

Matter of Anthony L.G.
2020 NY Slip Op 34490(U)
April 15, 2020
Surrogate's Court, Bronx County
Docket Number: 19G2001/C
Judge: Nelida Malave-Gonzalez
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SURROGATE'S COURT, BRONX COUNTY

April 15, 2020

IN THE MATTER OF THE GUARDIANSHIP OF

ANTHONY L. G.
Pursuant to SCPA Article 17-A
File No.: 19G2001/C

The petitioner, the respondent's mother who was appointed guardian of his person and property pursuant to decree dated October 5, 2001, seeks an order directing the transfer of guardianship funds deposited at four banking institutions to managed investment accounts at Morgan Stanley. The approximate guardianship assets consist of \$1,332,000 in the bank accounts, in addition to \$307,000 received annually from Social Security payments and continuing annuity distributions. The petition, proposed custodial agreement, investment management agreement and a supplement ("the investment documents") thereto entered into between the guardian and Morgan Stanley were amended after consultation with court personnel and the guardian ad litem, who recommends approval of the amended application. In light of the worldwide financial markets' volatility, the guardian ad litem then filed a supplemental report recommending, inter

alia, limiting the proposed investments to government and/or municipal bonds, "blue chip" stocks, no-loan mutual funds and other low risk investments, and placing a \$50,000 maximum value for any individual investment asset.

The 48-year-old respondent, who was determined to be intellectually disabled by this court pursuant to the October 5, 2011 decree, lives with the petitioner in Suffolk County. He was determined to be intellectually disabled. Previous withdrawal orders provided for significant expenses incurred for his ongoing maintenance and therapies. The petitioner has filed annual accounts through 2018, and updated financial documentation was filed for recent withdrawal requests.

In support of the managed investment request, the petitioner states concern that the substantial guardianship funds are deposited in accounts that bear little interest and do not afford an opportunity for growth, those accounts are only insured for \$250,000 each, and the deposits exceed that amount. After consulting with several financial advisers to develop an investment strategy for the funds, the petitioner selected a prudent investment program at Morgan Stanley that would generate a much better return than the present yield on the guardianship accounts.

The amended investment documents provide, inter alia, that investment authority is delegated to an investment adviser at Morgan Stanley; the funds are subject to the continuing jurisdiction of this court; no withdrawals from the investment accounts or the funds are permitted without

further order of the court; Morgan Stanley is permitted to pay a \$150 annual administrative fee and an approximately \$200 annual fee to the investment manager, as well as New York and federal income and quarterly estimated taxes and reasonable transactional fees incurred by the invested funds without advance court approval; the guardian is to continue to file annual accounts with the court; and the guardian, investment manager and Morgan Stanley and any transactions concerning the funds are subject to the Prudent Investment Act (EPTL 11-2.3).

On this state of the record, in that the proposed investment strategy appears to be conservative, the investment transactions and Morgan Stanley are subject to the Prudent Investment Act (EPTL 11-2.3) and appear to be in the respondent's best interests, and that no withdrawals except for reasonable customary transaction expenses and income taxes are permitted without further order of the court, and upon the guardian ad litem's recommendations, the application is granted to the extent that the investment documents are to be further revised to reflect that proposed investments are limited to government and/or municipal bonds, "blue chip" stocks, no-loan mutual funds and other low risk investments, there shall be a \$50,000 maximum value for each investment asset, and, after retention of sufficient funds in insured guardianship account (s) to satisfy the significant ongoing withdrawals authorized pursuant to prior and future court orders, the remaining guardianship funds are to be transferred to Morgan Stanley to be held in investment account(s) subject to the provisions contained in the

revised investment documents, and the jurisdiction of this court.

Settle order with the executed revised investment documents upon the guardian ad litem and Morgan Stanley.


HON. NELIDA MALAVE-GONZALEZ
SURROGATE