

**BASIC INSTRUCTIONS
FOR CONSERVATORS**

January 1, 2009

Kansas Judicial Council

Preface

These basic instructions for conservators were prepared by the Guardianship and Conservatorship Advisory Committee of the Kansas Judicial Council and were approved by the Council in December 2008. The instructions constitute the basic instructional program concerning the duties and responsibilities of a conservator required by K.S.A. 2009 Supp. 59-3069(j). After reading these instructions, a proposed conservator should sign the affidavit of completion at the end of this booklet and file it with the court as evidence of completion of the basic instructional program.

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BASIC INSTRUCTIONS FOR CONSERVATORS

Definitions of Words You Need to Know:

Conservator - A conservator is a person appointed by a court to act on behalf of a minor or impaired person, who is called a “conservatee.” A conservator manages a conservatee’s property or “estate,” such as money, personal and real property.

Conservatee - A conservatee is a person for whom a conservator has been appointed. A conservatee may be either a minor or an adult person with an impairment.

Guardian - A guardian is a person appointed by a court to act on behalf of a minor or impaired person, who is called a “ward.” A guardian manages a ward’s personal health, safety, and welfare.

Ward - A ward is a person for whom a guardian has been appointed. A ward may be either a minor or an adult person with an impairment.

Accounting - A detailed written summary of all financial actions done by the conservator on behalf of the conservatee.

Bond - A bond is similar to an insurance policy and is usually purchased from an insurance company. It is intended to protect the conservatee’s property should the conservator mismanage the person’s estate.

NOTE: Sometimes, a person is appointed as both a guardian and conservator. In that case, the person they are helping may be called either a ward or conservatee, or both.

What Are a Conservator’s Powers and Duties?

THESE DUTIES APPLY TO BOTH VOLUNTARY AND INVOLUNTARY CONSERVATORSHIPS

A conservatorship is a legal proceeding filed to protect the property of an impaired person, who is called a “conservatee.” After a hearing to determine whether a conservatorship is necessary, a court order will be issued. Your attorney should provide you with a copy of that court order. Before the court will issue you Letters of Conservatorship, you must be bonded unless the court waives the bond. If the court appoints you as conservator, your responsibilities are separate from the duties of a guardian, and your job is to manage the conservatee’s property. The conservatee’s property is called his or her “estate.” As conservator, you are always subject to court control and direction.

State law and the court define your power, as conservator, and set the rules you must follow when managing the conservatee's property. As conservator, you must always act in the best interest of the conservatee.

Your first duty, as conservator, is to open a bank account under the conservatee's social security number, titled in your name "as conservator" for the conservatee. You will then need to file an inventory (a detailed list) of all assets in the conservatee's estate **within 30 days of issuance of the Letters of Conservatorship.** **NEVER** combine the conservatee's assets with those of another person, including your own. **THE CONSERVATOR MUST FILE AN ACCOUNTING WITH THE COURT EACH YEAR.**

You must know the conservatee's needs and support and involve the conservatee in decision-making regarding his or her property. You should consider the conservatee's stated desires and personal values when making decisions for him or her. You must try to avoid conflicts of interest and protect the conservatee's personal, civil, and human rights.

The law does **NOT** require you as conservator to use your own personal money or other assets for support of the conservatee solely because you have been appointed as conservator. **However**, if you are the parent or spouse of the conservatee, you may have an independent duty to support the conservatee. You are not liable to other persons for the acts of the conservatee solely because you have been appointed as conservator. This means you are not responsible to anyone else for something that the conservatee has done simply because you are the conservator.

As a conservator, you MAY generally take any of the following actions on behalf of the conservatee without getting additional court approval:

1. Pay reasonable charges for the support, care, clothing, housing, and education of the conservatee in a reasonable manner, unless the conservatee's parent or spouse is required by law to pay those charges;
2. Pay all lawful debts of the conservatee;
3. Control and manage all the conservatee's property and collect debts and assert claims in favor of the conservatee (for example, if the conservatee is owed money);
4. Insure property against theft or other loss in a reasonable amount; or
5. Pay the premium for your conservator's bond.

The following decisions ALWAYS require WRITTEN court approval. As conservator, you may NOT take any of the following actions unless the supervising court issues a written order approving the action(s):

1. Settle any claim of the conservatee for less than full value;
2. Sell or transfer the property of any ongoing businesses;
3. Sell, convey, lease, or mortgage the conservatee's homestead or other real estate;

4. Lease or convey possession in any real estate for more than 3 years;
5. Sell, convey, or mortgage any oil, gas, or other mineral interests;
6. Sell, convey, lease, or mortgage any inchoate interests in real estate;
7. Extend an existing mortgage for more than 5 years, which includes both mortgages where the conservatee is the borrower or the lender;
8. Make a gift on behalf of the conservatee; or
9. Pay the conservator or the conservator's attorney a fee.

The following decisions MAY require court approval. As conservator, you should get court approval before taking any of the following actions:

1. Sell the conservatee's personal property as necessary;
2. Manage any ongoing business;
3. Invest funds in a conservative and reasonable manner, including purchasing an insurance policy or annuity, reserving to the conservatee the right to change the beneficiary on termination of the conservatorship;
4. Prosecute and defend all actions in the name of the conservatee; or
5. Dispose of property after the death of the conservatee.

What are a Conservator's Responsibilities to the Court?

Required Training

Before you are appointed as conservator, you must complete a basic instructional program about the duties and responsibilities of a conservator. Reading this booklet meets that requirement. At the end of this booklet, you will find an affidavit of completion of the basic training program (a form stating you have read the booklet). When you finish reading this booklet, you should sign the affidavit and file it with the court to prove that you have completed the program. You should also keep this booklet for future reference.

Oath

When you are appointed as conservator, the court will require that you file an oath or affirmation stating that you will faithfully, impartially and to the best of your ability fulfill all duties assigned by the court. The oath must be in writing and signed before a notary or the judge.

Bond

When you are appointed as conservator, you must be bonded unless the court waives the bond. A bond is intended to protect the conservatee's property should the conservator mismanage the person's estate. The court will determine the amount of the bond and whether sureties are necessary. Bonds are usually purchased from an insurance company with the assistance of an insurance agent. To keep the bond in effect, you must pay a yearly premium (fee). You will

be released from the bond **only after** the court has approved your actions and final accounting and has ended the conservatorship.

Letters

After you have filed your oath, bond and affidavit of completion of the basic training program, the court will issue Letters of Conservatorship. This document gives you the authority to carry out your legal duties. You should ask for a certified (legal) copy of the original document, which is on file with the court. You should keep the certified copy in a safe place and provide copies of the Letters of Conservatorship to anyone you deal with who provides services to the conservatee.

Conservatorship Plan

In some cases, the court may require, or your attorney may suggest, that you file a conservatorship plan. A conservatorship plan might include provisions about how much money a conservatee will be allowed to control and how the conservator plans to protect the eligibility of the conservatee for public benefits. Conservatorship plans are most useful in situations where the conservatee is capable of making some decisions independently.

Inventory and Valuation

As conservator, you are required to file with the court an inventory and valuation (statement of worth) of the property and assets of the conservatee's estate, including any sources of regular income. This must be done within 30 days of issuance of the Letters of Conservatorship. The inventory and valuation describes the conservatee's estate at the time the conservatorship begins. You must list and describe each property and asset separately and give its full and fair value. You may need to obtain an independent appraisal of some assets. A sample of the inventory and valuation is included at the end of this booklet.

Annual Accounting

A conservator is required to file a detailed accounting every year of both income and payments made on behalf of the conservatee. The reporting period usually starts when the conservator is appointed and covers a 12-month period of time, unless the judge orders a different reporting time period. A sample of the annual accounting is included at the end of this booklet.

Special Reports and Accountings

A conservator must file a special report or accounting with the court if any of the following occurs:

- 1) a change of address of the conservator;

- 2) a change of residence or placement of the conservatee;
- 3) a significant change in the health or impairment of the conservatee; or
- 4) the death of the conservatee.

If the conservatee dies, you will need to complete a final accounting of the conservatee's assets and have that accounting approved by the court so that the court can close the case.

Reimbursement for Time and Expenses

The court must approve in advance any reimbursement to the conservator for expenses and time spent on official duties. If you want to be paid back for your time and expenses, you must keep a detailed timesheet of time spent and a detailed record of expenses incurred. Many conservators do not claim such expenses, especially if the conservatee is a family member, and perform their duties out of love and affection. If you want to receive reimbursement, you should talk to your attorney and bring this up preferably at the first court hearing.

What are Conflicts of Interest?

A conflict of interest happens when your personal or financial interests as conservator go against those of the conservatee or where your actions appear to be self-serving (for your own benefit). For example, it would be a conflict of interest for a conservator to get a loan from or buy property belonging to the conservatee's estate. It could also be a conflict of interest for a conservator to work in the same facility where the ward lives.

Whenever you think you might have a conflict of interest, even if you are not sure, report it to the court. Just because you may have a conflict of interest does not mean you cannot serve as conservator, as long as you keep the court informed.

Additional Resources:

If you have questions about any of your duties as a conservator, ask your attorney.

Additional resources, including blank forms for inventories and accountings, can be found on the Kansas Judicial Council's webpage at: www.kansasjudicialcouncil.org

CONSERVATOR INVENTORY AND VALUATION

Instructions for Completing

Definition

A detailed list or inventory of the conservatee's estate (property and financial resources) at the time of appointment of a conservator.

Filing Procedures

The inventory is filed with the court within 30 days of the appointment date.

Preparing Documents for the Court

This document is a permanent legal record. The information should be typed or written legibly. Use black or dark blue ink when reports are handwritten.

Supplementary Inventory and Valuation may be filed to change or add information.

ASSESSING VALUES

Real Estate

Provide a legal description and the appraised value of the property. The property description is available from the local Register of Deeds office. The assessed value is available from the County Treasurer office.

Stocks and Bonds (Corporation Stocks)

List all stocks and bonds and the values.

Mortgages, Notes and Cash

List any mortgages, notes or cash owned by the conservatee. Include checking and/or savings accounts, cash on hand, and funeral/burial trust in this section.

Insurance Provide cash value of all insurance policies.

Jointly Owned Property

Verify jointly owned property including the legal description and name of owner(s).

Miscellaneous Property

Furniture, household goods and wearing apparel - List individually valuable items such as antiques, jewelry, coins, electronics, etc. For assistance for appraisals on items of value, contact a credible antique dealer or auctioneer. Household goods and wearing apparel may be listed as a combined value.

Sources of Regular Income

List any sources of regular income such as social security, disability benefits, pension or retirement income, and interest.

Add pages as needed to provide complete documentation.

**IN THE _____ JUDICIAL DISTRICT
DISTRICT COURT OF APACHE COUNTY, KANSAS**

In the Matter of the
(Guardianship) (Conservatorship)

Case No. 97 GC 031

Samuel G. Crown

Proceeding Pursuant to K.S.A. Chapter 59

INVENTORY AND VALUATION

REAL ESTATE

<i>Item No</i>	<i>Description</i>	<i>Valuation</i>
1.	39 Solar Haven Rd, Lot 59, Solar Haven Addition, Sanesville, KS 66666 Joint Tenancy with Mrs. Betty Crown	\$ 45,489
Total Real Estate		\$45,489

STOCKS AND BONDS (Corporate Stock)

<i>Item No</i>	<i>Description</i>	<i>Unit Value</i>	<i>Valuation</i>
1.			\$ 000.00

BONDS

<i>Item No</i>	<i>Serial Number</i>	<i>Date of Purchase</i>	<i>Unit Value</i>	<i>Valuation</i>
1.				\$ 000.00

MORTGAGES, NOTES AND CASH

<i>Item No</i>	<i>Description</i>	<i>Valuation</i>
1.	Checking Account, Savers Union Bank, Sanesville, KS	\$ 1,178.00
2.	Savings Account, Savers Union Bank, Sanesville, KS	\$ 8,978.44
Total Mortgages, Notes and Cash		\$ 10,156.44

INSURANCE

<i>Item No</i>	<i>Description</i>	<i>Valuation</i>
1.	Red Shield Life Insurance, Sanesville, KS (Cash Value)	\$ 10,000.00
Total Insurance		\$ 10,000.00

JOINTLY OWNED PROPERTY

<i>Item No</i>	<i>Description</i>	<i>Valuation</i>
1.		\$
	Total Jointly Owned Property	\$ 000.00

MISCELLANEOUS PROPERTY

<i>Item No</i>	<i>Description</i>	<i>Valuation</i>
1.	Funeral and Burial Trust, Timberline Mortuary, Sanesville, KS	\$ 4,250.00
2.	Household Furnishings	\$ 4,500.00
3.	Lawn Mower and Tools	\$ 300.00
4.	Wearing Apparel	\$ 500.00
5.	Antique Gun Collection	\$ 1,500.00
	Total Miscellaneous Property	\$ 11,050.00

RECAPITULATION

	<i>Valuation</i>
Real Estate	\$ 45,498.00
Stocks and Bonds	- 0 -
Mortgages, Notes & Cash	- 0 -
Insurance	10,000.00
Jointly Owned Property	- 0 -
Miscellaneous Property	11,050.00
TOTAL ESTATE	\$ 66,548.00

SOURCES OF REGULAR INCOME

Social Security disability insurance	\$415/mo
KPERS retirement	\$685/mo
Veteran's benefit	\$380/mo
Interest from bank accounts	amount varies

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct executed on June 27, 2008.

Conservator

ANNUAL CONSERVATOR ACCOUNTING

Instructions for Completing

This is a report of all income (receipts) and disbursements (expenses) of the estate transacted during the accounting period. It also updates the inventory and valuation.

The accounting is submitted to the court once a year either on the anniversary date of the appointment of the conservator, or, on a calendar year basis. This varies by county. File the accounting within 30 days of the end of the accounting period.

Record Keeping

Keep the following financial information to prepare an accurate accounting:

- Bank Statements, check book register, copies of cancelled checks
- Receipts of items purchased
- Financial reports from trust accounts

COMPLETING THE ACCOUNTING

1. The accounting is a permanent legal record. The form should be typed **OR** written legibly. Use black or dark blue ink when reports are handwritten
2. Work from bank statements to prepare the accounting using the check register for support information.
3. **Attachments - Financial Statements from a Provider**
If the person lives in a facility, or the provider is the payee for the conservatee's benefits, some courts will accept an attachment of the monthly or quarterly financial statements from the provider. Check the math accuracy before attaching to the accounting.

Computer Generated Financial Spread Sheets

Some courts will accept an accounting generated by a computer program. Courts may have a format preference for how information is presented. Generally, there are two acceptable formats:

Format 1 - Spread Sheet

Set up looks like the check book register and includes a running balance of "cash on hand." Advantage: The accounting may be easily prepared from the bank statements.

Format 2 - Spread Sheet

Columns totaling income, disbursements and a final balance of cash on hand.

I. STATEMENT OF RECEIPTS (INCOME) AND DISBURSEMENTS (EXPENSES)

Balance Carried Forward

If an accounting was filed for the previous year - The "balance carried forward" should be the same amount as the "balance on hand" from the previous year accounting.

If No accounting was filed for the previous year - The balance carried forward is the cash balance on the initial Inventory and Valuation.

Receipts (Income)

Itemize receipts from all sources received in the accounting period. Add additional pages if needed.

Fill in all the information required on the form. Income for the same amount may be documented in lump sums. Refer to Sample Accounting.

Disbursements (Expenditures)

Itemize all money spent during the accounting period. Add pages if needed.

Fill in all the information required on the form. Expenses for the same amount (i.e. cable, or phone) may be documented in lump sums. Refer to Sample Accounting.

Summary

List the total receipts and the total disbursements. The cash balance is the difference between the total receipts and total expenditures.

II. INVENTORY

Real Estate - List any real estate including the appraised value.

Personal Property

1. Financial Institution Accounts
 - (a) Checking - the check book balance for the end of accounting reporting period
 - (b) Savings - the account balance
 - (c) Certificates of Deposit - list any certificates owned
 - (d) Other - note other accounts not listed above (i.e. resident trust account)
2. Stocks and Bonds - List any stocks and bonds owned by conservatee.
3. Other Personal Property - Include:
Burial/Funeral trust, value of clothing, furniture, household goods. Document new purchases such as a TV, bicycle or furniture. Total the personal property.
4. Add the totals from Total Personal Property and Total Real Estate and put the amount on the **Total Real Estate and Total Personal Property line**.

**IN THE _____ JUDICIAL DISTRICT
DISTRICT COURT OF APACHE COUNTY, KANSAS**

In the Matter of the
(Guardianship) (Conservatorship)

Case No. 97 GC 031

Samuel G. Crown

Proceeding Pursuant to K.S.A. Chapter 59

ANNUAL **FINAL** **ACCOUNTING**

In the Conservatorship of Samuel G. Crown

July 01, 2007 to June 30, 2008

Comes now, Marjorie Crestone
Name
Sanesville, KS 66666
City & Zip Code

3299 Smithville Road, Apartment #4
Address
(785) 999-7100
Telephone Number

(guardian) (conservator) in the above entitled estate and submits the following (annual) (final) accounting in the conservatorship of

Samuel G. Crown
Name

39 Solar Haven Rd, Sanesville, KS 66666
Address, City & Zip Code

1942 for the period from July 01, 2007 to June 30, 2008
Year of Birth

SAMPLE

I. Statement of Receipts and Disbursements

RECEIPTS (INCOME)

DATE	RECEIVED FROM	EXPLANATION	AMOUNT
	Balance Carried Forward	Checking Account	\$1,050.00
July - Dec 2007	Social Security Admin	\$ 415 X 6 mos	2,490.00
Jan - June 2008	Social Security Admin	\$ 425 X 6 mos	2,550.00
July - June 2008	Veterans Affairs	\$ 380 x 12 mos	4,560.00
July - June 2008	KPERS Retirement	\$ 685 x 12 mos	8,220.00
July - June 2008	Savers Union Bank	Yrly Checking Account Interest	16.98
July - June 2008	US Treasury	IRS Tax Refund - Earned Income Credit	75.00
May 28, 2008	Crown Savings Account	Transfer of Funds	1,000.00
June 15, 2008	Savers Union Bank	Cashed Certificate of Deposit	2,000.00

Total Receipts (Including balance carried forward)

\$ 22,491.98

DISBURSEMENTS (EXPENSES)from Checking Account

DATE	Check #	PAID TO	PURPOSE	AMOUNT
07/07-06/08		Savers Union Bank	Monthly Mortgage - Incls Insurance (\$568 x 12 mos)	\$6, 816.00
07/07-06/08		Westar Energy	Electrical Utility (Average Payment Plan \$55 x 12)	660.00
07/07-06/08		City Water Dept	Water and Sewage (\$35 x 12 mos)	420.00
07/07-06/08		KS Gas Service	Gas Utility (Equal Payments Plan \$70 x 12)	840.00
07/07-06/08		Ripple City Cable	Cable Bill (\$38.50 x 12 mos)	462.00
07/07-06/08		Birch Telephone	Phone (\$41.89 per month X 12 mos)	502.68
07/07-06/08		Sanesville Life Line	Medical Alert (\$ 19.99 x 12 mos)	239.88
07/07-06/08		BCBS Insurance	Supplemental Insurance (\$ 97.45 x 12 mos)	1,169.40
07/07-06/08		Pelley Pharmacy	Prescription Co-pay	168.00
07/07-06/08		Tuppence Foods	Groceries \$65 x 52 wks (Per Conservator Plan)	3,380.00
07/07-06/08		Samuel Crown	Spending Money (\$100/mo x 12) (Conservator Plan)	1,200.00
07/14/07	#2498	K-Mart	Socks, personal hygiene produces, video	130.00
07/07-06/08		Barber of Saville	Haircuts (\$10 x 12 mos)	120.00
07/14/07	#2501	Seniors Travel	Public Transportation (12 books x \$25 x 12 mos)	300.00
08/19/07	#2543	Sanesville Library	Audio Reader Rental (\$10 x 12 mos)	120.00
09/20/07	#2559	Walmart	Jeans, shirts, under wear	124.00
10/10/07	#2561	Sanesville Bowl	Senior Bowling; Senior Olympics - Yrly Fee	150.00
11/28/07	#2584	Sears	Winter Jacket; Christmas gifts	220.00
12/12/07	#2598	Orville Furniture	Lift Chair for Samuel Crown	1,200.00
02/24/08	#2677	Walmart	Clothing; personal care items; TV	456.78
04/28/08	#2792	Penney's	Towels, bath set, shower curtain; (Dresser \$400)	687.92
05/24/08	#2812	County Treasurer	Yearly Property Taxes	725.67
06/17/08	#2822	Walmart	Hygiene items; household cleaners	85.00
06/18/08	#2823	Sears & Applebees	Birthday Gift and Dinner for Samuel Crown	50.00
06/18/08	#2824	Dr. Long Tooth	Dentist - cleaning and two fillings	298.00
06/22/08	#2825	Eye Magic	New Glasses	220.00
06/22/08	#2826	Savers Union Bank	Ordered Checks	36.25
06/22/08	#2827	Sanesville Times	Newspaper Subscription (\$11.95 x 12 mos)	143.30
06/24/08	#2828	US Post Office	Stamps for paying bills (\$7.80 x 4 books)	31.20

				\$7,259.78

SUMMARY

Total Receipts	\$ 22,491.98
Total Disbursements	<u>\$ 20,956.08</u>
Cash Balance on Hand	<u>\$ 1,525.90</u>

II. INVENTORY as of June 30, 2008

Your conservator accounts for the fair market value of the following assets:

	REAL ESTATE	Fair Market Value
1. 39 Solar Haven Rd, Lot 59, Solar Haven Addition, Sanesville, KS 66666	\$	45,489.00
Joint Tenancy with Mrs. Betty Crown, spouse.	\$	
	Total Real Estate \$	<u>45,489.00</u>

PERSONAL PROPERTY

1. Financial Institution Accounts

Description	Amount
(a) Checking Account - Savers Union Bank, Sanesville, KS	\$ 1,525.90
(b) Savings - Savers Union Bank, Sanesville, KS	\$ 7,259.78
(c) Certificates of Deposit (one CD - valued at \$ 4,329)	\$ 4,329.71
(d) Burial/Funeral Trust (Timberline Mortuary, Sanesville, KS as of 06/30/08)	\$ 4,600.00

2. Stocks & Bonds \$ - 0 -

3. Other Personal Property

Household goods, furniture, wearing apparel	\$ 5,455.00
Television \$250; Dresser \$400; Lift Chair \$1,200	\$ 1,800.00
Total Personal Property	<u>\$ 7,255.00</u>

Total real Estate and Personal Property \$ 70,459.39

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct executed on _____, 20 ____.

Conservator

S A M P L E

IN THE _____ JUDICIAL DISTRICT
DISTRICT COURT OF _____ COUNTY, KANSAS

In the Matter of the _____)
Conservatorship of _____)
_____) Case No. _____
_____)
_____)

Proceeding Pursuant to K.S.A. Chapter 59

AFFIDAVIT OF COMPLETION
OF BASIC INSTRUCTIONAL PROGRAM

I declare that I have received and reviewed the Basic Instructions for Conservators and kept a copy of those Instructions. I acknowledge that, as conservator, I have the duties and responsibilities described in the Instructions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this _____ day of _____, _____.

Signature

Please Print Your Entire Name

Address

Telephone Number