

SUFFOLK COUNTY SUPREME COURT  
SPECIAL TERM PART VI (631)853-6214

MOTION PROCEDURE FOR FINAL ACCOUNTINGS  
BY CONSERVATOR, COMMITTEE OR GUARDIAN DUE TO DEATH OR  
DEPLETION, REMOVAL OF COMMITTEE, CONSERVATOR OR  
GUARDIAN UNDER M. H. L. ART. 77, 78, 79 or 81

If you are a non-attorney guardian and you feel uncomfortable with this Motion procedure or if you are unable to do it yourself you will have to get an attorney to do it for you.

**Step 1. “Order Directing Final Accounting”** After the Guardian files the Statement of Death and Notice of claims, the Court will issue an Order directing the filing of a final account.

**Step 2.** After the above order is signed, the court will return a copy to the submitting party. The Committee, Conservator or Guardian then files the original “**Final Accounting**” (Form 3 annexed) with the Suffolk County Clerk's Office and prepares the “**Notice of Motion to settle Final Accounting**” (Form 4 annexed). A copy of the filed Final Accounting and a copy of the previously signed **Order Directing Final Accounting** must be annexed as exhibits. The “**Order Settling Final Account**” (Form 5 annexed) (with blank provisions for payment of commissions, fees and debts, etc. is also submitted at this time. The Motion must be made returnable at Special Term Part VI of the Supreme Court at 400 Carleton Avenue, Central Islip, New York 11722 at 9:30 am. of any Monday thru Friday (except holidays). The Notice of Motion and supporting papers must be served upon all the interested parties named in schedule F of the Final Accounting and an affidavit of service must accompany the motion papers which indicates that the Motion was served (by mail) upon all of the said interested parties at least 20 days prior to the return date of the Motion.

**Step 3.** Shortly after the submission date of the Notice of Motion, a Short Form Order will issue from the court directing an audit of the accounting by the clerk of the court, within 45 days. You will be sent a copy of this order. After the audit is completed, after the clerk's audit, if there are no problems, your Order settling Final Account will be re-submitted by the clerk to the Judge for his signature. If there are problems, you will be called and directed to revise the order and re-serve it in the same manner that the Notice of Motion was served, but on **10 days notice** to all of the essential parties originally served. If there are objections to the Final account by any of the interested parties, a hearing may be necessary to resolve the issues.

**Step 4.** After you make all of the payments directed by the court in the Order Settling Final Account, you will submit the “**Ex-Parte Order Discharging the Committee, Conservator or Guardian**” (Form 6 annexed), with receipts, copies of cancelled checks, vouchers, etc. evidencing compliance with the directives in the Order Settling Final Account.

**NOTE: If Final Accounting, is submitted due to the death of the incapacitated person. You may consider the much simpler procedure of “Final Accounting by Decree” (which must be accompanied by consent affidavits from each essential party). See M. H. L. Articles 81.34**

-----X

FINAL ACCOUNTING OF

FINAL ACCOUNTING BY:

\_\_\_\_\_ for the Guardianship of

[ ] Guardian

\_\_\_\_\_  
(or Person in Need of Guardian), now deceased.

Index No. \_\_\_\_\_

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

The undersigned does hereby render the account of proceedings as follows:

Period of account from \_\_\_\_\_ 20\_\_ to \_\_\_\_\_, 20\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I was duly appointed Guardian of the Person and Property of the above named Incapacitated Person by an Order of the Honorable \_\_\_\_\_ of one of the Justices of the Supreme Court of the State of New York.

By Order of Honorable \_\_\_\_\_ of one of the Justices of the Supreme Court of the State of New York, and duly entered in the office of the Clerk of Suffolk County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ I was directed to file a Final Accounting of my proceedings as Guardian.

[The instructions concerning the schedules need not be stated at the head of each schedule. It will be sufficient to set forth only the schedule letter and heading. For convenience of reference, the schedule letter should be shown at the bottom of each sheet of the account.]

- Schedule A - Assets Received (consisting of A1 (+or-) A2 + A3)**
- A1 - Statement of Principal Received**
- A2 - Statement of Increases / Decreases to Principal**
- A3 - Statement of all Income collected**
- Schedule B - Disbursements**
- Schedule C - Difference between Assets Received and Disbursements**
- Schedule D - Commission Statement**
- Schedule E - Claims against the Estate**
- Schedule F - List of Interested parties**

SCHEDULE A1

Principal received on  
appointment:

This Schedule contains a full and true statement and description of each article or item of personal property and the value thereof and each sum of money belonging to the above named Incapacitated Person/Incompetent/Conservatee which was been received by meat the time of appointment.

DETAIL

Date	Asset/Income	Value

(add additional sheet(s) if necessary)

TOTAL PRINCIPAL RECEIVED \$ \_\_\_\_\_











**Schedule "D"**  
**(Commission Statement)** see instructions

SCPA 2307 Commissions...

...on assets received;

Total assets per Schedule "A"	\$ _____
2 ½ % on all sums not exceeding \$100,000.00	\$ _____
2 % On the next \$200,000.00 received	\$ _____
1 ½ % on the next \$700,000.00 received	\$ _____
1 ¼ % on the next 4,000,000.00 receive	\$ _____
1% on all sums above \$5,000,000.00	\$ _____

**TOTAL OF RECEIVING COMMISSIONS DUE** \$ \_\_\_\_\_

Disbursements as per Schedule "B"	\$ _____
(Minus) commissions taken in prior accountings	\$ _____

**COMMISSIONABLE DISBURSEMENTS** \$ \_\_\_\_\_

...on assets disbursed

Total Disbursements per Schedule "B" minus commissions taken (see Commissionable Disbursements above).	\$ _____
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2 ½ % on all sums not exceeding \$100,000.00	\$ _____
2 % On the next \$200,000.00 received	\$ _____
1 ½ % on the next \$700,000.00 received	\$ _____
1 ¼ % on the next 4,000,000.00 received	\$ _____
1% on all sums above \$5,000,000.00	\$ _____

**TOTAL OF DISBURSING COMMISSIONS DUE** \$ \_\_\_\_\_

**2307 COMMISSION SUMMARY**

Total Receiving Commissions due	\$ _____
(Plus) Total Disbursing Commissions due	\$ _____

**TOTAL COMMISSIONS DUE** \$ \_\_\_\_\_

OR

**SCPA 2309 Commissions**

Commissions on principal

Where annual accountings have been submitted in past years, the Guardian originally chose whether commissions were to be taken based upon the principal existing at the beginning of the year or at the end of the year. Once that choice was made the guardian is committed to using the same beginning of year or end of year figure in all subsequent accountings. In the event that no annual accountings have been previously filed, the Guardian must now make the beginning of the year / end of the year choice at this time, and likewise use the same beginning of year or end of year figure in all subsequent years.

**Principal Amount; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

**Principal Amount; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

**Principal Amount; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

Attach additional sheet (s) if necessary)

**Principal Amount; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

**Principal Amount; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

**Principal Amount; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

**Principal; year \_\_\_\_\_** \$ \_\_\_\_\_

\$10.50 per \$1,000.00 on the first \$400,000.00  
of principal \$ \_\_\_\_\_

\$4.50 per \$1,000.00 on the next \$600,000.00  
of principal \$ \_\_\_\_\_

\$3.00 per \$1,000.00 on all additional principal \$ \_\_\_\_\_

**Commissions due for year \$ \_\_\_\_\_**

Total of commissions due for all years \$ \_\_\_\_\_

Disbursements as per Schedule "B" \$ \_\_\_\_\_  
(Minus) commissions taken in prior accountings \$ \_\_\_\_\_

Commissionable Disbursements \$ \_\_\_\_\_

Final disbursement of assets

Total Disbursements per Schedule "B" minus commissions taken  
(see Commissionable Disbursements above). \$ \_\_\_\_\_

1 % of Commissionable disbursements \$ \_\_\_\_\_

Total of Disbursing Commissions due \$ \_\_\_\_\_

**SUMMARY**

Total Commissions due on principal \$ \_\_\_\_\_  
(Plus) Total Disbursing Commissions due \$ \_\_\_\_\_

**TOTAL COMMISSIONS DUE** \$ \_\_\_\_\_



**AFFIDAVIT OF ACCOUNTING PARTY**

**STATE OF NEW YORK** )  
**COUNTY OF \_\_\_\_\_** ) **ss.:**

\_\_\_\_\_ being duly sworn, says: that the schedules of assets of the estate reported herein are true and complete and include all money and property of any kind, and all increment thereon, which have come into the hands of any of the accounting parties or have been received by any other persons for the use of any accounting party by order of authority of such accounting party, and include all indebtedness due by any accounting party to the estate whether discharged or not; that the moneys stated in the account as collected were all that could be collected; that all claims for credit for losses or decreases of value of assets are correctly reported; that the reported payments out of estate assets for funeral and administration expenses were actually made and made in the amounts scheduled; that the reported payments to creditors and beneficiaries were actually made at the dates and in the amounts scheduled; that no payments have been made by any accounting party on any fiduciary's claims against the estate except after prior approval and allowance by the Surrogate; that all receipts and disbursements are correctly and fully reported and scheduled; that the accounting parties do not know of any error in the account or in any schedule thereof or of any matter or thing relating to the estate omitted therefrom to the prejudice of rights of any creditor or of any person interested in the estate; and that the schedule of commissions has been computed in conformity with the statute regulating commissions and the Rules of the Surrogate's Court applicable thereto.

Sworn to before me on

\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public  
Commission Expires:  
(Affix Notary Stamp or Seal)

\_\_\_\_\_  
Print Name

Signature of Attorney: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

Address of Attorney: \_\_\_\_\_  
\_\_\_\_\_

## INSTRUCTIONS

### Schedule A1

#### Statement of Principal Received

This schedule must contain an itemized statement of all the moneys and other personal property constituting principal received at the time of the appointment, for which each accounting party is charged, together with the date of receipt or acquisition of such money or property.

### Schedule A2

#### Statement of Increases (or Decreases) on Sales, Liquidation or Distribution

This schedule must contain a full and complete statement of all realized increases (or decreases) derived from principal assets whether due to sale, liquidation, or distribution or any other reason. It should also show realized increases (or decreases) on new investments or exchanges. In each instance, the date of realization of the increase (or decrease) must be shown and the property from which the increase (or decrease) was derived must be identified. If real property has been sold by the fiduciary, this schedule must set forth the proceeds of sale of such property, including a copy of the closing statement.

### Schedule A3

#### Statement of All Income Collected

This schedule must contain a full and complete statement of all interest, dividends, rents and other income received, and the date of each receipt. Each receipt must be separately accounted for and identified, except that where a security had been held for an entire year, the interest or ordinary dividends may be reported on a calendar year basis.

### Schedule B

#### Statement of Disbursements

This schedule must contain a full and complete statement of all realized decreases on principal assets whether due to sale, liquidation, collection or distribution, or any other reason. It should show decreases on new investments or exchanges and also sales, liquidations or distributions that result in neither gain nor loss. In each instance, the date of realization of the decrease must be shown and the property from which the decrease was incurred must be identified. It should also report any asset which the fiduciary intends to abandon as worthless, together with a full statement of the reasons for abandoning it.

### Schedule C

#### Balance of assets held by Fiduciary

This is the difference between the assets received and the disbursements.

### Schedule D

#### Statement of Commissions earned

This schedule calculates the commissions earned by the fiduciary over the course of the Guardianship,

Committeeship or Conservatorship. Guardianship commissions are generally calculated pursuant to SCPA 2309. Commissions for Committees and Conservators are calculated pursuant to SCPA 2307.

#### Schedule E

##### Statement of All Creditor's Claims

This schedule must contain an itemized statement of all creditor's claims subdivided to show:

1. List all claims against the Incompetent / Conservatee / Incapacitated Person, to whom, the reason and the amount. If there are none state NONE (Please submit bills for claims listed in the schedule)

#### Schedule F

##### Statement of Interested Parties

This schedule must contain the names of all persons entitled as beneficiary, legatee, devisee, trustee, surviving spouse, distributee, unpaid creditor or otherwise to a share of the estate or fund, with their post office addresses and the degree of relationship, if any, of each to the deceased, and a statement showing the nature of and the value or approximate value of the interest of each such person. Include Attorney General, Department of Social Services, Veteran's Administration and surety on fiduciary's bond if involved.



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X

In the Matter of the Final Accounting of

**Notice of Motion  
(for Judicial Settlement of Final Account)**

as Guardian of

Index No. \_\_\_\_\_

an Incapacitated Person  
(or Person in Need of Guardian), now deceased.

----- X

PLEASE TAKE NOTICE that upon the Notice Directing Final Account of this Court dated the \_\_\_ day of \_\_\_\_, 2024, a copy of which is annexed hereto, the Final Accounting of \_\_\_\_\_ as Guardian of the Property of \_\_\_\_\_ the above-named Incapacitated Person/Person In Need of a Guardian, which was duly filed in the Office of the Clerk of the County of Suffolk on the \_\_\_ day of, \_\_\_\_\_ 202\_\_ a copy of which is annexed hereto, (*optional* – and upon the Affidavit in Support of Compensation by \_\_\_\_\_, sworn to the \_\_\_ day of \_\_\_\_\_ 20\_\_\_, a copy of which is annexed hereto,) the undersigned will move this Court to be held at the Courthouse, 400 Carleton Avenue, Central Islip, NY 11722, on the \_\_\_ day of, 2024, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order judicially settling, determining and allowing the account as filed, for the fixing of compensation, and for payment of the outstanding bills and other claims made against the assets of the above-named Incapacitated Person/Person In Need of a Guardian as more fully set forth in said accounting, and granting such other and further relief as to the Court may seem just and proper.

Yours, etc.

Name:  
Relationship to proceeding:  
Address:

To:

At a Special Term Part VI of The Supreme Court of the State of New York held in and for the County of Suffolk at the Courthouse, \_\_\_\_\_, New York on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**PRESENT: HON.** \_\_\_\_\_  
**J.S.C.**

\_\_\_\_\_  
In the Matter of the Final Account of

**ORDER SETTLING**  
**FINAL ACCOUNT**

\_\_\_\_\_,  
Guardian

Index No.:

of

\_\_\_\_\_, an  
Incapacitated Person

\_\_\_\_\_ Residing at \_\_\_\_\_

\_\_\_\_\_ as Guardian of the Person and Property of

\_\_\_\_\_, an Incapacitated Person, having presented and filed a petition dated and verified on the \_\_\_ day of \_\_\_\_\_, 20\_\_, requesting leave to render and have judicially settled his (her) Final Accounting of proceedings as such Guardian of the Person and Property and the said Guardian having filed a final accounting of his (her) proceedings pursuant to the Order of this court made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the office of the Clerk of the County of Suffolk, and notice of these proceedings having been given

to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and upon reading and filing the aforesaid petition and Order of this Court, the final account dated and verified the \_\_ day of \_\_\_\_\_, 20\_\_\_, the notice of motion returnable the \_ day of \_\_\_\_\_, 20\_\_\_, the affidavit of \_\_, sworn to the \_ day of \_\_\_\_\_,20\_\_\_, evidencing service of the foregoing papers, and \_\_\_\_\_, and according to the following summary statement thereof;

SUMMARY STATEMENT

Schedule A: Principal received on appointment	\$ _____
Schedule A-1: Increases / Decreases to principal	\$ _____
Schedule A-1: Income	\$ _____
Total receipts	\$ _____
Schedule B: Disbursements	\$ _____
Charge to fiduciary	\$ _____
Cash and property on hand	\$ _____

**NOW**, on motion of \_\_\_\_\_ as Guardian of \_\_\_\_\_  
\_\_\_\_\_, an Incapacitated Person/ Person in Need of Guardian, be and the same hereby is judicially settled, passed and allowed as rendered and filed, it is,

**ORDERED**, that the said Guardian be and they are hereby allowed the sum of \$\_\_\_\_\_ as and for their legal commissions as Guardian if the within Incapacitated Person, and it is further

**ORDERED**, that \_\_\_\_\_, Esq. be is and they hereby are allowed the sum of \$\_\_\_\_\_ as and for a fee for legal services rendered and \$\_\_\_\_\_ as disbursements in the within proceeding, and it is further

**ORDERED**, that \_\_\_\_\_ the \_\_\_\_\_ herein be and hereby is allowed the sum of \$\_\_\_\_\_ as and for a fee for services rendered herein, and it is further

**ORDERED**, that \_\_\_\_\_ as guardian pay to \_\_\_\_\_  
\_\_\_\_\_ Esq. (Court Examiner/ Referee) the sum of \$ \_\_\_\_\_ to reimburse the  
said Court Examiner for expenses which sum represents fees due the Court Examiner for reviewing the  
annual accounting (s) for the period(s) ending \_\_\_\_\_ which accounting (s) had  
been reviewed by the Court Examiner but for which accounting (s) no order Confirming Court Examiner's  
report had been entered previously herein, which sum the Guardian shall pay from the funds of said  
Incapacitated Person in his (her) hands as Guardian; and it is further

**ORDERED**, that the Guardian is directed to pay to \_\_\_\_\_  
\_\_\_\_\_ as and for \_\_\_\_\_; and it is further

**ORDERED**, that the balance remaining in the hands of the Guardian plus accrued interest, if  
any, be turned over to the official representative of the Estate of the deceased Incapacitated Person; and  
it is further

**ORDERED**, that if no official representative is appointed within 60 days, then any remaining  
funds shall be turned over the Comptroller of Suffolk County, and it is further

**ORDERED**, that upon filing receipts, releases or cancelled checks evidencing compliance with the  
provisions of this Order, an Ex-parte order may be entered discharging the Guardian and cancelling their  
bond.

E N T E R

\_\_\_\_\_  
J. S. C.

PRESENT: HON. \_\_\_\_\_  
Justice

\_\_\_\_\_  
In the Matter of the Final Account of

\_\_\_\_\_  
Guardian of  
\_\_\_\_\_, an  
Incapacitated Person

**EX PARTE ORDER**  
**DISCHARGING**  
**FIDUCIARY AND**  
**SURETY AFTER FINAL**  
**ACCOUNT**

Index No.:

\_\_\_\_\_  
I \_\_\_\_\_ as  
Guardian of \_\_\_\_\_ an Incapacitated Person having  
complied with the prior order of this court dated the \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_, judicially settling his (her) final account, and having submitted all receipts,  
vouchers, releases, cancelled checks, etc., showing compliance with the terms of the said order,

NOW, on motion of \_\_\_\_\_, it is

**ORDERED**, that \_\_\_\_\_ as Guardian of \_\_\_\_\_  
\_\_\_\_\_ is hereby discharged  
from all liability in connection with all matters embraced in the said account, and it is further

**ORDERED**, that \_\_\_\_\_, the surety on the bond of  
Guardian is hereby discharged from all liability in connection with all matters embraced in the said  
account.

**E N T E R**

\_\_\_\_\_  
**J. S. C.**