

Clerk of Circuit Court
Court Services Department

REVIEW OF COURT SERVICES' AUDITS OF
GUARDIANSHIP ANNUAL FINANCE REPORTS
February 24, 2004

HERNANDO COUNTY CLERK OF CIRCUIT COURT

AUDIT SERVICES DEPARTMENT

MEMORANDUM

TO: Jana Murphy, Court Services Director

VIA: Karen Nicolai, CPA, Clerk of Circuit Court

FROM: Peggy Prentice, CIA, CISA, Audit Services Manager

DATE: February 24, 2004

SUBJECT: Compliance Review of Court Services' Audits of Guardianship Financial Reports

The Audit Services Department's (ASD) Audit Projects Schedule included a compliance review of Court Services' audits of guardianship financial reports. This project is complete.

The purpose of the ASD's compliance review was to provide some assurance that guardianship financial reports are audited in compliance with Administrative Order H-2000-5, "Auditing Duties and Responsibilities of the Clerk of the Circuit Court Regarding Guardianship Files" (the Order).

Generally, the review was limited to the most recent annual reporting period audits. Forms and administrative policies and procedures utilized by the Court Services Department to perform these audits were also addressed. In determining compliance with the Order, the ASD relied upon documentation in the guardianship files.

The ASD has produced the attached report for your review. The report contains the ASD's review comments and recommendations. It also contains management's corrective action plan, management's response. The ASD did not specifically test for fraud or abuse. If the potential for fraud or abuse was identified, these concerns were communicated to you and the Clerk of Circuit Court.

I would like to take this opportunity to extend my appreciation to Court Services staff for the courteous treatment extended to the ASD during this review. If you have any questions, concerns, or need additional information in regard to the above or the attached report, please do not hesitate to contact me at (352) 540-6235, or just stop by my office, room 201.

Review of Court Services Department's Guardianship Financial Report Audits

ATTACHMENT

copy: BOARD OF COUNTY COMMISSION:

Commissioner Mary Aiken
Commissioner Hannah "Nancy" M. Robinson
Commissioner Diane Rowden
Commissioner Robert C. Schenck
Commissioner Mary Whitehouse
Richard "Dick" Radacky, County Administrator
George Roussos, P.E., Deputy County Administrator
George Zoettlein, Office of Management and Budget Director
Kurt Hitzemann, Senior Assistant County Attorney

Clerk of Circuit Court:

Amy Gillis, CPA, Finance Director

OTHER:

Chip Jones, KPMG
Hernando Today
St. Petersburg Times - Hernando Edition
WWJB Radio Station
Hernando County Public Library

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EXHIBIT:

CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT IN AND FOR HERNANDO COUNTY, FLORIDA, ADMINISTRATIVE ORDER H-2000-5

ACKNOWLEDGMENT

ACKNOWLEDGMENT

Other minor findings, not included in this report, have been communicated to management and/or corrected during fieldwork. I thank the management and staff for their cooperation.

Fieldwork was performed by:

Peggy Prentice, CIA, CISA, Audit Services Manager
Barbara Fichter, Internal Auditor

The management response was provided by:

Jana Murphy, Court Services Director

This report was reviewed and authorized by Karen Nicolai, CPA, Clerk of Circuit Court, on February 20, 2004.

PURPOSE AND SCOPE

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PURPOSE:

The purpose of this review is to provide some assurance that guardianship financial reports are audited (by Court Services) in compliance with Circuit Court for the Fifth Judicial Circuit in and for Hernando County, Florida, Administrative Order H-2000-5, "Auditing Duties and Responsibilities of the Clerk of the Circuit Court Regarding Guardianship Files" (herein referred to as "the Order").

SCOPE:

The ASD randomly selected a sample of 30 Court Services' audits of guardianship financial reports performed during 2003. The ASD reviewed 27 of these 30 audits. The remaining three (3) audits were held by the Court during fieldwork and were unavailable for review.

The scope of this review is based upon the Order. The ASD selected from the Order those audit steps that appeared to have the highest potential for liability. Not all of the audit steps in the Order were tested. The ASD selected from the Order and tested the following:

1. The computations in the annual return for mathematical accuracy;
2. Disbursements of material dollar value are supported by canceled checks, receipts, or Court Order, as applicable;
3. Income and/or receipts, of material dollar value, listed on the annual return are reflected on copies of bank or other financial statements; and
4. The assets, liabilities, and materially valued income and/or expenditures reported on the annual return can be reconciled with the data contained in the verified inventory or the most recently Court-approved annual return, as applicable.

In addition, the ASD addressed procedures and forms utilized by the Department when performing guardianship financial report audits.

SCOPE LIMITATIONS:

The ASD did not address the Department's audits of guardianship plans, as there appears to be minimal potential for liability in this area. Generally, the ASD limited the review to the most recent audit. However, there were two instances in which the ASD expanded the scope to include additional financial reports. The scope expansion provides some assurance that the most recent annual financial report is adequate. The ASD relied upon documentation in the guardianship files. The ASD did not render an opinion regarding the Court Services' undocumented (*ex parte*) communications with the Court.

The ASD did not specifically test for potential fraud or abuse. The ASD's review and conclusions are based primarily on management's level of expectation of Court Services staff. This level of expectation is further defined through staff job descriptions. Material concerns identified by the ASD, that Court Services staff would not be expected to detect, were communicated to the Court Services Director and the Clerk of Circuit Court.

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BACKGROUND

BACKGROUND

In accordance with Florida Statute (F.S.) 744, the Clerk of Circuit Court is mandated to perform audits of guardianship financial reports submitted to the Court. This responsibility has been delegated to the Court Services Department. Guardianship financial report audits are performed based upon Circuit Court for the Fifth Judicial Circuit in and for Hernando County, Florida, Administrative Order H-2000-5, "Auditing Duties and Responsibilities of the Clerk of the Circuit Court Regarding Guardianship Files" (herein referred to as "the Order") *See the Order in Exhibit 1*. The Order is the Court's interpretation of F.S. 744. Guardianship reports address guardianship of the person (the ward's physical well-being) and guardianship of the property (the ward's financial well-being). The ASD's review addressed guardianship of the property.

At the onset of guardianship, the Order requires the guardian to file an initial verified inventory of the ward's financial well-being with the Court. Thereafter, the guardian is required to file an annual guardianship report and an annual accounting with the Court. Generally, the annual reporting period is determined by the month in which the initial reports were due to the Court.

During 2003, the Department performed approximately 350 guardianship financial report audits. When these reports are submitted to the Court, they are audited by Court Services staff. Staff utilize audit summary forms (the Report of Clerk of Circuit Court Regarding Verified Inventory form and the Report of Clerk of Circuit Court Regarding Annual Accounting form) to document their audit results. These audit summary reports were created based upon the Order and, once complete, are housed in the case file. In instances when the Court disapproves the guardianship's report, the Court requires the guardian to file an amended report and/or submit additional supporting documents. Once submitted, these additional documents are audited/reviewed by Court Services staff and another audit summary report is completed.

Per management, one of the responsibilities of Court Services staff is to communicate audit concerns to the Courts. Not all verbal communications are recorded in the case file. Court Services staff who audit guardianship financial reports have a workstation in the Judge's office.

**COMMENTS,
RECOMMENDATIONS AND
MANAGEMENT'S RESPONSE**

COMMENTS, RECOMMENDATIONS AND MANAGEMENT'S RESPONSE

Based upon ASD's communications with Court Services, it appears that staff are responsible for "auditing" guardianship financial reports to address compliance with Court directives and/or the Order. These "audits" provide some assurance that guardianship financial reports are reliable, accurate, and complete. The "audits" are conducted with much less complexity than what is expected from a seasoned auditor/accountant who is retained for their judgement and appraisal skills. The Probate Clerk II job standard requires a high school diploma and no audit, bookkeeping, or accounting experience.

The definition of a Court Services guardianship "audit" is a type of desk-review where basic audit steps are performed such as checking for timeliness and tracing expenditures and/or revenues to source documents/reports.

Given the volume of audits performed annually as well as staff resources, it appears that Court Services staff perform audits at an acceptable level. The case files contain confirmation that some identified deficiencies are reported/disclosed to the Court in written format. Some areas of potential enhancements to the efficiency/effectiveness and control environment were identified during the review.

VERBAL COMMUNICATIONS WITH THE COURT

Because verbal information exchanges with the Court are not documented in the case files, this means of disseminating audit results is neither reviewable nor reliable. It could be a potential liability for the Clerk of Circuit Court if a guardian is accused of misappropriating a ward's assets and the Clerk's office is challenged to disclose these verbal audit information exchanges. The Clerk may not be able to substantiate that her office adequately informed the Court of audit findings.

Recommendation: To substantiate that audit findings are adequately communicated to the Court, consideration should be given to documenting verbal information exchanges. This will provide a reliable record that Court Services' audit results were disseminated to the Court and it may also minimize the potential for liability if a guardian is accused of misappropriating a ward's assets.

Management's Response: This recommendation will be implemented to the extent that any audit findings discussed with the Court will be documented via written notations on the audit summary forms.

WRITTEN COMMUNICATIONS WITH THE COURT

Some audit results are communicated to the Court in written format via audit summary forms. These forms have two parts. The first section is a checklist used to record whether the guardianship's report elements are complete/submitted or incomplete/not submitted. This section was not reviewed by the ASD. The remaining section, reviewed by the ASD, is used to communicate identified audit

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concerns. In some instances, these notations are not detailed enough to clearly convey audit concerns/conclusions. It appears that this portion of the form is not used to its full potential and that staff may be supplementing the conveyance of inadequate written audit concerns via verbal communications. As stated above, verbal communications are generally not noted in the case file. Based upon communications with Court Services, it appears that the Courts rely upon audit summaries to ascertain whether guardianship financial reports are in compliance with the Court's directives.

Recommendation: Since written audit notes are the most reliable means of recording the dissemination of audit findings, consideration should be given to using audit summary forms as the primary means of information exchanges with the Court(s). Applicable policies and procedures should be revised.

Management's Response: Management concurs. This recommendation will be implemented immediately. Any discrepancies will be notated with an explanation or attachment effective 2/20/04.

JUDGEMENT

Based upon communications with Court Services, it appears that staff are responsible for auditing (reviewing) guardianship financial reports to address compliance with Court directives and/or the Order. These audits provide some assurance that guardianship financial reports are reliable, accurate, and complete. The audits are conducted with much less complexity than what is expected from a seasoned auditor/accountant who is retained for their judgement and appraisal skills. Therefore, the level of expectation that staff identify and judge extenuating factors or possible deviations from the Court's directives is based upon ticking and tying (tracing items) rather than judgement.

Taking into consideration the above, the ASD expected to find little or no judgement at the staff level. Contrary to this expectation, the ASD identified the following:

- < Assets were not valued consistently and staff used judgement regarding whether the inconsistencies should be reported to the Court. For example, in some cases staff accepted an annuity's cash value versus its surrender value. Although the difference between these two values could potentially under/over-state the available assets of the ward, this was not reported to the Court;
- < Staff used judgement to determine whether extenuating circumstances were reasonable and reportable. For example, staff cited that the Court and the auditor allow more latitude for a guardian who is a family member rather than a non-family member; and
- < Staff used judgement to determine which discrepancies should be reported. For example, staff cited that they only report transactions that are inconsistent with a Court order and are deemed (by staff) as material/unreasonable for that particular guardianship case.

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Recommendation: To provide for a control environment that is consistent, consideration should be given to reporting all deficiencies/discrepancies to the Court via an audit summary form. This will accomplish two goals. First, the Court will have full knowledge of audit findings and secondly, the burden of decision making (using judgement) will be put on the appropriate level of the organization, which is the Court(s).

Management's Response: Management concurs. Effective 2/20/04 all discrepancies and deficiencies will be reported and decisions regarding materiality and reasonableness will be left to the Court. In addition, assets will be valued consistently with regard to cash versus surrender value. Although both values may be given, the surrender value must be stated.

SURVEY

Based upon communications with other Florida county auditors, it appears that there are neither state-wide guardianship audit/desk-review standards and/or forms nor interpretation of the Clerk of Circuit Court's responsibilities in regards to applicable Florida statutes. However, there is much to be learned by obtaining an understanding of other counties' guardianship standards.

Recommendation: To potentially enhance efficiency and effectiveness, consideration should be given to surveying other Florida county probate/guardianship departments to obtain an understanding of the following:

- < Level of review performed,
- < Who performs desk-reviews,
- < If there are higher level reviews performed, and if so, by whom,
- < Obtain a sample of their audit programs or checklists, as applicable, and
- < Obtain a sample of job descriptions of all staff who perform audits or desk checks.

Based upon the information obtained from the survey, consideration should be given to updating and/or revising Hernando County guardianship processes and/or standards (i.e., forms, level of desk-reviews, audit programs, job descriptions/qualifications, etc.), as applicable.

Management's Response: Management concurs. Other county probate/guardianship departments have been surveyed as to the level of review performed, who performs the reviews, whether higher level reviews are performed, job descriptions and checklists utilized. After review of the data, policies and procedures will be revised by May 1, 2004, if it is determined that such revision would be beneficial.

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EXHIBIT 1

This exhibit will be made available upon request. Please contact Audit Services at peggyp@co.hernando.fl.us or call (352)540-6235 to request the exhibit.