



Office for Victims of Crime  
**OVC**

Guardianship Review Protocol

# Accounting Red Flags

# Accounting Red Flags

Inventories and accountings are the mechanism for the courts to monitor the finances of a person under conservatorship. Filed by the conservator (also known as the guardian of the estate), inventories are typically due soon after appointment and accountings on a regular, usually yearly, basis. This list of red flags is intended to help the reviewer identify potential problems in the conservatorship but is not an exhaustive list. For more information, see [www.eldersandcourts.org](http://www.eldersandcourts.org). For guidance on court responses to potential problems, see [https://www.eldersandcourts.org/guardianship\\_conservatorship/resources-for-courts/response-protocol](https://www.eldersandcourts.org/guardianship_conservatorship/resources-for-courts/response-protocol).

## Conservator or Guardian of the Estate Duties and Compliance

- Late accountings or reports
- Incorrect reporting periods
- Reports lacking standard forms/schedules or supporting documentation
- Reports requiring correction
- Reports with beginning balances that do not match the end of prior year balances
- Lump sum reporting that lacks itemized assets, income, or financial obligations/expenses
- Late fees (for missed payments, etc.) charged to the person's accounts
- Bond revoked or expired
- Bond not appropriate based on current estate value
- Conservator is the subject of complaints from family members, neighbors, friends, or the person
- Rapidly depleting estates without Medicaid spend-down or other financial plan

## Assets

- Missing assets that were expected and/or listed in the petition or past reports
- Insufficient explanation or documentation of change in ownership or value of assets
- Unexpected changes in the reporting of assets from past reports
- Financial accounts that are in the conservator's name, co-mingled, or not established as a conservatorship account
- Transfer or sale of personal property or real estate without court approval

## Income

- Missing income sources that are expected and/or were listed in the petition or past reports
  - Pensions/retirement funds
  - Social Security or other public benefits
  - Rental income
  - VA benefits
- Insufficient explanation or documentation of income
- Unexpected changes in the reporting of income from past reports
- Transfer of funds to third-party debit card accounts
- Co-mingling of funds with conservator's personal account
- Failure to arrange for application for Medicaid when needed for skilled nursing facility payment

## Financial Obligations/ Expenses

- Missing financial obligations/expenses that are expected and/or were listed in the petition or past reports
  - Health insurance
  - Property insurance
  - Medical bills
  - Necessities (clothing, toiletries)
- Insufficient explanation, itemization, or documentation of expenses
  - Unexplained use of ATM machines
  - Checks made out to "cash"
  - Lump sum transactions
  - Undocumented or unapproved reimbursements to guardian/conservator
  - Credit card expenses without sufficient explanation
- Unexpected changes in the reporting of expenses from past reports
- Assets used for others, not for the benefit of the person
  - Meal expenses are incurred for individuals other than the person
  - Large or unusual gifts

- Guardian or conservator has a lifestyle that seems more affluent than before the guardianship/conservatorship<sup>1</sup>
  - Items are listed in the accounting but are not present in the home of the person<sup>1</sup>
- Financial obligations/expenses that do not match the person's current physical condition or residential or medical arrangements
  - Living expenses include both an assisted living facility/nursing home and a residence
  - Vehicle expenses or vehicle purchase when person does not drive
  - More than minimal utility charges when the person is not living in the home or the home is empty
  - Does not furnish/pay for clothing for the person living in a nursing home or assisted living facility
- Expenses that stand out as unreasonably expensive or as unusual
  - Large checks written directly to conservator
  - Conservator reimburses self repeatedly without explanations
  - Unusually high fees or high number of hours billed (such as attorney fees, personal care)
  - Non-legal work charged at the same level as legal work
  - Undocumented or unapproved payment for services
- Lack of court approval for large expenses
- The inventory, accounting, or other financial documents do not balance or are mathematically inaccurate

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<sup>1</sup> This would likely only come to light if the court or clerk receives a complaint.

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