

Matter of Gladexis Q.

2023 NY Slip Op 31019(U)

March 27, 2023

Surrogate's Court, Bronx County

Docket Number: File No. 2021-2010

Judge: Nelida Malave-Gonzalez

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SURROGATE'S COURT, BRONX COUNTY

March 27, 2023

IN THE MATTER OF THE FUNDING OF
A SUPPLEMENTAL NEEDS TRUST
FOR THE BENEFIT OF

GLADEXIS Q.
File No.: 2021-2010

The respondent's sister is the administrator of their father's estate. In this proceeding, she petitions to establish a supplemental needs trust (SNT) for the respondent's benefit. The SNT will be funded with distributions that the respondent receives from the father's estate.

Allegedly, the respondent is mentally disabled, with no income sources other than government benefits consisting of Medicaid, Supplemental Security Income and food stamps. She does not have a guardian appointed for her person or property.

Jurisdiction was obtained over the respondent, the respondent's mother (the SNT's nominated trustee), the respondent's partner (the SNT's nominated successor trustee) and the New York City Human Resources Administration (HRA). On the citation return date, no one appeared on the court's virtual platform indicating opposition to the application. To date, no one has objected to the relief being requested by the petitioner.

On this state of the record, it appears that (i) respondent is a person with alleged severe and chronic disabilities, in that these disabilities are expected to, and do, give rise to a long-term need for specialized health, mental health, developmental disabilities, social or other related services, and (ii) respondent may need to rely on government benefits or assistance (EPTL 7-1.12). Accordingly, this application for leave

to establish and fund the SNT is granted (EPTL 7-1.12), subject to the SNT being modified as follows: (i) Schedule A is to be appended to the trust document detailing the amounts and sources of assets that are to fund the SNT; (ii) Article VI, paragraph 5 shall reflect that the compensation of the Trustee may be paid only upon the further order of the court and upon such notice as the court may direct; (iii) Article VI, paragraph 6 shall require a bond in the initial sum of the total current trust assets; (iv) Article VI, paragraph 9 (e) shall be replaced with the following:

(e) ANNUAL ACCOUNTING: The Trustee shall file with the Clerk of the Surrogate's Court of Bronx County an annual account, in the form and the manner required by SCPA Section 1719, including the service of a copy on the beneficiary and the New York City Human Resources Administration/DSS, Legal Department, 4 World Trade Center, 150 Greenwich Street, 38th Floor, New York, New York 10007, or any other agency providing government benefits. All accountings, annual and final, and all notifications regarding the monitoring and government agency oversight of this trust shall be sent by registered or certified mail with return receipt requested, to the New York City Human Resources Administration/DSS, Legal Department, 4 World Trade Center, 150 Greenwich Street, 38th Floor, New York, New York 10007 and to IREA/Office of Revenue and Administration, Division of Liens and Recovery, SNT Monitoring Unit, P.O. Box 3786,

Church Street Station, New York, New York 10008-3786, and to such other department or locality as shall be requested by the local social services district;

v) Article VI, paragraph 3 (c) shall be replaced with the following language:

(c) A trustee may seek permission to resign by giving written notice, a signed and acknowledged instrument, delivered to the clerk of the Surrogate's Court, Bronx County; the guardian of the beneficiary, if any; the beneficiary; the local social services district; and the Attorney General of the State of New York. The trustee's resignation is subject to approval of the Surrogate's Court, Bronx County, and the trustee shall continue to serve until discharged by said court; and

(vi) the following shall be added to the SNT as Article VI, paragraph 9 (f):

(f) DISCHARGE AND FINAL ACCOUNTING OF TRUSTEE:
No trustee shall be discharged and released from office and bond, except filing a final account with the Clerk of the Surrogate's Court of Bronx County an annual account in the form and manner required by Article 22 of the Surrogate's Court Procedure Act and obtaining judicial approval therefore, and serving a copy of a said final account on the New York City Human Resources Administration/DSS, Legal Department, 4 World Trade Center, 150 Greenwich Street, 38th Floor, New York, New York 10007 and to IREA/Office of

Revenue and Administration, Division of Liens and Recovery, SNT Monitoring Unit, P.O. Box 3786, Church Street Station, New York, New York 10008-3786, and to such other department or locality as shall be requested by the local social services district or any other agency providing governmental benefits;

(vii) the following shall be added to the SNT as Article VI, paragraph 3 (d):

(d) APPOINTMENT OF A SUCCESSOR TRUSTEE: The appointment of a successor trustee not named in this trust shall be upon formal application to the Surrogate's Court, Bronx County, upon such notice as the court may direct (if the City of New York provides benefits to the beneficiary, then prior written notice is to be reasonably given to the New York City Human Resources Administration, /DSS, 4 World Trade Center, 150 Greenwich Street, 38th Floor, New York, New York 10007, by certified mail, return receipt requested;

and (viii) the following shall be added to the SNT as Article VI, paragraph 9 (g):

(g) NOTIFICATION TO SOCIAL SERVICES DISTRICT: The trustee shall provide the required notification to the Social Services District or other appropriate agency with the State of New York which provided medical assistance in accordance with the requirements of 18 NYCRR Secion 360-4.5(b)(iii), and any other applicable statutes or regulations, as they may be

amended. The aforesaid section currently requires the notification of the creation or funding of this trust; notification of the death of the beneficiary; and in the cases of a trust exceeding \$100,000.00, notification in advance of transactions tending to substantially deplete the trust principal (as defined in that section); notification in advance of any transactions involving transfers from the trust principal for less than fair market value; provide proof of bonding if the assets of the trust at any time equal or exceed \$1,000,000.00, unless the requirement has been waived by a court of competent jurisdiction; and provide proof of bonding if the assets of the trust are less than \$1,000,000.00, if required by a court of competent jurisdiction. All annual and final accountings are to be served upon the Social Services Department or appropriate agency providing the medical assistance or benefits. All accountings, annual and final, should be sent to the New York City Human Resources Administration/DSS, Legal Department, 4 World Trade Center, 150 Greenwich Street, 38th Floor, New York, New York 10007 and to IREA/Office of Revenue and Administration, Division of Liens and Recovery, SNT Monitoring Unit, P.O. Box 3786, Church Street Station, New York, New York 10008-3786, and to such other department or locality as shall be requested by the local social

services district or any other agency providing governmental benefits.

Notwithstanding the lack of any opposition, the proposed decree and amended trust document shall be settled upon the respondent and HRA/DSS.

Settle decree and proceed accordingly.


HON. NELIDA MALAVE-GONZALEZ
SURROGATE