

IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI
_____ JUDICIAL DISTRICT

IN THE MATTER OF THE ESTATE OF

_____, DECEASED

CIVIL ACTION NO. _____

COURT'S ORDER FOR INSTRUCTIONS TO PERSONAL REPRESENTATIVE¹

You have been officially appointed by the Court as the person responsible for handling the Estate of _____, Deceased. Your official title is Personal Representative of the Estate of _____. The Court Clerk has issued you letters Testamentary which are evidence of your authority to act.

As a Personal Representative, you have the general authority to perform acts in the best interest of the Estate. If there is any doubt in your mind about your authority to perform any act, please call your Estate counsel. You are working for the benefit of the Estate, which includes people who will inherit the property and also includes creditors of the Estate, and you are accountable to these creditors through the Court. However, _____'s last Will and Testament waived accountings, but you may be required to file an accounting unless all beneficiaries waive a final accounting. Therefore, you need to keep private records from which the accounting could be made.

Your appointment as Personal Representative puts you in a fiduciary position. You must be

¹Prepared by the Members of the Eighth Chancery Court Liaison Committee 2012

fair to all beneficiaries and not use any Estate assets for your personal gain. Accordingly, the law generally requires the person administering an estate to be bonded. If bond is waived, counsel for the Estate shall notify the Chancellor if funds are received at a later time so that bond may be reviewed and modified as necessary.

Second, your appointment as Personal Representative consists primarily of administering the real and personal property of the decedent. The property must be identified and preserved until the Court authorizes the property to be distributed.

In all estates, an estate asset inventory helps identify the real and personal property. This inventory may be a simple list or an official document filed with the Court. Likewise, an appraisal of the identified assets may be needed unless the decedent waived an inventory and appraisal. You will not be required to file these with the Court unless an interested person insists or the Estate involves tax issues. However, you shall maintain a private inventory and appraisal for tax and other purposes.

After identifying the Estate assets, as Personal Representative, you shall preserve and protect Estate property from vandalism, theft, and the weather. In addition, the Personal Representative shall preserve Estate assets by paying property taxes and maintaining hazard insurance from the Estate checking account.

As Personal Representative you are also responsible for preserving Estate assets by prohibiting the removal of the estate property. To ensure that creditors are paid and that each beneficiary of the Will receives that to which they are legally entitled, a Court Order shall be obtained before distributions of Estate assets or before Estate assets are removed from Mississippi. The Personal Representative shall obtain a receipt from each person who receives Estate assets,

whether by payment of debt or by delivery of real or personal property.

Third, the Personal Representative is responsible for paying the debts of the Estate from the assets of the Estate and distributing the real and personal property to the proper persons. Estate debts are generally separated into two (2) categories, namely; (1) those arriving prior to death and (2) those arising after death. A debt which arises prior to death must be filed with the Court Clerk and should be approved by the Court before payment.

The Personal Representative shall notify all known creditors of debts arising prior to death of their right to file their claim and you must also certify to the Court that you have notified the known creditors. Additionally, the Personal Representative shall publish a notice to creditors in the local newspaper to notify persons that they have 90 days from the date of first publication within which to file a claim against the Estate.

The personal Representative shall not sell or dispose of any personal property prior to the expiration of the 90 day creditor's period. The Personal Representative shall not sell or dispose of any real property prior to the expiration of the 90 day creditor's period, and then only with an Order of this Court.

The Personal Representative shall select a financial institution that will return copies of checks to the Personal Representative. The checks are referred to as "vouchers" and shall be attached to any accounting. The checking account should be styled, "Estate of _____, Deceased, _____, Personal Representative." You are encouraged to write on the check the nature of the debt being paid, e.g. utilities, house payment or car note. All money received after the death of the decedent and payable to the decedent or the Personal Representative should be deposited into the Estate checking account.

The Estate may be closed at any time after the 90 days creditors have to file their claim has expired and the Final Accounting is approved by the Court. However, if the Estate exceeds the minimum estate tax level, the Court will not allow the Estate to be closed until a tax closing letter is obtained from the Internal Revenue Service and the Mississippi State Tax Commission.

Estates may not remain open indefinitely. If the Estate cannot be closed within one (1) year from the date of death, you must have your estate counsel contact the Court annually to give a status report of the Estate proceedings.

CHANCELLOR

Approved as to Form and Substance:

Attorney for the Personal Representative

Personal Representative