

10 Things a Guardian Should First Check in an Accounting

1. Jurisdiction

Has jurisdiction been obtained over all necessary parties (by citation or waiver and consent)? Were citations served within the time limits of SCPA 307 (10 or 20 or 30 days)? Were parents of minors served? Were infants 14 or older also served? Is required information about minors set forth in petition?

2. The Will

Does the accounting party have it right? Are all bequests properly shown in the schedules? Are the necessary people cited? Does the will contain any special fiduciary powers or authorizations? Read the whole will and not just dispositive provisions?

3. Numbers

Do numbers in Summary Statement match up with number totals in Schedules? Do numbers on the Summary Statement add up correctly? Do numbers in Schedules add up correctly? Is the cash reconciliation accurate? Zero sum: is every asset shown as received (e.g., Sch. A or A-1 [principal or income received] or F [new investment] shown as disposed of [Sch. A-1 or B-1] or on hand [G or G-1]?

4. Losses on Investments (Realized or Unrealized)

As a general rule of thumb, if there is a loss of 25% or more on an investment, a GAL should make inquiry as to the circumstances, and report on the results of that inquiry.

5. Proper Format

For estate accountings there are different formats for Estates without Trusts (Form JA-7) and Trusts and Estates (Form JA-4).

6. Family Tree

Required if (i) there are no distributees, (ii) only one distributee, or (iii) “where the relationship to the decedent is grandparents, aunts, uncles, first cousins or first cousins once removed” (Uniform Rule 207.16). This becomes relevant for accountings for administrators of intestate estates.

7. Due Diligence

Uniform Rule 207.16(d) requires that a petitioner exercise “due diligence” to find missing distributees. In some cases, the citation must be addressed to “unknown distributees” and the citation must be published. This becomes relevant for accountings for administrators of intestate estates.

8. Proposed Schedule of Distributions

Does it accurately set forth the way the assets should be distributed?

9. Commission Calculations

Are they accurate? E.g., are specific bequests and non-probate assets excluded from estate commissions? Are estate commissions properly separately applied to receiving and to paying? Are computations of interim annual commissions for trusts included?

10. Debts and Expenses

As a general rule, debts and expenses are the source of a majority of the problems with an accounting. Principal and income charges: are they accurate (e.g., trust annual commissions 2/3 to principal and 1/3 to income)? Are debts and expenses on the correct schedules? Are expenses proper (e.g., are payments shown for cable TV for years after death? Are there beauty parlor expenses as debts of a male decedent? Do professional fees (e.g., legal and accounting) look appropriate? Should affidavits of services be required?