

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF **DUTCHESS**

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IN THE MATTER OF THE APPLICATION FOR THE
APPOINTMENT OF A GUARDIAN BY:

GEORGE THOMPSON

**PETITION FOR
GUARDIANSHIP**

Petitioner,

FOR: **HARDY THOMPSON**

Index # _____

A PERSON ALLEGED TO BE INCAPACITATED
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The petition of **GEORGE THOMPSON** by his attorneys, Teahan & Constantino LLP,
respectfully alleges:

1. The name and address of the Alleged Incapacitated Person is:

**Hardy Thompson
1969 Howard Road
Poughkeepsie, NY 12601**

2. Mr. Thompson (“AIP”) resides alone in his domicile resident. The names, addresses
and telephone numbers of the persons that the petitioner intends to serve with the Order to Show
Cause and the nature of their relationship to the AIP are:

<u>Name and Relationship</u>	<u>Address</u>	<u>Telephone Number</u>
George Thompson Son	66 Butch Drive Wappingers Falls, NY 12590	(845) 298-1012
Pauline Martin Daughter	48 Pleasant Circle Washington, DC 20020	(202) 678-0213

ALLEGED INCAPACITATED PERSON’S FUNCTIONAL LEVEL

3. Upon information and belief:

a. HARDY THOMPSON (“AIP”) was transported via ambulance and admitted to Vassar Brothers Medical Center on February 7, 2017.

b. The AIP was transferred to Sharon Hospital in Sharon, Connecticut and placed in its Senior Behavioral Health Care Unit for psychiatric testing and evaluation.

c. The AIP is alleged to be incapacitated in that he is unable to provide for his personal needs and property management. Also, he does understand the nature and consequences of his said inability.

d. The AIP requires helps with some daily living requirements, including but not limited to bathing, dressing, eating, cooking, shopping, housekeeping and bill payment. Accordingly, the Petitioner believes the AIP is unable to care for his personal needs and property management.

4. Despite having a number of individuals to provide support, the AIP will go days without eating properly, neglecting his personal hygiene, health matters (i.e., he forgets to take his medications) and basic house cleaning. The AIP will not call his children or other friends for assistance to tend to his medical appointments, refilling his medical prescriptions, shopping for food, cleaning supplies and hygiene products. Instead, the AIP will go for days without the necessary items. When reminded of the things he has neglected, the AIP becomes enraged and insists that he can take care of himself. The AIP does not understand the nature and consequences of his said inability to provide for his personal needs.

5. Despite having sufficient financial resources, the AIP, has on more than one occasion, forgotten to pay certain utility bills and his tax bills. The Petitioner, when visiting the AIP at his residence, the Petitioner found a termination notice from the utility company affixed to the AIP's front door. The Petitioner periodically checks with the Tax Collector to confirm receipt of payment of the AIP's property and school tax payments. The AIP does not possess the physical ability to maintain the inside or outside of his home (i.e., he is beginning to hoard items in his home; and he fails to clear the walk-way to prevent injury to himself or others who may visit him) nor does he make the necessary arrangements to hire someone to provide this service for him. The AIP does not understand the nature and consequences of his said inability to care and manage his property.

**POWERS SOUGHT WITH RESPECT TO
PERSONAL NEEDS AND PROPERTY MANAGEMENT**

6. The Petitioner seeks powers with respect to the:
- a. Personal needs of the AIP and their relationship to the functional level and needs of the AIP are as follows:
- (1) Determine who shall provide personal care or assistance.
 - (2) Make decisions regarding the social environment and other social aspects of the life of the incapacitated person.
 - (3) Authorize access to or release of confidential information or records.
 - (4) Apply for government and private benefits.
 - (5) Consent to or refuse generally accepted routine or major medical or dental treatment as those terms are defined in § 81.03 of the Mental Hygiene Law, including the right to refuse medical interventions such as intravenous and/or other tube-feeding and hydration

mechanical respiration, antibiotic treatment, surgery, or cardiopulmonary resuscitation, and to otherwise exercise all of the powers of a Health Care Agent under Article 29-C of the Public Health Law, and in addition, to act as a surrogate for the purpose of consenting to an Order Not to Resuscitate under the provisions of Article 29-B of the Public Health Law;

(6) Choose the place of abode of the alleged to be incapacitated person.

b. Property management needs of the AIP and their relationship to the functional level and needs of the AIP are as follows:

(1) Inventory and take possession of the financial assets of the AIP, including, but not limited to, cash withdrawn from his residence, cash currently located at his residence, original stock certificates, certificates of deposit, bank account books, retirement accounts, and policies of insurance, and to sell and/or manage such assets and to invest in and purchase appropriate investments.

(2) Creation of a checking account into which all income of the AIP can be direct deposited, including, but not limited to, social security checks, pension payments, dividends, governmental benefits, etc.

(3) Engage in banking transactions for the AIP.

(4) Engage in insurance transactions, including, but not limited to, life, health auto, accident and all other insurance.

(5) Estate transactions; including renouncing or disclaiming any interest or interests that AIP may have in any estate, whether through right of election, inheritance, gift, devise or otherwise.

(6) Claims and litigation of which AIP is or may be party.

(7) Making gifts up to and in excess of the amount of the AIP's gift tax annual exclusion, including transferring of title of his assets and title of his real property to one or more revocable or irrevocable Trusts in order to minimize exposure to gift estate, or other taxes.

(8) Creating, funding or amending revocable or irrevocable intervivos trusts, including so-called Medicaid Trusts.

(9) Chattel and goods transactions.

(10) Bond, share, and commodity transactions.

(11) Access to safe deposit boxes/vaults/safes.

(12) Power to sign tax returns and deal with all federal, state and local taxing authorities on all claims, litigation, settlements and other matters.

(13) Power to deal with all pension, retirement incentive, I.R.A./Keogh/SEP and similar type plans, programs and annuities.

(14) Power to deal with Medicare and Medicaid claims, litigation and settlement.

(15) Power to enter into buy and sell transactions.

(16) Power to forgive and collect debts.

(17) Power to claim, negotiate, obtain, and settle claims and actions for government entitlements and benefits of all kinds with all government administrations an agencies.

(18) Power to make statutory claims and elections.

(19) Power to pay salaries of employees and to employ and pay household help and health aides for the alleged incapacitated person.

(20) Power to provide the alleged incapacitated person with personal health care services from others.

(21) Power to implement and make tax savings decisions; including without limitation estate and gift tax savings.

(22) Power to retain attorneys, accountants, investment counsel and similar professionals concerning the alleged incapacitated person's property and affairs and to pay them.

(23) All other matters.

7. Petitioner requests that the duration of the powers with respect to personal needs and property management to continue for the remainder of the AIP's life.

ALLEGED INCAPACITATED PERSON'S RESOURCES AND OBLIGATIONS

8. Upon information and belief, a summary of the property and income of the AIP is detailed in the attached Schedule A. The resources listed on Schedule A will be utilized for the AIP's medical and custodial care, to the extent that the same are not eligible to be covered by insurance or any government or private benefits for which the AIP may be eligible.

To the best of the Petitioner's knowledge, the AIP is not a recipient of public assistance.

9. Upon information and belief, the AIP has no outstanding claims, debts or obligations.

DISTRIBUTEES, PROPOSED GUARDIAN AND STANDBY GUARDIAN

10. The names, addresses, and telephone numbers of the presumptive distributees of HARDY THOMPSON, the person alleged to be incapacitated, as that term is defined in SCPA 103(42), unless they are unknown or cannot be reasonably ascertained, are as follows:

<u>Name and Relationship</u>	<u>Address</u>	<u>Telephone Number</u>
George Thompson Son	66 Butch Drive Wappingers Falls, NY 12590	(845) 298-1012
Pauline Martin Daughter	48 Pleasant Circle Washington, DC 20020	(202) 678-0213

11. The name, address and telephone number of the Petitioner is:

<u>Name and Relationship</u>	<u>Address</u>	<u>Telephone Number</u>
George Thompson Son	66 Butch Drive Wappingers Falls, NY 12590	(845) 298-1012

12. In accordance with Section 81.06(a)(2) of the New York Mental Hygiene Law, the Petitioner is a presumptive distributee of the person alleged to be incapacitated. The Petitioner, the AIP's son, has been acting as caretaker in some capacity to HARDY THOMPSON (and his wife, prior to her death in 2013) since 2010.

There is no proposed standby guardian at this time.

TEMPORARY GUARDIAN

13. The Petitioner is not seeking relief pursuant to Section 81.23 (or Temporary Guardian).

OTHER INFORMATION

14. *Estate Planning Documents.* The Petitioner was able to locate copies of the AIP's estate planning documents: Last Will and Testament, Living Will and Health Care Proxy, Statutory Gifts Rider and Power of Attorney dated April 11, 1996. The nominated executor of the Will was his wife, MAGGIE THOMPSON. The Attorney-in-Fact and the agent was MAGGIE THOMPSON. MAGGIE THOMPSON, the AIP's wife, predeceased him on July 14, 2013.

Upon information and belief, the AIP did not revise his estate planning after the death of his wife in 2013.

15. Personal Information. The AIP is 90 years of age and is currently a patient at Sharon Health Care Center located 27 Hospital Hill Road, Sharon, Connecticut 06069. The AIP was predeceased by his wife on July 14, 2013. The AIP did not remarry. Other than the two distributees named in paragraph 10, the AIP has no other children either marital, non-marital or adopted.

The AIP was admitted to Vassar Brothers Medical Center on February 7, 2017. On February 13, 2017, the AIP was transferred to Sharon Hospital in Sharon, Connecticut and placed in its Senior Behavioral Health Center Unit for psychiatric testing and evaluation. As of this date, the AIP remains in this facility.

WHEREFORE, your Petitioner requests that the Court:

- A. To appoint the Petitioner, GEORGE THOMPSON, as the Guardian of HARDY THOMPSON, an alleged incapacitated person.
- B. Such other relief as the Court deems just and proper.

Dated: March 30, 2017
Millbrook, New York

GEORGE THOMPSON

VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF DUTCHESS) ss:

GEORGE THOMPSON, being duly sworn deposes and says: that the deponent has read the foregoing petition and knows the contents thereof; that the said is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief and as to those matters deponent believes it to be true.

GEORGE THOMPSON

Sworn to before me this
_____ day of March, 2017

Notary Public
Commission Expires: _____
Affix Seal or Stamp:

Pursuant to 22 NYCRR 130-1.1., the undersigned, an attorney admitted to practice in the Courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: March _____, 2017

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