

PROBATE COURT OF HAMILTON COUNTY, OHIO

CUSTODIAL ACCOUNT PROCEDURES

A. PROCEDURE FOR INITIAL TRANSFER OF FUNDS TO A CUSTODIAL DEPOSITORY

- (1) Fiduciary appears in Probate Court to execute documents (attached), to transfer Ward's funds to a custodial depository. **NOTE** – There are only two places that participate in the Court's custodial deposit program:

Fifth Third Bank

Downtown Branch 900 Main Street, Cincinnati OH, 45202.

US Bank

Downtown Branch 1116 Main Street, Cincinnati OH, 45202.

- (2) Fiduciary must bring evidence of the current assets to be placed in a custodial depository (i.e., savings account passbooks, checks, certificates of deposit, etc.) and bring letter of authority for each financial institution to the Court to make the above transfer(s).
- (3) Fiduciary executes Application and Entry to Release Funds to be Deposited with a Custodian in Lieu of Bond. All applications and entries to authorize the placement of funds in a custodial depository must be reviewed and approved by a Magistrate before they are filed.
- (4) When funds are deposited, it is the fiduciary, not the Court, who chooses the type(s) of account(s) to be established with the custodial depository. CHECKING ACCOUNTS CANNOT BE PLACED IN A CUSTODIAL ACCOUNT FOR THEY MUST BE COVERED BY BOND.
- (5) If funds are to be transferred from other financial institutions, the fiduciary must exercise "sight draft(s)" for all certificates of deposit and/or savings accounts along with signature card(s) for the custodial financial institution. The custodial depository will notify the other financial institution that it has been appointed as custodial depository by the Court and no funds can be withdrawn from the account(s) without Court Order.
- (6) Fiduciary must execute signature card(s) of the custodial depository for each account established. (CHECK WRITING PRIVILEGES ARE NOT AUTHORIZED ON CUSTODIAL ACCOUNT(S)).
- (7) All of the above documents must be submitted to the custodial depository which will acknowledge receipt of the same to the Court using court form "Verification of Receipt and Deposit" (Form 204.07) and forward same to:

Hamilton County Probate Court
William Howard Taft Center
230 E. Ninth Street
Cincinnati, Ohio 45202
Attention: Accounts Department

The custodial depository will retain all instruments and papers on file until the case is terminated or the funds transferred.

- (8) The custodial depository will monitor the maturity dates of all certificates of deposit which it holds. Prior to the maturity date of such certificate(s), the custodial depository will notify the fiduciary of the approaching date of maturity. The fiduciary must then direct the custodial depository as to how the funds in the maturing certificate(s) are to be reinvested. This can be accomplished without a court order provided no funds are withdrawn from the account.
- (9) The custodial depository may have funds which are deposited in other financial institutions transferred to it, and may reinvest said funds pursuant to the fiduciary's directive. The custodial depository shall retain in its file all evidence of assets held in other financial institutions. CERTIFICATE OF DEPOSIT FUNDS CANNOT BE TRANSFERRED UNTIL THE MATURITY DATE OF THE CERTIFICATE.
- (10) The fiduciary must file an Application to Expend Funds with the Court prior to any withdrawal of funds from the custodial depository. FIDUCIARY MUST PRESENT A CERTIFIED COPY OF THE COURT'S ENTRY AUTHORIZING EXPENDITURE OF FUNDS TO THE CUSTODIAL DEPOSITORY BEFORE ANY FUNDS CAN BE RELEASED BY SAID DEPOSITORY.
- (11) The fiduciary may request the custodial depository to issue checks in payment of Ward's expenses in the name of specific payees as is approved and ordered by the Court. It is the responsibility of the fiduciary to forward checks to named payees. A certified copy of the Court's Order must be presented to the custodial depository.
- (12) The custodial depository shall furnish the Court with an annual statement of all transactions affecting the custodial account. All records or statements must reflect:
 - (a) The name of the Ward, decedent or trust;
 - (b) The fiduciary's name;
 - (c) The court case number;
 - (d) The custodial depositor's name;
 - (e) Custodial depository account number(s) and type(s) of account.

- (13) There is no charge for these services by a custodial depository.
- (14) If ALL funds attributable to a fiduciary are maintained in custodial depository accounts, no joint control with an attorney is required and bond may be dispensed with. Further, no account is required of the fiduciary other than that required annually from the Court and custodial depository. **A GUARDIAN'S INVENTORY IS REQUIRED AND MUST BE FILED WITHIN 90 DAYS OF THE GUARDIAN'S APPOINTMENT.**
- (15) Forms are available to be used when terminating guardianships, estates and trusts. A certified copy of the form must be presented to the custodial depository in order to close the account(s) and disburse funds.

B. PROCEDURE FOR TRANSFERRING ESTABLISHED CUSTODIAL ACCOUNTS

- (1) A Court Order is not required to transfer custodial funds from an established custodial account into a new custodial account within the same financial institution, provided no funds are disbursed. Any deviation will require a Court Order authorizing the change to be made.
- (2) A Court Order is required when custodial funds are requested to be transferred from a custodial account into a non-custodial account or if funds are requested to be transferred to a different financial institution. **ADDITIONAL BOND WILL BE REQUIRED IF CUSTODIAL FUNDS ARE TRANSFERRED INTO A NON-CUSTODIAL ACCOUNT.**

A CITIZEN’S GUIDE TO COMMUNICATING WITH THE JUDGE AND MAGISTRATES

Why can’t I communicate directly with the judge or magistrate on my case?

If the matters are contested, judges and magistrates are not allowed to communicate with individual parties. This is what the law calls an *ex-parte* communication (this is when a judge or magistrate only communicates with an individual party, on their own, without the knowledge of all parties to a case). In order to keep the court process as fair, equal and as transparent as possible, *ex-parte* communication is strictly forbidden. It is unfair for the court to share information without all of the parties present.

You cannot email the judge or magistrate, as the email is considered an *ex-parte* communication. In addition, emails are not pleadings (motions.) You cannot write a personal letter to the judge or magistrate as this may be considered an *ex-parte* communication.

How can I speak to the judge or magistrate on my case?

Typically, to speak to the judge or magistrate on your case, you must file a written motion with the court explaining what you want the court to do and all motions become part of the public record. You also have to send a copy of whatever you file to the other parties, or their attorney if they are represented by an attorney (this is called “service”). A motion is not considered an *ex-parte* communication because all parties are officially notified. You may be required to pay a filing fee when you file your written motion. Please note, there is no fee if you wish to speak to the magistrate in an uncontested matter, on their assigned walk-in days.

I’ve heard there’s always a magistrate on duty to hear arguments immediately – what does that mean?

There is a magistrate on duty every business day. The on-duty magistrate may answer generic procedural questions. The on-duty magistrate may also discuss matters in an uncontested case. For all other matters, the on-duty magistrate is prohibited from speaking with you. To address the court for these matters, you must file a written motion. The on-duty magistrate will set the matter for hearing before the magistrate assigned on your case or the judge.

What if I need to tell the judge or magistrate something I don’t want the other party to know about?

Unfortunately, you cannot withhold information from another party to your case. In order to keep the case fair to everyone involved, as soon as you tell the judge or magistrate something, you must also tell the other parties. All sides must have an opportunity to respond to the information that you have shared with the court.

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

IN THE MATTER OF: _____

CASE NO. _____

SELF-REPRESENTATION ACKNOWLEDGMENT

I acknowledge that I have read, understand and agree with all of the following statements:

1. The Court has recommended that I hire an attorney to represent me in this case. However, I have chosen to proceed with this case without the assistance of an attorney.
2. The Court and its Deputy Clerks are prohibited by law from providing legal advice. I will follow the instructions provided in the form packets and on the Court's website, www.probatect.org.
3. I am responsible for understanding and correctly applying any statutes, case law, rules, regulations, policies, and procedures that relate to this case, including, but not limited to, the Ohio Revised Code, Rules of Superintendence for the Courts of Ohio, Hamilton County Probate Court Local Rules of Practice, and the Ohio Rules of Civil Procedure.
4. The same standards that apply to attorneys and persons represented by attorneys in similar probate hearings will apply to myself.
5. If I do not fulfill my responsibilities in this case as required by law, I may be subject to sanctions or penalties as provided by law, which may include removal as fiduciary or being required to be represented by an attorney.
6. I may be personally liable to any person or entity that suffers damages as a result of anything I do or fail to do in this case that does not comply with the legal requirements.

Fiduciary/Applicant/Guardian

Typed Printed Name

Address

City/State/Zip

Telephone Number (include area code)

Email

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

**TRUST OF
GUARDIANSHIP OF** _____

CASE NO. _____

**APPLICATION FOR RELEASE OF FUNDS TO
CUSTODIAL DEPOSITORY IN LIEU OF BOND**

Now comes the undersigned, Fiduciary of the Estate of the above-named ward, and applies to the Court for an order releasing to _____, as Custodial Depository, the following personal property in possession of or subject to the control of said guardian:

Property of ward in possession of fiduciary [State source (gift, inheritance, insurance proceeds, etc.), name and address of source, and amount]:

Property of ward not in possession of fiduciary, but subject to fiduciary's control
[State name and address of holder and amount]:

Wherefore, the fiduciary requests the Court to order the deposit of the above-named property directly to _____, as Custodial Depository, to be held by said institution in lieu of bond until further order of this Court. Pursuant to the provisions of O.R.C. §2109.13

Fiduciary

**PROBATE DIVISION OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

TRUST OF
GUARDIANSHIP OF _____

CASE NO. _____

**ENTRY ORDERING RELEASE OF ASSET DIRECTLY
TO CUSTODIAL DEPOSITORY TO BE HELD IN LIEU OF BOND**

This cause came upon the application of the fiduciary of the estate of the above-named ward to deposit personal property currently held by or in the control of the fiduciary in lieu of bond.

The Court finds the application well taken and orders the property currently in the possession or control of the fiduciary in the amount of _____, to be deposited into _____, whose address is _____, in Account No. _____, for the benefit of _____

The Court further finds that the following asset(s) is in the possession of _____, whose address is _____

Said party in possession is holding these assets because _____ (specify: 1 gift, from whom; 2. inheritance, from which estate; 3. insurance proceeds from whom; 4. other). It is hereby ordered that said party in possession forthwith deliver all funds and accumulated interest, if any, to the above described Custodial Depository. A Verification of Receipt and/or Deposit of Custodian shall be filed within 14 days. **NO FUNDS MAY BE TAKEN FROM THE CUSTODIAL DEPOSITORY ACCOUNT WITHOUT COURT ORDER.**

Ralph Winkler, Probate Judge

cc: Custodial Depository

**PROBATE COURT OF HAMILTON COUNTY, OHIO
RALPH WINKLER, JUDGE**

**TRUST OF
GUARDIANSHIP OF** _____

CASE NO. _____

VERIFICATION OF RECEIPT AND DEPOSIT
[For use in Custodial Account]

Pursuant to Court order, the sum of \$ _____ was deposited with _____ on the _____ day of _____, _____, as evidenced by Savings / Certificate of Deposit Account Number _____.
Whereas, the fiduciary has presented the assets for such deposit together with a certified copy of the Entry of said order.

WHEREFORE, the undersigned hereby acknowledges the deposit and / or receipt of the assets and agrees to hold the same subject to the further orders of the Court.

By accepting said deposit for said ____ minor ____ incompetent ____ trust, said institution agrees that said deposit is to be held and no part thereof released until:

- (a) Guardian of the ward's estate has obtained a Court Order.
- (b) Trustee of the beneficiary has obtained a Court Order.
- (c) Other Court Order.

Financial Institution

By: _____
Authorized Officer

Typed or Printed Name

Phone Number

Date

POINTS OF CONTACT FOR CUSTODIALS ACCOUNTS – 5/3 BANK

Corey Leising
(Savings, CD's and Securities)
Financial Center Manager
Fifth Third Bank
900 Main Street
MD100611
Cincinnati, OH 45202
Ph. (513) 579-5520
Fax (513) 579-5523
Email: corey.leising@53.com

POINTS OF CONTACT FOR CUSTODIALS ACCOUNTS – US BANK

Jennifer Corry

Officer/Branch Manager

Over The Rhine

1116 Main Street | CN-OH-9054 |

Cincinnati, Ohio 45202-7236

Ph. (513) 263-1802

Fax (513)263-1811

Email: jennifer.corry@usbank.com