercise only those powers that the Guardian is authorized to exercise by order of the Court;

(b) exercise the utmost care and diligence when acting on behalf of **(NAME OF INCAPACITATED PERSON)**;

(c) exhibit the utmost degree of trust, loyalty and fidelity in relation to **(NAME OF INCAPACITATED PERSON)**;

(d) visit **(NAME OF INCAPACITATED PERSON)** not less than four times per year;

(e) afford **(NAME OF INCAPACITATED PERSON)** the greatest amount of independence and self-determination with respect to property management and personal needs in light of **(NAME OF INCAPACITATED PERSON)**'s functional level, understanding and appreciation of his

functional limitation, and personal wishes, preferences and desires; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.20 of Mental Hygiene Law the Guardian shall:

(a) preserve, protect and account for **(NAME OF INCAPACITATED PERSON)**'s property and financial resources faithfully;

(b) determine whether (NAME OF INCAPACITATED PERSON) has a will, determine the location of any will, and the appropriate persons to notify in the event of the death of the incapacitated person, and in such event notify those persons;

(c) use the property, financial resources and income of (NAME OF INCAPACITATED PERSON) only to maintain and support (NAME OF INCAPACITATED PERSON) and those dependent on (NAME OF INCAPACITATED PERSON), if any

(d) at the termination of the appointment, deliver the property of (NAME OF INCAPACITATED PERSON) to the person or persons legally entitled thereto;

(e) file with the recording officer where any real property of (NAME OF INCAPACITATED PERSON) is located the acknowledged statement required by §81.20(a)(6)(vi) of the Mental Hygiene Law;

(f) perform all other duties required by law; and it is further

ORDERED AND ADJUDGED, that to the extent of the net estate available therefor, the Guardian shall provide for the maintenance, support and personal well-being of (NAME OF INCAPACITATED PERSON); and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.39 of the Mental Hygiene Law the training of the Guardian of (NAME OF INCAPACITATED PERSON) is hereby waived; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.30 of the Mental Hygiene Law no later than ninety days after the issuance of the commission to

the Guardian, the Guardian shall file with the Court an initial report in a form prescribed by the Court, a copy of which should be mailed to (Insert name and address of Court Examiner of pertinent County), (Insert name of Court Evaluator), (Insert name of Counsel for Incapacitated Person), (If Incapacitated Person resides in a facility, insert name of Chief Executive Officer of facility), (If Incapacitated Person resides in a mental hygiene facility, insert Mental Hygiene Legal Service of judicial dept. in which the residence is located), and (IF APPLICABLE: Insert name of Incapacitated Person); and it is further

ORDERED AND ADJUDGED, that the Guardian shall file during the month of May in the Office of the Clerk of the Court an annual report in the form required by Section 81.31 of the Mental Hygiene Law, a copy of which should be mailed to (Insert name and address of Court Examiner of pertinent County), (If Incapacitated Person resides in a facility, insert name of Chief Executive Officer), (If Incapacitated Person resides in a mental hygiene facility, insert name of Mental Hygiene Legal Service of judicial dept. in which residence is located), and (IF APPLICABLE: Insert name of Incapacitated Person); and it is further

ORDERED AND ADJUDGED, that upon the death of (NAME OF INCAPACITATED PERSON), or upon any other termination of the guardianship, the Guardian shall file the final report and petition to be discharged as guardian, as required by Sections 81.33 and/or 81.34 of the Mental Hygiene Law, and it is further

(IF APPLICABLE) ORDERED AND ADJUDGED, that the Guardian shall not be compensated; and it is further

OR

(IF APPLICABLE) ORDERED AND ADJUDGED, that the Guardian shall be compensated as follows: (INSERT LANGUAGE DESIGNATED BY JUDGE), and it is further

ORDERED AND ADJUDGED, that the Court reserves decision on the award of the Court Evaluator (and Court Appointed Attorney) pending submission of a supplemental affidavit for fees and disbursements incurred by the Court Evaluator (and Court Appointed Attorney); and it is further

ORDERED AND ADJUDGED, that the Guardian shall pay to (NAME OF PETITIONER'S ATTORNEY) from the funds of (NAME OF INCAPACITATED PERSON) the sum of \$ (INSERT AMOUNT DESIGNATED BY JUDGE) for legal services and disbursements rendered as counsel to the petitioner; and it is further

ORDERED AND ADJUDGED, that pursuant to Section 81.16(e) of the Mental Hygiene Law a copy of this Order and Judgment shall be personally served upon and explained to (NAME OF INCAPACITATED PERSON) in a manner which (NAME OF INCAPACITATED PERSON) can reasonably be expected to understand by *[Insert person designated by Judge (the Court Evaluator, or counsel for (NAME OF INCAPACITATED PERSON), or the Guardian)]*; and it is further

ORDERED AND ADJUDGED, that pursuant to §81.16(c) of the Mental Hygiene Law, notice of all further proceedings with regard to this matter shall be

given to the following persons/entities, unless otherwise directed by the Court: (LIST PERSONS DESIGNATED BY JUDGE)

and it is further

ORDERED AND ADJUDGED, that the duration of the Guardianship shall be until further Order of this court.

Dated:

_____ **P** _____
Acting Supreme Court Justice

**S
A
M**