



THE HONORABLE
GWEN MARSHALL

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
CLERK OF COURTS • COUNTY COMPTROLLER • AUDITOR • TREASURER • RECORDER

DIVISION OF INTERNAL AUDITING

Audit No. 22A-01
The Guardianship Audit Process

February 25, 2022

What We Did

In accordance with the 2021-2022 annual audit plan, the Division of Internal Auditing assessed the Clerk's guardianship auditing process. The objective of this engagement was to determine whether the court's auditing procedures are adequate to ensure account balances and transactions reported during the period January 1, 2020 – December 31, 2020, were reasonable, legitimate, adequately supported, and in compliance with statutory requirements and the guidance provided in the Florida Court Clerks and Comptroller's (FCCC) Best Practices.

We selected one audited guardianship case and reviewed the 2020 Annual Accounting, 2020 Annual Plan, and the 2020 Clerk's Audit Report to verify the following:

- The beginning and ending cash balances reported by the guardian are accurate and supported by underlying documentation.
- Disbursements are reasonable, adequately supported, and for the benefit of the ward.

What We Found

We identified the following:

- Current guardianship auditing procedures do not require underlying documentation to substantiate disbursements reported by the guardian in an accounting period. We noted a \$5,218.89 disbursement recorded as an annual fee from a Trust account and \$1,632.00 in disbursements recorded as monthly premium payments of \$136 from a bank account.
- Bank and Trust statements required to substantiate the guardian's reported beginning and ending cash balances are not complete. The statements filed by the guardian only include the first and last pages, omitting the transactions reported throughout the year.

What We Recommend

To comply with guardianship auditing's statutory requirements, we recommend management:

- Incorporate into the "Auditing Annual Guardianship Accountings", policy 4.1.GA.05 and the Clerk's Report template, a requirement for guardians to submit supporting documentation for all disbursements to enable Clerk's staff to evaluate and determine whether they are for the benefit of the ward.
- Ensure the Office requests and obtains complete third-party cash statements reflecting beginning balances, monthly transactions, and ending balances to support the transactions reported by the guardian.

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BACKGROUND AND INTRODUCTION

Guardianship law in Florida was first established in 1974 to protect incapacitated persons. From 1974 to 1989, the court was the sole monitor of guardianship proceedings. However, in 1989, the Florida Legislature found deficiencies in the court’s monitoring of guardians’ protection of their wards’ assets and well-beings. Consequently, it passed extensive revisions to the guardianship laws mandating the involvement of Clerks’ Offices.

Florida Clerks operate as a “check and balance” to monitor guardianship cases, and administratively assist the courts with oversight by auditing the guardian’s financial reports and reviewing the guardian’s person reports. Clerks have a responsibility to process guardianship cases with due care and, as such, it is important that methods used are consistent with the intent of the legislation. Florida Clerks have a statutory duty to inform the Court of the results of guardianship audits.

Through the combined efforts of the Florida Court Clerk & Comptrollers (FCCC) and the Legislative Committee, the Florida Legislature passed revisions to the guardianship laws in 2014, which allow Clerks’ Offices to be more proactive and involved with guardianships. The permissive statutes give Clerks’ Offices tools to comprehensively audit guardianships and better advise the court¹.

Leon County Clerk’s Office assigned the guardianship auditing statutory responsibility to the Family Law subdivision. Two assigned Probate Clerks to perform this process under the supervision of their supervisors who perform random monthly quality control reviews to ensure the guardianship auditing process remains compliant with established statutes. Audited cases and corresponding reviews are logged in an Excel spreadsheet to document an audit trail of the cases selected, audited, and reviewed by the supervisor.

The Division of Internal Auditing assessed the guardianship auditing process by screening and selecting one of the audited cases, and independently applying auditing procedures to compare auditing results. The Division developed an audit objective to evaluate the Clerk’s guardianship auditing process mandated by applicable statutes and recommended by the FCCC’s Best Practices.

Audit Objective

To determine whether the Clerk’s auditing procedures applied on the selected guardianship case are adequate to ensure accounts and transactions reported during the period January 1, 2020 – December 31, 2020, were reasonable, legitimate, and adequately supported as per statutory requirements and the guidance provided in the FCCC’s Best Practices.

¹ Section 744.368, Florida Statutes (F.S), subsections:

- (1) In addition to the duty to serve as the custodian of the guardianship files, the clerk shall review each initial and annual guardianship report to ensure that it contains information about the ward...”
- (5) “...the clerk may request and review records and documents that reasonably impact guardianship assets, including but not limited to, the beginning inventory balance and any fees charged to the guardianship...”

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RESULTS OF REVIEW

To substantiate the beginning and ending cash balances and the transactions recorded during 2020, we reviewed the guardianship annual accounting and third-party cash statements, traced the reported balances, and recorded transactions to source documents, and noted:

- The value of the ward's assets during the selected period is \$164,331.97.
- The beginning cash balances reported for 2020 tie to the ending balances reported in the 2019 annual accounting.
- The beginning and ending cash balances reported in the annual accounting filed for 2020, are substantiated with third-party documentation. However, the cash statements filed with the court are incomplete, showing only the first and last pages of the statements.
- The beginning and ending balances reported are accurately calculated. We recalculated the balances reported from the source documents filed and obtained the same results.
- We reviewed the Trust statement for completeness and noted only the first and last pages of the trust statement are included. As a result, we were not able to corroborate the disbursements listed in the annual accounting filed with the court. During this process, we noted one disbursement for \$5,218.89 reported as an annual fee.
- Similarly, while reviewing disbursements from one of the bank accounts, we noted a total of \$1,632.00 reported as monthly premium payments of \$136. We were unable to corroborate the disbursements as complete statements from the bank account are missing.
- Fees paid to the guardian for expenses are reasonable and supported by court orders and the attorney fees are reasonable.

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OBSERVATION 1 – Lack of Supporting Documentation

Risk Score: Medium

Issue:

The Guardianship Accounting audit process does not require underlying documentation to support all payments disbursed in an accounting period. Additionally, third-party statements required to substantiate reported beginning and ending cash balances are not complete.

Condition:

During our review of the selected audited case, we noted the following:

- No underlying documentation to support disbursements paid from the ward’s accounts. An annual fee of \$5,218.89 disbursed from a Trust account and monthly premium payments of \$136.00, totaling \$1,632.00, disbursed from a bank account could not be substantiated due to a lack of supporting documentation in the annual accounting filed.
- Bank and Trust statements are not complete. They only include the pages showing beginning and ending balances.

Criteria:

Section 744.3678(2)(a), F.S. requires the annual accounting to include “a full and correct account of the receipts and disbursements of all the ward’s property over which the guardian has control and a statement of the ward’s property on hand at the end of the accounting period” to ensure completeness of the reported assets and transactions.

FCCC Best Practices state when performing a Level 1 audit, one should “match the expenditures to receipts or other document verifying the nature of the expenditure.”

Cause:

Current procedures only require a copy of the annual or year-end statement of all the ward's cash accounts from each of the institutions where the cash is deposited.

Effect:

Without all supporting documentation, a full and accurate account of the guardian’s control over the ward’s assets cannot be ascertained, and it cannot be determined whether the disbursements were legitimate and for the benefit of the ward.

Recommendations:

To enhance the Guardianship audit process for performing audits of accountings, management should:

- Incorporate into the “Auditing Annual Guardianship Accountings”, policy 4.1. GA.05 and the Clerk’s Report template, a requirement for guardians to submit supporting documentation for all disbursements to enable Clerk’s staff to evaluate and determine whether they are for the benefit of the ward.
- Ensure the Clerk’s Office requests and obtains complete third-party cash statements reflecting beginning balances, monthly transactions, and ending balances to support the transactions reported by the guardian.

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Management Response:

Ken Kent, Deidre Brewton, and Robyn Peters are all in agreement with the findings and recommendations from the Guardianship audit.

We will be updating policy 4.1GA.05 to include the following: “The Probate Clerk is to ensure that a full and correct account of the receipts and disbursements of all the ward’s property over which the Guardian has control and a statement of the Ward’s property on hand at the end of the accounting period per FS 744.3678(2)(a). The Accounting should also include a copy of the annual or year-end statement of all the ward’s cash accounts from each of the institutions where the case is deposited per FS 744.3678 (2)(b)”.

Management Action Plan (estimated completion date):

Our date of action will be April 1, 2022. On this date we will begin noticing guardians that they need to provide complete bank statements in support of the annual accounting reports. Also, as part of this effort, we will reach out to the attorneys that frequently provide legal services to guardians so that they are aware of this requirement.

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APPENDIX A – Purpose, Scope, and Methodology

The **purpose** of this engagement is to determine whether the Clerk’s process for performing audits of guardianship cases is adequate to ensure accounts and transactions reported during the period were reasonable, legitimate, and adequately supported.

The **scope** of this engagement included an audited guardianship case where the value of the ward’s assets is \$164,331.97 and the annual accounting period is January 1, 2020 through December 31, 2020.

The **methodology** included:

- Reviewing applicable laws, best practices, policies and procedures
- Reviewing the Guardianship Audits Tracking spreadsheet and determining there were 8 cases where the value of the ward’s total assets was over \$100,000
- Evaluating the 8 cases and selecting one case for review, based on total amounts disbursed and complexity of the accounting
- Evaluating receipts and disbursements for each account included in the ward’s assets
- Recalculating the beginning and ending cash balances reported by the guardian
- Testing whether disbursements are adequately supported and for the benefit of the ward

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APPENDIX B – Management Response



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CIVIL ADMINISTRATION DIVISION

02/23/2022

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DISTRIBUTION

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Gwen Marshall, Leon County Clerk of the Circuit Court and Comptroller
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PROJECT TEAM

Engagement was conducted by:
Natalie Hill, Auditor

Under the supervision of:
Luis Camejo, CIA, Internal Audit Manager

STATEMENT OF ACCORDANCE

The Clerk and Comptroller's mission is to inspire public trust and bring credit and esteem to the organization through integrity, excellence in customer service, financial oversight, and the utilization of technology to ensure accessibility to justice.

The Division's mission is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight to the Clerk and Comptroller and the Board of County Commissioners.

This review was performed in accordance with the International Standards for the Professional Practices of Internal Auditing (Standards).

Please address inquiries regarding this report to the Division of Internal Auditing at (850) 606-4019.