

ACCOUNTING TIPS FROM THE COURT



Claudia M. Burton, Circuit Court Judge
Angela M. Keffer, Probate Commissioner

Marion County Probate
October 7, 2016

Inquiries Regarding Status of a Submitted Order

These are a major time problem for court staff. If at all possible, please wait for your confirmation card or conformed copy to come back. If you have OSCI access, you can check yourself. Please do not inquire about the status of an order unless a) it has been at least three weeks since it was submitted; or b) it was submitted as an "ASAP" order. If you do need to make an inquiry, please do so by calling (503) 588-5141, rather than via e-mail.

Please remember that we have over 2,000 open files. If you do not have access through OSCI, **you will not get your conformed copy back if you do not provide us with a stamped addressed envelope and a copy of the document if you want a conformed copy.**

Inventory

If the accounting is the first, the court begins its review with your inventory. Therefore, please make sure that your inventory is correct before you file the first annual accounting. If necessary, file an amended inventory with the first annual accounting. The inventory should list all of the assets and their value as of the date the fiduciary was appointed. If the conservator established a conservatorship checking account a week after being appointed, that asset should not appear on the inventory. Similarly, if that conservatorship checking account was funded by closing out a savings account, the savings account should be listed on the inventory. You must provide account identification numbers for all accounts; these may be truncated (last 4 digits).

UTCR 9.160

Pursuant to Marion County SLR 9.161, accountings are required to be in UTCR 9.160 format. The form itself is included in the appendix of forms to the UTCR. Note that the rule requires that type not be smaller than 10 point.

Asset Schedule

The first step in the court's review is to compare the assets listed in the inventory (or last year's asset schedule) with the current asset schedule. The first column of the asset schedule should include the same assets and same values as the inventory, or the ending value of last year's asset schedule. If they don't match, the court will want to know why. The court also looks to see which assets have gone away (we will then review, for example, the closing statement on a real property sale) and which new assets have been acquired.

Receipts & Disbursements

Be sure to itemize receipts and disbursements separately, as required by UTCR 9.160, as well as providing the total of each list of receipts and disbursements at the end of

each list. You must list receipts and disbursements for all accounts, including CDs and investment accounts. Otherwise the court has no way of knowing whether money came out of an investment account. For investment accounts, it is sufficient to show for each month "gain in investment value" or "loss in investment value". The court may request all the brokerage statements for any given accounting period.

List all transactions that occurred during the accounting period, and do not list transactions outside of the accounting period. In other words, if the accounting period ends on May 1, a check written on April 30 should be listed, but a check written May 2 should not be listed, even if it is shown on the bank statement that confirms the ending balance on May 1.

Remember that each transaction needs to include an explanation of the source of any deposits and the purpose of any disbursements. UTCR 9.160(3)(b), (c). We need to know the source of deposits to ensure that there is not an asset that should be included in the accounting (such as an additional savings or investment account) or an income source of which the court is unaware and which should be bonded. It should be obvious why we need to know the purpose of any disbursements, but an amazing number of accountings will simply show a payment to "Mary Smith," a name which is nowhere to be found in the petition or the visitor's report, with no explanation of who this person is or why she is being paid money. Also, sometimes there was an explanation entered into the computer, but it does not print due to column width. If the conservator is reimbursing him/herself for expenses paid on behalf of the protected person, the conservator should be prepared to provide receipts if requested.

Transfers

During review, the court tracks transfers to ensure that money removed from one account actually shows up in the other account. This, in addition to the requirement contained in UTCR 9.160(3)(e), is the reason that the sending/receiving account must be identified for any transfers. "Transfer to checking" is not acceptable, especially if there are multiple checking accounts. Instead, please use "transfer to Wells Fargo 1234," where "1234" are the last four digits of the receiving account number. Please ensure that the information is not cut off when the accounting is printed. Often we receive accountings which simply say "transfer to" and the rest is cut off due to column width.

Vouchers

We generally do not want to look at the checks; however they should be available for court review if requested. The court may accept a scanned image of the check, but, depending on the circumstances, may require an original. Please remember to make your request to waive the filing of vouchers, within the body of the accounting as required per ORS 116.083(2)(d) or ORS 125.475(3), respectively, as well as in your proposed order of judgment.

We do require bank statements confirming the opening and closing balances for each account. See UTCR 9.180(2). We require that the closing statement show the balance on the closing date of the accounting. If the closing balance on the depository statement is not the same as the closing balance in the accounting, provide a reconciliation explaining why (e.g., a check that did not clear). Bank statements showing deposits of transferred funds or liquidated assets (e.g., car sold) are also helpful and may be required on a case-by-case basis.

Please note that a screen print showing account balances through online access to the account will not be accepted in lieu of a statement from the financial institution. If the financial institution does not provide statements (as is common with certificates of deposit), request that the financial institution fill out and sign a "Certification of Funds on Deposit" form. This form was developed by a group of probate judges in conjunction with the Oregon Bankers Association, and the bankers have committed that their member institutions will comply with requests to provide the form. You may download the form at: http://courts.oregon.gov/Marion/docs/Services/certification_of_assets_3.pdf. You will need one for both the opening and closing dates of the accounting period (or opening/closing of the account).

Remember that for real estate transactions, a copy of the closing statement from escrow is required. UTCR 9.160(3)(d).

Narrative

The narrative is required by UTCR 9.160(4). Please use the narrative to explain any transactions that are not otherwise obvious. For example, the sale of an asset such as a house or car should be described and there should be a reference to the exhibit where the court will find the corresponding deposit or closing statement. If a CD was cashed in early to pay for care and an early withdrawal penalty resulted, the narrative would be the place to explain that. If personal property such as a classic car or jewelry is sold for substantially less than the item was valued in the inventory, please explain why (e.g., the 1963 Camaro wasn't in such good condition after all).

Required Disclosures

Please comply with UTCR 9.170 regarding transactions which must be disclosed in the narrative of the accounting. This includes ALL GIFTS unless they were previously approved by the court, even if the gift did not require prior court approval.

Transactions Which Require Prior Court Approval

Remember we are only human and do not have total recall of all files. If the court previously approved a transaction which requires court approval (e.g., gift over statutory amounts, payment of fiduciary or attorney's fees, sale of the protected person's residence, creation of a trust, etc.), it is extremely helpful if the listing of the transaction

includes a reference to the date of the order approving the transaction. This saves us much time searching through the file.

Be sure you know which transactions require prior approval. If you find in preparing the accounting that one of these has inadvertently occurred, file a motion asking for approval with the accounting and provide an explanation of why the transaction occurred without prior approval. The most common ones we see are: payments to the fiduciary or the attorney for the fiduciary (ORS 125.095(3)); gifts of over \$250 in a calendar year to one individual or exceeding an aggregate total of \$1000 in a calendar year (ORS 125.435); sale of the protected person's residence (ORS 125.430); payment of room and board to a conservator who is also the guardian (ORS 125.320(2)); and creation of trusts (ORS 125.440(2)). Other limitations are listed in ORS 125.440.

NSF Charges

The fiduciary is charged with properly managing the protected person's finances. Absent some unusual situation like fraud or the protected person continuing to access accounts without the fiduciary's knowledge, there should not be bank fees for bounced checks, late payment fees, etc. The fiduciary will be expected to explain any such charges and will generally be required to reimburse the protected person for them unless due to circumstances beyond the fiduciary's control.

Amended/Corrected Accountings

The court may not approve attorney's or conservator's fees for responding to the court's inquiries concerning an accounting, or filing a corrected or amended accounting. If the need for additional information, correction, or amendment, is due to an obvious error or omission (e.g., gift over limits made with no order approving; NSF charges; accounts don't balance) the court's view is that the fiduciary, not the protected person, should bear the cost of correcting the mistake. Alerting your client to this possibility may motivate the fiduciary to do a better job of getting you the information in the first place.

Anything Else We Want

Please keep in mind that ORS 125.475(2)(g) provides that an accounting must include any other information the court requires. From time to time, based on the particular circumstances of the accounting in question, we may request other information or documents.

ACCOUNTING TIPS FROM THE COURT

Marion County Circuit Court
2016

**REQUIRED ACCOUNTING
FORMAT PER UTCR 9.160**

[NOTE: This form illustrates the accounting format required by UTCR 9.160. Each accounting must also comply with all other applicable statutes and court rules. An accounting filed in the court need not include check boxes, instructions in the form shown in bracketed italics, and portions of the form inapplicable to the individual accounting.]

IN THE CIRCUIT COURT OF THE STATE OF OREGON
For the County of _____
[Probate Department]

In the Matter of the *[Mark one]*
 Conservatorship Estate of

_____) Case no. _____
)
) *[TITLE] ACCOUNTING*
) *[The title must distinguish the accounting*
) *from all prior accountings by annual*
) *accounting number, time period, or*
) *"FINAL".]*

Protected Person Deceased

The conservator personal representative ("the Fiduciary") presents this *[Title]* _____
Accounting, covering the period from _____, 20____ through _____, 20____
("the accounting period").

Bonding and Asset Restrictions. [Mark (a) or (b).]

- (a) No bond is required because _____. [If the bond was waived by court order, so state and show date of the order. If the bond is waived by statute or rule, so state and identify the statute or rule.]
- (b) The current amount of the total bond, including rider, is \$ _____.

[Complete the following information for interim (annual) accounts only.]

Value of the assets on the last date of this accounting period	\$ _____
Plus: estimated income for next accounting period	\$ _____
Total assets and income	\$ _____
Less: value of restricted assets and income (Orders restricting assets or income are dated _____)	\$ _____
Unrestricted assets and income requiring bond or new restrictions	\$ _____

(c) The Fiduciary requests the following changes in the amount of the existing bond or in restrictions on assets or income. *[Check all that apply.]*

- None.
- Reduce the bond to \$ _____.
- Increase the bond to \$ _____.
- Restrict the following assets: _____.
- Remove the restrictions from the following assets: _____.

(d) *[If appropriate, explain the Fiduciary's request for the bond and restrictions.]*

Receipts and disbursements. The following [or Exhibits to hereto] are complete and accurate schedules of funds received in and disbursed from each depository account of the estate or conservatorship during the accounting period. [If preferred, attach exhibits using the following format.]

(a) [State name of depository and account number.]

Date	Source of Receipt	Explanation	Amount
	OPENING BALANCE		
TOTAL RECEIPTS			
TOTAL RECEIPTS PLUS (+) OPENING BALANCE			

Date	Check #	Payee	Explanation	Amount
TOTAL DISBURSEMENTS				
ENDING BALANCE (Total Receipts, Plus (+) Opening Balance, Minus (-) Total Disbursements)				
TOTAL DISBURSEMENTS PLUS (+) ENDING BALANCE				

[Reconcile any difference between the accounting ending balance for the depository account and the ending balance shown on any ending depository statement filed with this accounting.]

(b) [Add a separate subparagraph or exhibit for each additional depository account.]

Vouchers and Depository Statements. *[Vouchers are documents evidencing each disbursement and showing the name of the payee, date, and amount. Depository statements are statements from banks, brokerage firms, insurance companies, and similar entities with which estate assets are deposited showing the balance in the depository account at the beginning and end of the accounting period. If vouchers and depository statements are filed with the account, skip to (c). Otherwise mark (a) or (b).]*

(a) **The filing of vouchers and depository statements was waived**
[Mark one.]

- By court order herein dated _____.
- By the following statute or court rule: _____.

(b) The Fiduciary requests that the Court waive the requirement of filing vouchers and depository statements for this accounting. The vouchers and depository statements are located at the following address: _____. The vouchers and depository statements will be available for examination by interested persons at that location until one year after the approval of the final accounting herein.

(c) The Fiduciary requests that vouchers and depository statements filed with this accounting be returned. A self-addressed envelope with adequate postage for return of the documents is attached to the vouchers.

Narrative Description of Changes during the Accounting Period. During the accounting period the following changes in the assets or financial circumstances occurred: *[Describe all changes not clearly disclosed in the Asset Schedule, including, without limitation, corrections to previously declared values, omitted assets, the closing of an account, the sale or purchase of an asset, a significant change in living expenses, or a stock split.]*

(a) *[Use as many subparagraphs as necessary to separately describe each change.]*

(b)

Fiduciary Disclosures. *[Disclose and explain every transaction if the transaction was any of the following: (a) A gift. (b) A transaction with a person or entity with whom the Fiduciary has a relationship which could compromise or otherwise affect decisions made by the Fiduciary. The disclosure shall include, but is not limited to, payment for goods, services, rent, reimbursement of expenses, and any other like transactions. (c) A payment for goods or services provided by a person not engaged in an established business of providing similar goods or services to the general public. (d) A payment for goods or services at a rate higher than that ordinarily charged to the general public.]*

(a) *[Use as many subparagraphs as necessary to separately describe each transaction.]*

b)

Fees. *[Insert any information regarding requests for
Fiduciary or attorney fees and costs.]*

Notice. *[Insert any required information addressing
the Fiduciary's notice requirements.]*

Other Matters. *[Add as many additional paragraphs as may be needed to justify request for court orders included in the prayer of the accounting and to comply with requirements applicable to the particular accounting, such as the representations concerning tax filings required by ORS 116.083(3)(a) in a final account for a decedent's estate. If necessary, add an appropriate indication of relief requested to the title of the accounting. It is the responsibility of the Fiduciary and the attorney for the Fiduciary to identify and comply with all requirements imposed by statute, rule, or court order.]*

WHEREFORE the Fiduciary prays for an order:

1. Approving this accounting. *[If applicable. Generally annual accounts in decedent's estates will not be approved by the Court until the final account is approved.]*
2. Setting the amount of the bond at \$ _____. *[Include this provision only if a change of the bond amount is requested in Paragraph 1.]*
3. Changing the asset restrictions as follows: _____. *[Include this provision only if a change of the asset restrictions is requested in Paragraph 1.]*
4. Directing the payment of \$ _____ as reasonable Fiduciary's fee and \$ _____ as reasonable attorney fees incurred by the Fiduciary. *[If applicable.]*
5. *[Set forth any additional relief requested.]*

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated _____, 20 ____

[Print name of Fiduciary signing above]

[Mark one:] Conservator Personal representative

Asset Schedule

Description of Assets	Beginning Value	Value of Later-acquired Asset	Value at Disposition	Current (Ending) Value
Decedent's Checking Account XX0001	\$20,000.00		\$20,005.00 (transfer to Estate Checking XX0002)	\$0
Estate Checking Account XX0002		\$20,005.00		\$18,000.00
Totals:	\$20,000.00	\$20,005.00	\$20,005.00	\$18,000.00

Exhibit 1

Decedent's Checking Account: XX0001 – Receipts

Date	Source of Receipt	Explanation	Amount
Date of Appointment of PR	Beginning Balance		\$20,000.00
10/23/16	Safe Driver's Insurance Co.	Refund from insurance premium	\$5.00
Total Receipts			\$5.00
Total Receipts (+) Beginning Balance			\$20,005.00

Decedent's Checking Account: XX0001 – Disbursements

Date	Check#	Payee	Explanation	Amount
10/31/16		Estate's Bank	Transfer to Estate Account 0002	\$20,005.00
Total Disbursements				\$20,005.00
Ending Balance (opening balance (+) receipts (-) disbursements				\$0
Total Disbursements (+) Ending Balance				\$20,005.00

Bank Statement for Beginning of Accounting Period w/ Beginning Balance

Decedent's Checking XX0001

Exhibit 2 - Pg. 2 of 3

Bank Statement for Ending of Accounting Period w/ Ending Balance

Decedent's Checking - XX0001

Exhibit 2 – Pg. 3 of 3

Estate Checking Account: XX0002 – Receipts

Date	Source of Receipt	Explanation	Amount
10/31/16	Opening Balance	Transfer from Decedent's Acct. XX0001	\$20,005.00
11/02/16	E-shopping, Inc.	Refund of overpayment	\$5.00
Total Receipts			\$5.00
Total Receipts (+) Beginning Balance			\$20,010.00

Estate Checking Account: XX0002 – Disbursements

Date	Check#	Payee	Explanation	Amount
11/1/16	2016	Way to Go Funeral Home	Decedent's Funeral Expenses	\$2,010.00
Total Disbursements				\$2,010.00
Ending Balance (opening balance (+) receipts (-) disbursements				\$18,000.00
Total Disbursements (+) Ending Balance				\$20,010.00

**Bank Statement for Beginning of Accounting Period w/ Opening Balance
Estate Checking - XX0002**

Exhibit 3 - Pg. 2 of 3

Bank Statement for Ending of Accounting Period w/ Ending Balance

Estate Checking - XX0002

Exhibit 3 – Pg. 3 of 3

**For questions, please contact the
Probate Department directly at
(503) 588-5141**

Probate Staff:

**Teresa K. Anderson
Andrea Gonsales
Marissa Bewley**

Probate Commissioner:

Angela M. Keffer, J.D.

ACCOUNTING TIPS FROM THE COURT

Marion County Circuit Court
2016

Presented by: Angela M. Keffer, Probate Commissioner

[NOTE: This form illustrates the accounting format required by UTCR 9.160. Each accounting must also comply with all other applicable statutes and court rules. An accounting filed in the court need not include check boxes, instructions in the form shown in bracketed italics, and portions of the form inapplicable to the individual accounting.]

IN THE CIRCUIT COURT OF THE STATE OF OREGON
 For the County of _____
[Probate Department]

In the Matter of the *[Mark one]*) Case no. _____
 Conservatorship Estate of))
 _____,) *[TITLE] ACCOUNTING*
 Protected Person Deceased) *[The title must distinguish the accounting*
) *from all prior accountings by annual*
) *accounting number, time period, or*
) *“FINAL”.]*

The conservator personal representative (“the Fiduciary”) presents this *[Title]* _____ Accounting, covering the period from _____, 20__ through _____, 20__ (“the accounting period”).

1.

Bonding and Asset Restrictions. *[Mark (a) or (b).]*

- (a) No bond is required because _____. *[If the bond was waived by court order, so state and show date of the order. If the bond is waived by statute or rule, so state and identify the statute or rule.]*
- (b) The current amount of the total bond, including riders, is \$_____.

[Complete the following information for interim (annual) accounts only.]

Value of the assets on last date of this accounting period	\$ _____
Plus: estimated income for next accounting period	\$ _____
Total assets and income	\$ _____
Less: value of restricted assets and income	\$ _____
(Orders restricting assets or income are dated _____)	
Unrestricted assets and income requiring bond or new restrictions	\$ _____

(c) The Fiduciary requests the following changes in the amount of the existing bond or in restrictions on assets or income. *[Check all that apply.]*

- None.
- Reduce the bond to \$_____.
- Increase the bond to \$_____.
- Restrict the following assets: _____.
- Remove the restrictions from the following assets: _____.

(d) *[If appropriate, explain the Fiduciary's request for the bond and restrictions.]*

2.

Asset Schedule. The following *[or Exhibit 1 hereto]* is a complete and accurate statement of all assets owned by the estate or conservatorship at any time during the accounting period and the Fiduciary's estimate of the value of each asset: *[If preferred, attach an exhibit using the following format.]*

Description of Asset*	Beginning Value	Value of Later-Acquired Asset	Value at Disposition	Current (Ending) Value
TOTALS				

* *[For assets restricted by court order, include the date and title of the order. For any asset acquired or disposed of during the accounting period, include the date of acquisition or disposal. For a depository (an account into which funds are received or from which funds are disbursed) include the separate paragraph or exhibit with the statement of receipts and disbursements.]*

3.

Receipts and disbursements. The following [or Exhibits ___ to ___ hereto] are complete and accurate schedules of funds received in and disbursed from each depository account of the estate or conservatorship during the accounting period. [If preferred, attach exhibits using the following format.]

(a) [State name of depository and account number.]

Date	Source of Receipt	Explanation	Amount
	OPENING BALANCE		
TOTAL RECEIPTS			
TOTAL RECEIPTS PLUS (+) OPENING BALANCE			

Date	Check #	Payee	Explanation	Amount
TOTAL DISBURSEMENTS				
ENDING BALANCE (Total Receipts, Plus (+) Opening Balance, Minus (-) Total Disbursements)				
TOTAL DISBURSEMENTS PLUS (+) ENDING BALANCE				

[Reconcile any difference between the accounting ending balance for the depository account and the ending balance shown on any ending depository statement filed with this accounting.]

(b) [Add a separate subparagraph or exhibit for each additional depository account.]

4.

Vouchers and Depository Statements. [Vouchers are documents evidencing each disbursement and showing the name of the payee, date, and amount. Depository statements are statements from banks, brokerage firms, insurance companies, and similar entities with which estate assets are deposited showing the balance in the depository account at the beginning and end of the accounting period. If vouchers and depository statements are filed with the account, skip to (c). Otherwise mark (a) or (b).]

- (a) The filing of vouchers and depository statements was waived [Mark one.]
- By court order herein dated _____.
- By the following statute or court rule: _____.

- (b) The Fiduciary requests that the Court waive the requirement of filing vouchers and depository statements for this accounting. The vouchers and depository statements are located at the following address: _____. The vouchers and depository statements will be available for examination by interested persons at that location until one year after the approval of the final accounting herein.
- (c) The Fiduciary requests that vouchers and depository statements filed with this accounting be returned. A self-addressed envelope with adequate postage for return of the documents is attached to the vouchers.

5.

Narrative Description of Changes during the Accounting Period. During the accounting period the following changes in the assets or financial circumstances occurred: *[Describe all changes not clearly disclosed in the Asset Schedule, including, without limitation, corrections to previously declared values, omitted assets, the closing of an account, the sale or purchase of an asset, a significant change in living expenses, or a stock split.]*

(a) *[Use as many subparagraphs as necessary to separately describe each change.]*

(b)

6.

Fiduciary Disclosures. *[Disclose and explain every transaction if the transaction was any of the following: (a) A gift. (b) A transaction with a person or entity with whom the Fiduciary has a relationship which could compromise or otherwise affect decisions made by the Fiduciary. The disclosure shall include, but is not limited to, payment for goods, services, rent, reimbursement of expenses, and any other like transactions. (c) A payment for goods or services provided by a person not engaged in an established business of providing similar goods or services to the general public. (d) A payment for goods or services at a rate higher than that ordinarily charged to the general public.]*

(a) *[Use as many subparagraphs as necessary to separately describe each transaction.]*

(b)

7.

Fees. *[Insert any information regarding requests for Fiduciary or attorney fees and costs.]*

8.

Notice. *[Insert any required information addressing the Fiduciary's notice requirements.]*

Other Matters. *[Add as many additional paragraphs as may be needed to justify requests for court orders included in the prayer of the accounting and to comply with requirements applicable to the particular accounting, such as the representations concerning tax filings required by ORS 116.083(3)(a) in a final account for a decedent's estate. If necessary, add an appropriate indication of relief requested to the title of the accounting. It is the responsibility of the Fiduciary and the attorney for the Fiduciary to identify and comply with all requirements imposed by statute, rule, or court order.]*

WHEREFORE the Fiduciary prays for an order:

1. Approving this accounting. *[If applicable. Generally annual accounts in decedent's estates will not be approved by the Court until the final account is approved.]*
2. Setting the amount of the bond at \$_____. *[Include this provision only if a change of the bond amount is requested in Paragraph 1.]*
3. Changing the asset restrictions as follows: _____. *[Include this provision only if a change of the asset restrictions is requested in Paragraph 1.]*
4. Directing the payment of \$_____ as reasonable Fiduciary's fee and \$_____ as reasonable attorney fees incurred by the Fiduciary. *[If applicable.]*
5. *[Set forth any additional relief requested.]*

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated _____, 20__

[Print name of Fiduciary signing above]
[Mark one:] Conservator Personal representative