

**Probate Practice Book Advisory Committee
Subcommittee III**

Meeting Minutes
Monday, February 6, 2012
3:00 p.m.

New Haven Regional Children's Probate Court
873 State St.
New Haven, CT

Judge Michael Albis, Chair of Subcommittee III, convened the meeting at 3:15.

Other members in attendance: Ms. Suzette Farrar, Judge Gerald Fox, Attorney Patricia Kaplan, Judge Robert Killian, Attorney Gabriella Kiniry, Judge Paul Knierim, Attorney Andrew Knott, Mr. Stephen Pedneault, CPA

Also in attendance: Attorney David Biklen, Committee Reporter, Attorney Thomas Gaffey, Probate Administration

Approval of Minutes of January 24, 2012 Meeting

The minutes of the January 24, 2012 meeting were unanimously approved.

Discussion of Commitments

Using the list of issues for commitments, the subcommittee reached the following conclusions (paragraph numbers correspond to the issues list):

1. Confidentiality of hearings

The rule should provide that commitment hearings be closed to the public, provided that the court may admit relatives and friends as it deems advisable. §§17-500(a), 17a-498(a)

2. Notice

Notice to the respondent should be given by personal service. Notice to others should be by regular mail, or such other reasonable notice as the court determines. §§17a-498(a), 17a-77(a)

3. Probable cause hearings

- a. Upon receipt of a request for hearing, the court should give notice to the facility of the time and place of the hearing, which notice may include by telephone, facsimile or other electronic means.

- b. It shall be the facility's responsibility to provide for the respondent's presence at the hearing and to provide appropriate medical testimony.
- c. The court shall make an audio recording of the probable cause hearing. §§17a-502(d), 17a-506(e), 17a-78(d)

4. Warrant – refusal to be examined

- a. The rule should require a written application alleging the respondent's refusal to be examined.
- b. The warrant may be issued ex parte.
- c. The warrant shall direct a police officer to apprehend and deliver the respondent to a general hospital for examination.
- d. Thereafter the matter may proceed under §17a-502, and the commitment application under which the warrant was issued shall be dismissed. §17a-498 (d)

[Cross reference proposed rule re ex parte orders generally]

5. Warrant – examination proceedings

- a. The rule should require a written application containing the necessary allegations under §17a-503 (b).
- b. A warrant to bring the respondent before the court may be issued ex parte.
- c. The warrant shall direct a police officer to apprehend and bring the respondent before the court for examination. The hearing may be held at a location other than the court, in the court's discretion.
- d. Following the hearing, if the court finds probable cause it may issue a warrant ordering a police officer to deliver the respondent to a general hospital for examination.
- e. Thereafter the matter may proceed under §17a-502.

[Cross reference proposed rule re ex parte orders generally]

6. Voluntary admissions, patient under conservatorship

- a. Upon receipt of the report of the physician appointed by the court, the court may in its discretion proceed without a hearing.
- b. The court shall issue a decree containing its findings as to whether informed consent was given, and shall provide copies to the facility, the conserved person and interested parties. §17a-506 (c)

[Cross reference proposed rule re ex parte orders generally]

6A. Consent to medication for treatment of psychiatric disability

- a. Where filed
 - i. An application alleging that the patient is incapable of informed consent shall be filed:
 - 1. If appointment of a conservator is requested, in a probate district having jurisdiction under §45a-648(a).
 - 2. If the application seeks that an existing conservator be authorized to consent:
 - a. In the court having jurisdiction over the conservator, or
 - b. In the court where the facility is located.
 - ii. An application alleging that the patient is capable of informed consent but refuses is to be filed in the court where the facility is located.
- b. Notice
 - i. Notice of an application alleging that the patient is incapable of informed consent notice is to be given:
 - 1. If appointment of a conservator requested, in accordance with §45a-649;
 - 2. If the application seeks that an existing conservator be authorized to consent, by regular mail.
- c. Confidentiality §17a-550 (a)
 - i. Hearings are to be closed to public, provided that the court may admit those persons authorized by law or determined by the court.

7. Commitment for drug and alcohol abuse treatment

Hearings are to be closed to the public, provided that the court may those authorized by law or determined by the court. §17a-688(a)

Follow up on children's matters – "John Doe" terminations

The subcommittee discussed whether a child is free for adoption where a parent's identity is unknown and there has been no termination of that person's parental rights. It was noted that the Superior Court for Juvenile matters has a rule (C.P.B § 33a-4) that provides for "John Doe" terminations with notice by publication.

Committee members questioned the utility of publication notice to an unknown father and discussed the appointment of an attorney to represent the unknown father as an alternative. It was agreed that Judge Knierim would discuss the issue with Judge Keller and report back to the subcommittee.

Review draft rule on Probate Bonds

The subcommittee reviewed the draft rule on probate bonds identified as “2-3-12 DDB draft with PJK edits.”

Section 33.1 When probate bond is required. A new subsection should be established under § 33.1(b) to make it clear that the court can excuse bond for corporate fiduciaries for all types of matters, and not only in decedents’ estates.

Sections 33.2 and 33.7 The committee decided to delete the word “original” preceding the references to probate bonds and restricted account agreements in §§ 33.2 and 33.7 to avoid disputes about the validity of photocopies.

Section 33.8 Fiduciary to report increase in value of the estate. The rule should reflect the option of depositing additional receipts into a restricted account.

Section 33.11 Release of probate bond. The committee discussed whether the rule should provide that a bond should not be released until any appeals have been resolved. Attorney Kiniry will research the effect of a certificate for surety to assist in resolving this question.

Review draft rule on Fiduciary Accounting

The subcommittee reviewed the draft rule on fiduciary accounting identified as “2-5-12 DDB draft with PJK edits.”

Section 34.4 Financial reports: required contents. To improve readability, this section should be divided into three separate sections dealing with decedents’ estates, trusts, and conservatorships, guardianships and other estates. The proposed rules should be relaxed to permit totals, rather than itemized lists, to be reported for all items except distributions. A provision should also be added to require the fiduciary of a decedent’s estate to affirm that all claims and expenses have been paid.

Sections 34.4(e), 34.7(d)(6), 34.8(g)(6) should be modified to require current fair market values for in-kind distributions, even for difficult to value assets, except when all beneficiaries are receiving a proportionate share of each asset.

Section 34.13 Remedies for fiduciary's failure to file financial report or account. A reference to the court's power to surcharge a fiduciary should be added to the list of remedies.

Section 34.15 Records to be maintained by fiduciary. The term "original" in reference to various documents should be deleted throughout this rule.

Sections 34.16 and 34.17, which address fiduciary and attorney fees, should be transferred to a separate rule.

It was the consensus of the subcommittee members that the use of forms will facilitate users' understanding of the proposed rule. Since the practice book will be published electronically, hyperlinks will give users instant access to the relevant forms.

Revised drafts of the probate bonds and fiduciary accounting rules that incorporate the above-referenced changes are attached to these minutes.

Next Meeting

Our next meeting will be held on Monday March 5, 2012 at 3:00 p.m. at the New Haven Regional Children's Probate Court.

The meeting was adjourned at 6:05 p.m.

Approved 3-5-12

State of Connecticut
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Procedures for Specific Case Types

Rule 33 Probate Bonds.

Sec. 33.1 When probate bond is required.

(a) Except as otherwise provided in Rule 33, the court shall require a fiduciary to submit a probate bond whenever required by statute or by the provisions of a will or other governing instrument.

(b) The court may excuse the requirement of a probate bond if:

(1) the value of the assets of the estate or the amount of the estate that is not held in a restricted account is less than the amount under C.G.S. § 45a-139(c);

(2) the fiduciary is a corporate fiduciary and the will or other governing instrument does not require bond;

(3) in a decedent's estate:

(A) the will or other governing instrument excuses bond; or

(B) each heir or beneficiary of a decedent's estate waives the requirement of a bond; or

(4) in a voluntary conservatorship, the petitioner waives the requirement of a bond.

(c) Notwithstanding the provisions of section 33.1(b), the court may on the motion of a party or on the court's own motion require a fiduciary to submit a probate bond if the court determines that a bond is necessary to protect parties or creditors or to assure the payment of taxes or administration expenses.

(C.G.S. §§ 45a-139, 45a-169, 45a-206, 45a-289, 45a-646, 45a-473, 36a-250)

Sec. 33.2 Probate bond to be filed before appointment. The court shall not issue a decree appointing a fiduciary from whom a probate bond is required or issue a

probate certificate evidencing the appointment until the fiduciary has filed the fully executed bond with the court.

Sec. 33.3 Corporate surety required.

(a) A probate bond filed on and after the effective date of this rule shall be secured by a corporate surety.

(b) An individual signing a probate bond on behalf of a corporate surety shall provide written evidence of the individual's authority to sign on behalf of the surety.

(c) A bond filed before the effective date of this rule that is secured by a personal surety is deemed to meet requirements of this rule, provided that a court may require that a corporate surety be substituted for a personal surety if the court determines that the personal surety does not provide adequate security for the bond. A personal surety who is not a resident of this state shall file a certificate, acknowledged before an officer authorized to take acknowledgments of deeds, appointing the judge of probate and the judge's successors in office to be the surety's attorney on whom all process in any action involving the bond may be served.

Sec. 33.4 Form of probate bond. A probate bond shall be on a form published by the Probate Court Administrator or on a substantially similar form.

(C.G.S. § 45a-139)

Sec. 33.5 Probate bond to cover all co-fiduciaries. If an estate has more than one fiduciary, the probate bond shall cover all co-fiduciaries.

Sec. 33.6 Amount of probate bond.

(a) Except as provided in this section or as otherwise provided by statute or by the terms of a will or other governing instrument, a probate bond shall be equal to the value of the assets under the control of the fiduciary and anticipated additional receipts of income or assets during the applicable accounting period. The bond shall not reflect the value of real property if the fiduciary does not have the power to sell or mortgage the real property.

(b) The amount of the probate bond may be less than provided in section 33.6(a) as follows:

(1) if the fiduciary deposits assets in a restricted account, the court may order bond in an amount equal to the value of the assets that are not restricted, except as provided in § 33.1(b)(1);

(2) if all heirs or all beneficiaries of a decedent's estate request bond in a smaller amount, the court may order bond in an amount equal bond to the amount requested;

(3) if a fiduciary is an heir or beneficiary of a decedent's estate, the court may order bond in an amount equal to the aggregate share of the estate of all other heirs or beneficiaries; or

(4) if the court has approved a structured settlement, the court may order bond in an amount equal to the funds that are anticipated to come under the fiduciary's control during the applicable accounting period.

(C.G.S. §§ 45a-139, 45a-151)

Sec. 33.7 Restricted account.

(a) The court may authorize a fiduciary to establish a restricted account to hold the assets of an estate. Except as specified in an order of the court, the fiduciary shall deposit all assets and income of the estate in the restricted account immediately on receipt.

(b) A restricted account may be established only by execution of an agreement in the exact form published by the probate court administrator under which the fiduciary and a financial institution approved by the court agree that no assets of the estate may be disbursed until the court has given written approval.

(c) The court shall not issue a decree appointing a fiduciary who is required to establish a restricted account or issue a probate certificate evidencing the appointment until the fiduciary has filed with the court the fully executed agreement establishing the restricted account.

(d) The fiduciary shall submit proof that the assets of the estate have been deposited in the restricted account not later than ten days after receipt.

(e) The court may review a fiduciary's request to disburse funds from a restricted account and may order disbursement of funds with or without a hearing. If the court authorizes funds to be disbursed without a hearing, the disbursement is subject to full review in connection with the fiduciary's financial report or account covering the period in which the disbursement is made.

(C.G.S. § 45a-139)

Sec. 33.8 Fiduciary to report increase in value of estate. A fiduciary from whom a probate bond is required shall report to the court the receipt of any additional assets or income or the recognition of capital gain from the sale of any assets if the aggregate amount of the additional assets, income and capital gain exceeds ten percent of the value of the bond or \$50,000, whichever is greater. The fiduciary shall report the additional assets, income and capital gain not later than thirty days after the receipt or sale occurs. The court may require the fiduciary to increase the amount of the bond in accordance with section 33.6 or deposit the additional assets, income and capital gain in a restricted account under section 33.7.

Sec. 33.9 Adjustments to amount of probate bond. After the allowance of a fiduciary's financial report or account, the court may adjust the amount of the probate bond to reflect a change in the value of the estate.

Sec. 33.10 Surety on additional probate bond amount. If the court orders a fiduciary to increase the amount of a probate bond, the additional amount shall be secured by the same surety as the original bond, except that the court may permit a new surety for the additional amount if both the original surety and new surety agree to joint and several liability for the amount of the original bond and the increase.

Sec. 33.11 Release of probate bond. The court shall not issue a certificate releasing a probate bond until the court has approved the fiduciary's final financial report, statement in lieu of account, or account, and, if required, an affidavit of closing.

Sec. 33.12 Action on probate bond. The court shall give notice by certified United States mail of a hearing on an application to recover on a probate bond.

{Scribe's note: Should this rule be moved to the notice section, keeping a cross-reference here?)

(C.G.S. Sec. 45a-144)

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Rule 34 Fiduciary accounting: General provisions

Sec. 34.1 Methods of accounting. Except as provided in section 34.3, a fiduciary may satisfy any legal requirement to account to the court for the management of an estate by submitting a financial report meeting the requirements of Rule 35. If an account is required instead of a financial report, the fiduciary shall submit an account meeting the requirements of section 36. Nothing in this rule prevents a fiduciary from submitting an account instead of a financial report.

Sec. 34.2 Financial reports distinguished from accounts. A financial report is a simplified form of accounting by which a fiduciary provides summary information about the management of an estate. A financial report differs from an account in the following ways:

- (1) principal and income need not be accounted separately;
- (2) assets may be reported at current fair market values rather than fiduciary acquisition values; and
- (3) a financial report need not balance in the manner required for an account.

Sec. 34.3 When account is required instead of financial report.

(a) A fiduciary required to account to the court for the management of an estate shall submit an account rather than a financial report if the fiduciary is required to account separately for principal and income under section 36.2.

(b) The court may, on the motion of any party or on the court's own motion, require the fiduciary to submit an account instead of a financial report if the court determines that an account is necessary to review the fiduciary's management of the estate.

(c) Except as provided in section 34.3(d), the court may entertain a petition under section 34.3(b) to require an account instead of a financial report at any time before the approval of a financial report.

(d) The court may require a fiduciary to submit an account covering the same accounting period as a previously approved financial report only if the court determines that the financial report failed to disclose a material fact.

(C.G.S. § 45a-176)

Sec. 34.4 Financial reports and accounts to present information in clear manner and be signed under penalties of false statement.

(a) A fiduciary submitting either a financial report or an account to the court shall present all required information in a concise, clear and understandable manner and in sufficient detail so that the court and the parties can examine the fiduciary's management of the estate.

(b) A fiduciary shall sign a financial report or account under penalties of false statement.

(c) A fiduciary may submit a financial report or account on a form published by the probate court administrator or in any format that satisfies the requirements of Rules 34 through 36.

Sec. 34.5 When financial reports or accounts to be filed for decedents' estates.

(a) The fiduciary of a decedent's estate shall submit a final financial report or account when the fiduciary has completed settlement of the estate or when the fiduciary seeks to resign or is removed by the court.

(b) The executor or administrator of the estate of a fiduciary who dies while administering a decedent's estate shall file a final financial report or account on behalf of the deceased fiduciary.

(c) The court may, on the motion of a party or on the court's own motion, direct the fiduciary of a decedent's estate to file an interim financial report or account if necessary to protect the interests of the parties.

(C.G.S. § 45a-180)

Sec. 34.6 When financial reports or accounts to be filed for testamentary trusts.

(a) Unless otherwise directed by the court or by the will, the trustee of a testamentary trust shall submit a periodic financial report or account at least once during each three-year period.

(b) The court shall not require the trustee of a testamentary trust to submit periodic financial reports or accounts if the will excuses periodic accounts. The court may, on the motion of any party or on the court's own motion, require an interim financial report or account for a specified period if necessary to protect the interests of the parties. After court approval of an interim financial report or account, the court shall not require additional periodic financial reports or accounts unless the court determines that periodic financial reports or accounts are necessary to protect the interests of the parties.

(c) Except as provided in section 34.8, the trustee of a testamentary trust shall submit a final financial report or account when the trust terminates or any beneficiary's interest in the trust terminates or when the fiduciary seeks to resign or is removed by the court.

(d) Except as provided in section 34.8, the executor or administrator of the estate of a trustee who dies while serving as trustee shall file a final financial report or account on behalf of the deceased trustee.

(C.G.S. § 45a-180)

Sec. 34.7 When financial reports or accounts to be filed for conservatorships and guardianships.

(a) A conservator of the estate or guardian of the estate of a minor shall submit an annual financial report or account for the first year following the fiduciary's appointment or, with prior court approval, for the first year following the fiduciary's first receipt of funds on behalf of the estate.

(b) Unless otherwise directed by the court, a conservator or guardian shall thereafter submit a periodic financial report or account at least once during each three year period after submitting the first annual financial report or account in accordance with section 34.7(a).

(c) A conservator or guardian shall submit a final financial report or account when the estate has terminated or when the fiduciary seeks to resign or is removed by the court.

(d) The executor or administrator of the estate of a conservator or guardian who dies while administering an estate shall file a final financial report or account on behalf of the deceased fiduciary.

(C.G.S. § 45a-177, 45a-180, 45a-597)

Sec. 34.8 Waiver of final financial report or account for testamentary trust with summary report and receipt and release.

(a) The trustee of a testamentary trust may petition the court to waive the requirement of a final financial report or account required under sections 34.6(c) or 34.6(d) if all of the current beneficiaries and presumptive remainder beneficiaries of the trust have executed a receipt and release. The trustee's petition shall include:

(1) the fully executed receipt and release; and

(2) a summary report that includes an itemized list of assets on hand with current fair market values, an itemized proposed distribution to each beneficiary, and a brief statement describing the information that has been provided to the beneficiaries and a summary of the trustee's management of the trust since the most recent financial report or account or, if none, since the trustee accepted the trusteeship.

(b) The court may, after notice of hearing to all parties, waive the requirement that the trustee submit a final financial report or account if the court determines that it would impose an unreasonable burden to require a final financial report or account and that all of the current beneficiaries and presumptive remainder beneficiaries have knowingly and voluntarily waived the requirement of a final financial report or account.

Sec. 34.9 Waiver of final financial report or account in conservatorship when conserved person is Title 19 recipient.

(a) A conservator of the estate may petition the court to waive the requirement of a final financial report or account if the Connecticut Department of Social Services has determined that the conserved person is eligible for Medicaid under Title 19 of the Social Security Act. The conservator's petition shall include:

(1) copies of the department's determination letter and approved spend-down plan, if any; and

(2) a report showing the manner in which the conservator has executed the spend-down plan, including the name of the funeral home at which a prepaid funeral has been arranged and the amount of funds transferred to the conserved person or his or her patient account.

(b) The court may, after notice of hearing to all parties, waive the requirement that the conservator submit a final financial report or account if the court determines that there are no assets remaining in the estate other than the amount permitted to be retained by a Medicaid recipient and that submission of a final financial report or account would serve no useful purpose.

Sec. 34.10 Affidavit of closing.

(a) If the court directs the fiduciary to file an affidavit of closing when it approves the fiduciary's final financial report or account, the fiduciary shall file the affidavit in accordance with section 34.10 not later than thirty days after completing distribution of all assets on hand.

(b) An affidavit of closing shall itemize each transaction since the end of the accounting period of the fiduciary's final financial report or account and shall include:

- (1) the reserve shown on the final financial report or account;
- (2) proposed distributions shown on the final financial report or account;
- (3) assets or income received;
- (4) administration expenses paid; and
- (5) distributions.

(c) An affidavit of closing shall include a statement that assets in the fiduciary's control have been distributed in accordance with the final financial report or account and

the affidavit of closing and that the estate is fully settled and shall be signed under penalties of false statement.

(d) An affidavit of closing shall not modify any item previously adjudicated in the allowance of a financial report or account.

(f) The court may accept an affidavit of closing with or without a hearing.

Sec. 34.11 Remedies for fiduciary's failure to file financial report or account.

(a) A fiduciary who fails to file a required financial report, account or affidavit of closing on a timely basis shall be subject to removal, surcharge, contempt of court and other sanctions permitted by law. The court may appoint an auditor under C.G.S. § 45a-175(e) to examine the fiduciary's management of the estate.

(b) In addition to sanctions under section 34.11(a), a fiduciary who is a member of the Connecticut bar who fails to file a required financial report, account or affidavit of closing on a timely basis is subject to sanction under C.G.S. § 51-84.

(C.G.S. §§ 45a-175, 45a-242, 51-84)

Sec. 34.12 Records to be maintained by fiduciary.

(a) A fiduciary shall maintain complete records of the fiduciary's management of the estate including, but not limited to:

(1) all accountings, reports, journals or ledgers used in managing the estate and all computerized equivalents thereof, including all data recorded with accounting software;

(2) all bank statements and passbooks for each bank account, including savings, checking, money market, certificates of deposit, and other types of accounts;

(3) all canceled checks or check images for each bank account;

(4) all investment statements for each investment account;

(5) copies of all deposit tickets for each deposit made into each bank or investment account and supporting information relating to such deposits;

(6) supporting information relating to each disbursement made from each bank or investment account, including original supporting vendor invoices and receipts;

(7) all credit card statements for each credit card account;

- (8) all store card statements for each store card account;
- (9) supporting information relating to each charge made on any credit card, store card or debit card, including supporting vendor invoices and charge slips or receipts;
- (10) supporting information relating to each distribution made from the estate or trust to an heir, beneficiary, conserved person or minor, as applicable;
- (11) with respect to a conservatorship of the estate, supporting information relating to each gift made from a conservatorship estate to a party other than the conserved person, provided, however, that a conservator may only make gifts with prior court approval in accordance with C.G.S. § 45a-655(d);
- (12) complete detailed payroll information for each employee engaged or paid by the estate for each pay period, including time reporting records, original payroll registers, journals, and reports and copies of all Forms 941, 942, W-3 and W-2 and other payroll tax returns;
- (13) complete details of each contracted service provider engaged or paid by the estate for each calendar year, including original invoices from contractors and copies of all Forms 1096 and 1099 and other tax forms;
- (14) detailed journals describing the fiduciary's services and any amounts paid to the fiduciary as compensation;
- (15) with respect to a decedent's estate or trust, copies of all state and federal fiduciary income tax returns filed by or on behalf of the estate or trust;
- (16) with respect to a conservatorship of the estate or guardianship of the estate of a minor, copies of all state and federal personal income tax returns filed by or on behalf of the conserved person or minor; including all forms and information received for each tax year used in the completion of each return;
- (17) with respect to a conservatorship of the estate, copies of all state and federal gift tax returns filed by or on behalf of the conserved person; and
- (18) any other records not specified in this section that document the fiduciary's actions in the management of the trust or estate.

(b) The fiduciary shall not destroy any estate financial records until the appeal period on the court's approval of the fiduciary's final financial report or account has run

or the termination of any other applicable record retention requirement, whichever is later.

Sec. 34.13 Definition of fiduciary acquisition value.

(a) The fiduciary acquisition value of an asset reported on an inventory is:

(1) for a decedent's estate, the fair market value of the asset on the date of death;

(2) for a trust, the fair market value of the asset on the date of death of the testator or settlor or on any other basis for value that the court determines after considering the nature of the trust and the manner in which it was funded; and

(3) for a conservatorship, guardianship or any other estate not specified in this section, the fair market value of the asset on the date of appointment of the first fiduciary.

(b) The fiduciary acquisition value of an asset that a fiduciary purchases during the course of administration is the purchase price of the asset.

(c) The fiduciary acquisition value of an asset shall not be changed based on unrealized gain or loss owing to fluctuations in market value.

(d) The fiduciary acquisition value of an asset shall be adjusted to reflect transactions in which:

(1) additional investments, such as capital improvements to real property, are made in an asset; and

(2) some of the original investment is returned to the fiduciary, such as the sale of a partial interest in an asset or the receipt of principal payments on a promissory note.

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Rule 35 Fiduciary Accounting: Requirements for financial reports

Sec. 35.2 Required contents of financial reports for decedents' estates.

(a) Except as otherwise directed by the court, a financial report for a decedent's estate shall include the following information with respect to the accounting period:

(1) the aggregate value of estate property at the beginning of the accounting period as reported on the inventory or the most recent interim financial report or account;

(2) the total amount of additional assets received;

(3) the total amount of income received in each major category including, but not limited to, interest, dividends and rent;

(4) the net of capital gains and losses realized on the sale of any assets;

(5) the total amount of administration expenses in each major category, including, but not limited to, funeral expenses, fiduciary fees, attorney's fees, accounting expenses, probate fees, and other expenses;

(6) the total amount of taxes in each major category, including, but not limited to, property taxes, state and federal income taxes, and state and federal estate and inheritance taxes;

(7) the total amount of claims paid to creditors;

(8) an itemized list of distributions made to each heir or beneficiary before the end of the accounting period; and

(9) if a final financial report, an itemized list of proposed distributions to each heir or beneficiary, the proposed reserve and a statement that all funeral expenses, administration expenses, taxes and claims have been paid and all bequests and devises have been or will be distributed.

(b) A financial report may include supporting schedules to provide necessary additional details or explanatory notes.

(C.G.S. § 45a-176)

Sec. 35.3 Required contents of financial reports for trusts.

(a) Except as otherwise directed by the court, a financial report for a trust shall include the following information with respect to the accounting period:

(1) the aggregate value of estate property at the beginning of the accounting period as reported on the inventory or the most recent financial report or account;

(2) the total amount of additional assets received;

(3) the total amount of income received in each major category including, but not limited to, interest, dividends, annuities and rent;

(4) the net of capital gains and losses realized on the sale of any assets;

(5) the total amount of administration expenses in each major category, including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees and other expenses;

(6) the total amount of distributions to or for the benefit of each beneficiary, together with a brief explanation of the basis for any discretionary distributions;

(7) the total amount of assets on hand at fair market value at the end of the accounting period, provided that difficult to value assets, such as real property, may be reported at fiduciary acquisition value; and

(8) if a final financial report, an itemized list of proposed distributions to each beneficiary and any proposed reserve.

(b) A financial report may include supporting schedules to provide necessary additional details or explanatory notes.

Sec. 35.4 Required contents of financial reports for conservatorships, guardianships and other estates.

(a) Except as otherwise directed by the court, a financial report for a conservatorship, guardianship, or any other type of estate not specified in Rule 35 shall include the following information with respect to the accounting period:

(1) the aggregate value of estate property at the beginning of the accounting period reported on the inventory or the most recent financial report or account;

(2) the total amount of additional assets received;

(3) the total amount of income received in each major category including, but not limited to, interest, dividends, pension, social security, annuities, wages and rent;

(4) the net of capital gains and losses realized on the sale of any assets;

(5) the total amount of administration expenses in each major category, including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees and other expenses;

(6) the total amount of distributions to or for the benefit of the conserved person, minor or person for whom the estate is administered in each major category including, but not limited to, groceries, medical expenses, clothing, rent, utilities, automobile expenses, insurance, spending money, and tuition;

(7) the total amount of assets on hand at fair market value at the end of the accounting period, provided that difficult to value assets, such as real property, may be reported at fiduciary acquisition value; and

(8) if a final financial report, an itemized proposed distribution and any proposed reserve.

(b) A financial report may include supporting schedules to provide necessary additional details or explanatory notes.

Sec. 35.5 Manner of reporting distributions.

(a) The fiduciary shall report distributions on a financial report at fair market value as of the date of distribution, except that distributions may be shown at fiduciary acquisition value if each beneficiary in a class of beneficiaries entitled to the distribution will receive a proportionate share of each asset.

(b) Miscellaneous tangible personal property not itemized on the inventory need not be itemized in a financial report.

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Rule 36 Fiduciary accounting: Requirements for accounts

Sec. 36.1 When principal and income must be reported separately on accounts.

(a) Except as provided in sections 36.1(b) through 36.1(e), a fiduciary that is required to submit an account rather than a financial report may combine principal and income transactions in accordance with section 36.2.

(b) The fiduciary of a decedent's estate shall report principal and income transactions separately in accordance with section 36.3 if:

(1) the will provides for a distribution to a trustee or the establishment of a life estate; or

(2) the surviving spouse elects against the will under C.G.S. section 45a-436.

(c) The trustee of a trust shall report principal and income transactions separately in accordance with section 36.3 if the will or other governing instrument provides for differing income and principal interests.

(d) Except as provided in section 36.1(e), a conservator of the estate, guardian of the estate of a minor or any other fiduciary not specified in section 36.1 shall not be required to report principal and income transactions separately.

(e) The court may, on the motion of any party or on the court's own motion, require a fiduciary to submit an account reporting principal and income transactions separately in accordance with section 36.3 if the court determines that separate accounting is necessary to accomplish the purposes of the estate.

Sec. 36.2 Required contents of accounts when principal and income transactions combined.

(a) An account that combines income and principal transactions shall contain the following summary sections:

- (1) assets and income received by the fiduciary; and
- (2) payments and distributions by the fiduciary and estate on hand.

(b) The section reporting assets and income received by the fiduciary shall summarize all transactions during the accounting period that result in an increase in the amount of the estate and shall include:

(1) the fiduciary acquisition value of assets at the beginning of the accounting period as reported on the inventory or the most recent financial report or account;

(2) the fiduciary acquisition value of additional assets received;

(3) cash advanced to the estate by the fiduciary or another person;

(4) income received;

(5) capital gains realized on the sale of assets; and

(6) adjustments increasing fiduciary acquisition value in accordance with section 34.13.

(c) The section on payments and distributions by the fiduciary and estate on hand shall summarize the transaction during the accounting period that reduce the amount of the estate and shall include:

(1) administration expenses;

(2) in a decedent's estate:

(A) funeral expenses;

(B) state and federal estate and inheritance taxes; and

(C) claims paid to creditors;

(3) capital losses realized on the sale of assets;

(4) adjustments decreasing fiduciary acquisition value in accordance with section 34.13;

(5) the fiduciary acquisition value of distributions to heirs or beneficiaries before the end of the accounting period;

(6) the fiduciary acquisition value of assets on hand at the end of the accounting period; and

(7) if a final account, the fiduciary acquisition value of proposed distributions and any proposed reserve.

(d) The account shall include:

(1) a schedule listing the total amount of administration expenses in each major category, including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes and other expenses;

(2) a statement indicating whether any person who has made a cash advance to the estate expects to be reimbursed;

(3) a schedule listing the total amount of income in each major category including, but not limited to, interest, dividends, pension, social security, annuities, wages and rent;

(4) schedules showing the calculation of capital gain or loss for each asset sold during the accounting period;

(5) a schedule itemizing all asset purchases;

(6) a schedule itemizing all capital changes for assets not resulting in capital gains or losses;

(7) a schedule itemizing assets on hand, shown at both fiduciary acquisition value and fair market value at the end of the accounting period;

(8) a schedule itemizing all distributions made to each heir or beneficiary during the accounting period;

(9) if a final account:

(A) a schedule itemizing all distributions proposed to be made to each heir or beneficiary after approval of the account; and

(B) a schedule explaining the purpose of any proposed reserve;

and

(10) any other schedules to provide necessary additional details or explanatory notes.

(e) A final account for a decedent's estate shall include a statement that all funeral expenses, administration expenses, taxes and claims have been paid and all bequests and devises have been or will be distributed.

(f) The court may, on the motion of a party or on its own motion, modify the required contents of an account under section 36.2.

Sec. 36.3 Required contents of accounts when principal and income activities reported separately.

(a) If a fiduciary is required to report principal and income activities separately, the fiduciary shall designate each transaction as a principal transaction or an income transaction in accordance with the will or other governing instrument and the Connecticut Principal and Income Act and shall report the transactions in accordance with section 36.3.

(b) An account that reports income and principal activities separately shall contain the following summary sections:

- (1) principal charges;
- (2) principal credits;
- (3) income charges; and
- (4) income credits.

(c) The section reporting principal charges shall summarize all transactions during the accounting period that increase the principal of the estate and shall include:

(1) the fiduciary acquisition value of assets at the beginning of the accounting period as reported on the inventory or the most recent financial report or account;

(2) the fiduciary acquisition value of any additional principal assets received;

(3) cash advanced to the estate by the fiduciary or another person;

(4) capital gains realized on the sale of principal assets; and

(5) adjustments increasing the fiduciary acquisition value of any principal assets in accordance with section 34.13.

(d) The section reporting principal credits shall summarize all transactions during the accounting period that decrease the principal of the estate and shall include:

(1) administration expenses attributable to principal;

(2) in a decedent's estate:

(A) funeral expenses;

(B) state and federal estate and inheritance taxes; and

(C) claims paid to creditors;

(3) capital losses realized on the sale of principal assets;

(4) adjustments decreasing the fiduciary acquisition value of any principal assets in accordance with § 34.13;

(5) the fiduciary acquisition value of distributions of principal assets to heirs or beneficiaries before the end of the accounting period;

(6) the fiduciary acquisition value of principal assets on hand at the end of the accounting period; and

(7) if a final account, the fiduciary acquisition value of proposed distributions of principal assets and any proposed reserve of principal assets.

(e) The section reporting income charges shall summarize all income receipts during the accounting period and shall include:

(1) the amount of income on hand at the beginning of the accounting period as reported on the inventory or the most recent financial report or account; and

(2) the total amount of income received.

(f) The section reporting income credits shall summarize all transactions during the accounting period that reduce the income of the estate and shall include:

(1) administration expenses attributable to income;

(2) distributions of income to heirs or beneficiaries before the end of the accounting period;

(3) income on hand at the end of the accounting period; and

(4) if a final account, proposed income distributions and any proposed reserve of income assets.

(g) The account shall include the following schedules regarding principal transactions:

(1) a schedule itemizing administration expenses attributable to principal in each major category, including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes and other expenses;

(2) a statement indicating whether any person who has made a cash advance to the estate expects to be reimbursed;

(3) schedules showing the calculation of the capital gain or loss for each principal asset sold during the accounting period;

(4) a schedule itemizing all principal asset purchases;

(5) a schedule itemizing all capital changes for principal assets not resulting in capital gains or losses;

(6) a schedule itemizing all principal assets on hand, shown at both fiduciary acquisition value and fair market value at the end of the accounting period;

(7) a schedule itemizing all principal distributions made to each heir or beneficiary during the accounting period;

(8) if a final account:

(A) a schedule itemizing all principal distributions proposed to be made to each heir or beneficiary after approval of the account; and

(B) a schedule explaining the purpose of any proposed principal reserve; and;

(9) any other schedules to provide necessary additional details or explanatory notes.

(h) The account shall include the following schedules regarding income transactions:

(1) a schedule listing the total amount of income in each major category including, but not limited to, interest, dividends, pension, social security, annuities, wages and rent;

(2) a schedule itemizing administration expenses attributable to income in each major category, including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes and other expenses;

(3) a schedule itemizing all income distributions made to each heir or beneficiary during the accounting period; and

(4) if a final account:

(A) a schedule itemizing all income distributions proposed to be made to each heir or beneficiary after approval of the account; and

(B) a schedule explaining the purpose of any proposed income reserve; and;

(5) any other schedules to provide necessary additional details or explanatory notes.

(i) A final account for a decedent's estate shall include a statement that all funeral expenses, administration expenses, taxes and claims have been paid and all bequests and devises have been or will be distributed.

(j) The court may, on the motion of a party or on its own motion, modify the required contents of an account under section 36.3.

(C.G.S §§ 45a-542 through 45a-542ff)

Sec. 36.4 Manner of reporting distributions.

(a) In any schedule to an account itemizing distributions, the fiduciary shall report distributions at both fiduciary acquisition value and fair market value as of the date of distribution, except that distributions may be shown at fiduciary acquisition value if each beneficiary in a class of beneficiaries entitled to the distribution will receive a proportionate share of each asset.

(b) Miscellaneous tangible personal property not itemized on the inventory need not be itemized on an account.

Sec. 36.5 Accounts required to balance.

(a) An account shall balance in the manner provided in sections 36.5(b) and 36.5(c).

(b) In an account in which principal and income transactions are combined, the sum of all assets and income received by the fiduciary reported under section 36.2(b) shall equal the sum of all payments and distributions by the fiduciary and estate on hand reported under section 36.2(c).

(c) In an account in which principal and income transactions are reported separately:

(1) the sum of all principal charges reported under section 36.3(c) shall equal the sum of all principal credits reported under section 36.3(d); and

(2) the sum of all income charges reported under section 36.3(e) shall equal the sum of all income credits reported under section 36.3(f).