

IN THE CHANCERY COURT OF _____ COUNTY MISSISSIPPI

IN THE MATTER OF THE GUARDIANSHIP &
CONSERVATORSHIP OF

_____, an adult

CAUSE NO. _____

**CERTIFICATE OF FIDUCIARY FOR
GUARDIANSHIP & CONSERVATORSHIP OF AN ADULT**

I, [name], duly appointed fiduciary in this cause, have hereby read, understand, and agree to the following:

I. GUARDIAN DUTIES & RESPONSIBILITIES

1. I understand that I, as fiduciary of the adult herein, have the duties and responsibilities to make decisions regarding the support, care, education, health, and welfare of the ward to the extent necessitated by the adult's limitations.

2. I understand that I, as fiduciary of the adult herein, shall promote the self-determination of the adult and, to the extent reasonably feasible, encourage the adult to participate in decisions, act on the adult's own behalf, and develop or regain the capacity to manage the adult's personal affairs. In furtherance of this duty, I may:

(a) Become personally acquainted with the adult and maintain sufficient contact with the adult through regular visitation and other means, and to know the adult's abilities, limitations, needs, opportunities, and physical and mental health;

(b) To the extent reasonably feasible, identify the values and preferences of the adult and involve the adult in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions; and

(c) Make reasonable efforts to identify and facilitate supportive relationships and services for the adult.

3. I understand that I, as fiduciary of the adult herein, shall exercise reasonable care, diligence, and prudence when acting on behalf of or making decisions for the adult. In furtherance of this duty, the guardian shall:

(a) Take reasonable care of the personal effects, pets, and service or support animals of the adult and bring a proceeding for a conservatorship if necessary to protect the adult's

property;

(b) Expend funds and other property of the adult received by the guardian for the adult's current needs for support, care, education, health, and welfare;

(c) Conserve any funds and other property of the adult not expended under paragraph (b) for the adult's future needs, but if a conservator has been appointed for the adult, pay the funds and other property at least quarterly to the conservator to be conserved for the adult's future needs; and,

(d) Monitor the quality of services, including long-term care services, provided to the adult.

4. I understand that I, as fiduciary of the adult herein and in making a decision for a ward, must make the decision the guardian reasonably believes the adult would make if the adult were able unless doing so would unreasonably harm or endanger the welfare or personal or financial interests of the adult. To determine the decision, the ward would make if able, the guardian shall consider the adult's previous or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the guardian.

5. I understand that if I, as fiduciary of the adult herein, cannot make a decision under subsection (4) because the guardian does not know and cannot reasonably determine the decision the adult probably would make if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian must act in accordance with the best interest of the adult. In determining the best interest of the adult, the guardian may consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the adult;

(b) Other information the guardian believes the adult would have considered if the adult were able to act; and,

(c) Other factors a reasonable person in the circumstances of the adult would consider, including consequences for others.

6. I understand that I, as fiduciary of the adult herein, must immediately notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed.

Miss. Code Ann. § 93-20-312(1)-(6) (2020).

II. CONSERVATOR DUTIES & RESPONSIBILITIES

1. I understand that I, as fiduciary of the adult herein, have duties of prudence and loyalty to the ward.
2. I understand that I, as fiduciary of the adult herein, must promote the self-determination of the ward and, to the extent feasible, encourage the ward to participate in decisions, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs.
3. I understand that I, as fiduciary of the adult herein in making a decision for a ward, must make the decision the conservator reasonably believes the ward would make if able, unless doing so would fail to preserve the resources needed to maintain the ward's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the ward. To determine the decision the ward would make if able, the conservator must consider the ward's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator.
4. I understand that if I, as fiduciary of the adult herein, cannot make a decision under subsection (3) because the conservator does not know and cannot reasonably determine the decision the ward probably would make if able, or the conservator reasonably believes the decision the individual would make would fail to preserve resources needed to maintain the ward's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the ward, the conservator shall act in accordance with the best interest of the ward. In determining the best interest of the ward, the conservator shall consider:
 - (a) Information received from professionals and persons who demonstrate sufficient interest in the welfare of the ward;
 - (b) Other information the conservator believes the ward would have considered if the ward were able to act; and,
 - (c) Other factors a reasonable person in the circumstances of the ward would consider, including consequences for others.
5. Except when inconsistent with the conservator's duties under subsections (1) through (4), and where investments other than in FDIC-insured investments are permitted in the court's order approving the conservator's plan, I understand that I, as fiduciary of the adult herein, must invest and manage the conservatorship estate as a prudent investor would, by considering:
 - (a) The circumstances of the ward and the conservatorship estate;

- (b) General economic conditions;
- (c) The possible effect of inflation or deflation;
- (d) The expected tax consequences of an investment decision or strategy;
- (e) The role of each investment or course of action in relation to the conservatorship estate as a whole;
- (f) The expected total return from income and appreciation of capital;
- (g) The need for liquidity, regularity of income, and preservation or appreciation of capital; and
- (h) The special relationship or value, if any, of specific property to the ward.

6. I understand that the propriety of a conservator's investment and management of the conservatorship estate is determined in light of the facts and circumstances existing when the conservator decides or acts and not by hindsight.

7. I understand that I, as fiduciary of the adult herein, must make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.

8. I understand that a conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the conservator's duties.

9. I understand that in investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the ward, a conservator must consider any estate plan of the ward known or reasonably ascertainable to the conservator and may examine the will or other donative, nominative, or appointive instrument of the individual.

10. I understand that I, as fiduciary of the adult herein, must maintain insurance on the insurable real and personal property of the ward, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds:

- (a) The property lacks sufficient equity; or
- (b) Insuring the property would unreasonably dissipate the conservatorship estate or otherwise not be in the best interest of the ward.

11. I understand that I, as fiduciary of the adult herein, have access to and authority over a digital asset of the ward to the extent provided by the Revised Uniform Fiduciary Access to Digital Assets Act (Title 91, Chapter 23, Mississippi Code of 1972).

12. I understand that I, as fiduciary of the adult herein, must notify the court if the condition

of the adult has changed so that the adult has become capable of autonomy in exercising rights previously delegated to the conservator. The notice must be given immediately on learning of the change.

Miss. Code Ann. § 93-20-418 (1)-(12) (2020).

III. FIDUCIARY'S CONTACT

1. My current address and phone numbers are as follows, and I understand that in the event this information changes, I must provide that information to the Clerk of this Court in writing.

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE NO.: _____

EMAIL ADDRESS: _____

2. I understand my duties and obligations as guardian as set forth in this document, and I hereby agree to be bound by them.

Respectfully Submitted on this the ___ day of _____, 2020.

FIDUCIARY

SWORN ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

This day personally appeared before me, the undersigned authority at law in and for the jurisdiction aforesaid, the within named _____, who having been by me first duly sworn, states on oath that the matters and facts set forth in the above Certificate of Fiduciary are true and correct as therein stated.

FIDUCIARY

SWORN TO AND SUBSCRIBED BEFORE ME, this the ____ day of _____,
20____.

NOTARY PUBLIC

MY COMMISSION EXPIRES: