

Fiduciary and Care Management

Tom O'Brien, MPA

Executive Director

Edward D. Gardner, CPA

Finance Director

•Trusts •Guardianships •Care Coordination •Consultation

200 First Ave West, Suite 308

Seattle, Washington 98119

(206) 284-6225 Fax 284-6240

www.trustguard.org

About Guardianship Services of Seattle

Created in 1985, Guardianship Services of Seattle provides personal and financial services to a wide variety of people. We act as court appointed guardian or trustee. Individuals appoint us as trustee, attorney in fact or executor. We are engaged by families to provide advice and assistance with budgeting and care management issues.

GSS serves clients of many ages and with a wide variety of estate sizes across Washington State. Our client financial records are audited annually by an independent CPA firm.

Our Mission

Since it was founded, Guardianship Services of Seattle has been committed to providing service to people with disabilities, and we have held our work to the highest professional standards. Our services are aimed at optimizing the welfare and dignity of each individual client. We strive within the authority we are given to make the best personal, medical, financial and budgeting decisions, and to include our clients and their families as much as possible in decision making.

Our Clientele

GSS works extensively with people who have a handicapping condition. This includes people with conditions related to the aging process, people with a mental illness, people with developmental disability, people who have had a traumatic brain injury, or people with a physical handicap. Many of our clients have very minor or no disabilities whose financial circumstances make use of a trust or other arrangements advantageous. We are able to implement financial and personal arrangements in order to maximize the use of public benefits and insurance. We also assist families with planning for personal supervision for a disabled person when making plans for the future or in order to resolve conflicts within the family.

Many of our clients have been fully in charge of their financial or personal affairs, but due to accident or progression of a medical condition, have deteriorated in their abilities. We strive to be sensitive to the difficulties this can cause. Clients are consulted as to personal and financial preferences. Most important, we respect the validity of the client's concerns.

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Our Services

Guardianship Services of Seattle acts in a variety of capacities depending on the legal, personal and financial circumstances; and on the preferences of the client or the client's family. Below are descriptions of the ways in which GSS assists its clients.

Guardianship of Person or Estate

Guardians assist people whose disabilities place them at risk in either their financial or personal affairs. Guardians are appointed and supervised by the court. The guardian can arrange and consent to medical, financial, and professional services as needed. Limited Guardianships are established for people who retain the ability to make some decisions for themselves.

Special Needs Trusts

Trusts are created in wills or from proceeds of lawsuit settlements. Funds are usually invested and managed to provide enhancement of the life of a person with a disability, while preserving eligibility for medical and financial programs.

Powers of Attorney

POA's are a tool by which a person who is competent delegates another to manage some or all financial matters, and to ensure that the individual's preferences for medical treatment are respected in the event of incapacity.

Care management

GSS staff work with individuals and families to identify and resolve problems in living. Examples include identifying residential alternatives, obtaining clinical assessment, preparing plans of care, budgeting personal funds, arranging for care givers and other specialized services.

Budgeting Management

Assistance includes helping an individual or family manage funds and expenses, restore order to neglected financial records, set up systems for attending to routine budget matters and manage investment portfolios and real property.

Investments

GSS adheres to the "Prudent Investor Rule" when making investment plans for Trusts and Guardianships. Professional fiduciaries must balance risk, return, diversification and cost when developing an investment portfolio.

Executor of Estate

GSS staff serve as executors of probate estates in a variety of circumstances. GSS seeks to complete the transfer of assets to heirs in a timely and prudent manner.

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Guardianships

Guardianships are established and monitored by the Superior Court. Guardians are appointed through a legal process in which the rights of the individual are protected and the needs of the individual are reviewed. Guardianship Services of Seattle becomes involved when there is no family, when family are unable to serve due to distance or other factors, when there are irreconcilable differences among family members, or when there has been exploitation or neglect. When there is family support, GSS strives to foster and maintain positive contacts.

Guardianship is appropriate when the individual requires a surrogate to make or implement important decisions. The duties of a guardian can include property management, investment management, management of income and regular expenses, management of medical care and consent, crisis intervention, and ensuring that proper living arrangements are in place.

A guardian of the estate may be given authority to assume control of bank accounts, investments, real property, personal property and other assets. The guardian of the estate often pays routine bills and manages other debts.

A guardian of the person is usually given responsibility for ensuring that the client's medical and personal care needs are met. Services provided vary with the client's physical condition, mental condition, living situation and attitude.

The guardian's authority is often conditioned or limited based on the abilities of the client. Co guardianships are sometimes created, allowing the family to share the duties of guardianship.

Our primary goal is to ensure that clients are treated as valued members of the community and are served in the most valued and least institutional settings possible. Many of our clients are able to live independent lives with supervision. We prefer to provide assistance to clients in their own homes. When this is not possible, we have considerable experience in developing non institutional residential settings. For clients in nursing homes we make regular visits, ensure that appropriate care is provided and advocate for less restrictive alternatives.

Guardians are required to make an initial report that includes a detailed statement of the client's assets or care needs and the plans of the guardian. Guardians are also required to provide an annual court report of their financial and client care activities.

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Trusts

A trust is a fund created by one person, the Trustor, for the benefit of another, the Beneficiary. The trust is managed by a Trustee according to directives set forth in the trust document. Trusts have obvious advantages for many people, but for beneficiaries who have disabilities, the development of a carefully structured trust can mean the difference between care which only meets minimal needs and a future abundant with personal services, recreational benefits, and other extras which public support cannot provide. The creation of a trust affords a future with the security that the beneficiary will not be totally dependent on the vagaries of public entitlements.

There are many types of trusts. The following describes the more common trusts managed by Guardianship Services of Seattle.

A Special Needs Trust is typically created by a parent to meet the needs of a disabled family member. The trust can be created and money contributed to it while the parents are alive (inter vivos or "living trust") or established by a will (testamentary trust). The trust preserves funds and gives the trustee flexibility to meet training, medical, recreational and other needs of the disabled person over and above what would otherwise be provided by the government. It protects the person's eligibility for public support and prohibits the invasion of trust assets by anyone except the trustee for any purpose.

Settlement Trusts are often created by the court with the proceeds from a personal injury suit. A settlement trust function very much like a special needs trust. It protects government entitlements for which the beneficiary maybe eligible. The trustee has the necessary technical expertise to carry out administrative and investment duties of the trust. As trustee, GSS consults closely with the family to provide input on specific needs of the beneficiary, spending matters and investment priorities.

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Investments

GSS manages investments for its trust and guardianship appointments. GSS does not provide investment advice to others.

Upon appointment, Guardianship Services of Seattle begins a comprehensive analysis and planning process that includes:

Complete assessment of the client's financial position

Development of a management and investment plan

Analysis of the financial demands on available funds

Assessment of current and future needs of client in consultation with the client, family and professionals

Often, a new client's assets are already invested appropriately, and it is necessary only to manage these accounts. At other times, with a newly funded trust for example, funds become available that need to be properly invested.

GSS adheres to the "Prudent Investor Rule" when making investment plans. Professional fiduciaries must balance risk, return, diversification and cost when developing a portfolio.

Once we have determined the most appropriate diversification of investments, we create a portfolio, a combination of various types of investments held in any individual account.

Most often we select from individual government securities and competitive, high quality stocks and mutual funds.

When making investments we build the portfolio through a proven, efficient investment process called asset allocation. Asset allocation is a method of combining different types of investment vehicles such as stocks, bonds, and government securities into individual portfolios that target specific investment goals. This process builds upon the particular benefits of each type of investment. The resulting diversification among various types of investments adds a higher degree of safety and return to the account. We combine our continual analysis of the financial markets and economic conditions with the asset allocation process to create an efficient portfolio. At all times we pursue the highest possible return within acceptable level of risk.

Sometimes GSS is requested to use a broker or money manager that is familiar with the client or family served. Our policy is to approve such a broker for the account if they are prudent investors and understand that all trade activities need to be communicated to and approved by GSS prior to any purchase or sale.

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Powers of Attorney

A Power of Attorney is a written document by which a person, the Principal, delegates another, the Attorney in Fact, to manage the Principle's finances.

The powers delegated to the Attorney in Fact are completely within the control of the Principal. The Principal may elect to make the powers "durable," meaning the Attorney in Fact's authority continues if the Principal becomes incompetent.

A power of attorney can be canceled at any time. When and if an individual wishes to revoke the power of attorney, the revocation must be recorded to protect both individuals involved.

An individual must be competent in order to sign a power of attorney. This is an advance planning device that may be used to avoid guardianship.

Medical Powers of Attorney can include a grant of authority over personal issues, including the ability to make substitute health care decisions. This is a valuable tool for ensuring that the preferences the Principal has stated in the Living Will/Health Care Directive are followed.

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Care Management

Guardianship Services of Seattle provides innovative case management to many of its guardianship, trust and power of attorney clients. Care management staff are commonly assigned in guardianships or other cases in which the agency has responsibility for the personal needs of a client. Our staff has considerable experience in successfully addressing the most difficult problems.

GSS provides assistance through strictly private arrangements with individuals or families to assist people with problems in living or financial management. These arrangements can be limited and specific, or can be more general, based on the preferences of the client.

Care Management can include:

A comprehensive assessment of individual needs and development of a plan of care

Working with client and family to develop an appreciation of the client's personal preferences

On going monitoring of care plan services

Assisting clients to develop a personal budget

Arrangement for service providers

Coordination with financial staff

Regular meetings with the client

Transportation arrangements

Regular contacts with family

Crisis management

Arrangements for counseling or other therapies

Advice to families and friends on managing problems

Consultation with physicians, nursing staff and medical specialists

When necessary, managing contacts with law enforcement or mental commitment services

GSS provides consultation in case management to families or others who seek assistance resolving problems or identifying community resources.

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Budgeting Services

Guardianship Services of Seattle is committed to providing the highest level of expertise in financial management. We have comprehensive experience in assessing the financial condition and needs of our clientele. Financial management is done carefully and with scrupulous attention to the highest ethical standards. Our first consideration in financial management is to ensure that the needs of the client are identified and met to the fullest extent possible.

GSS often assumes the management of a guardianship client's routine income, expenditures and other financial activities. We marshal the individual's assets and ensure that funds are safely invested and used to the best advantage of the individual. GSS is highly proficient in meeting the rigorous demands of trust accounting and accounting to the court regarding use of guardianship funds.

Our financial staff provide a wide variety of services, including:

Budgeting

Inventory

Paying bills

Accounting

Making medical insurance claims

Cash flow analysis

Purchase or sale of real property

Investing

Maintaining homes

Preparing financial statements

Organizing tax records and preparing returns

Annual accounting to court or trust committees

GSS provides assistance through strictly private arrangements with individuals or families to assist people with budgeting management and problems in living. These arrangements can be limited and specific, or can be more general, based on the preferences of the client. GSS does not provide investment advice.

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Executor of Estate

One of the most important decisions to make in estate planning is whom you name as executor of your estate. An Executor of the Estate sometimes called a Personal Representative, or P.R. is one or more persons named in a will whom the deceased wishes to administer his or her estate. The executor controls the estate from the time of death until the last federal and state tax returns have been filed and all assets have been distributed to the beneficiaries.

Generally, an executor takes charge of the deceased's assets and/or property and ensures that all outstanding debts, charges and taxes are paid before distributing the net assets to the beneficiaries of the will. The duties of an executor also include auditing the deceased's assets, valuing those assets and applying to the court for a grant of probate, an order of the court saying that the will is valid and that the executor has the right to administer the estate. When applying for probate, certain documents need to be completed and documentary evidence provided to the court. Such evidence can include evidence of death, proof of proper attestation of the will, and details of assets and liabilities.

In some situations an individual may opt for Co Executors of the Estate. A financial professional such as a CPA can be named co executor to help guide a family member through the process.

A Successor Executor is often named in the will in case the original nominee is unable, or when the time comes, unwilling to perform the duties of executor. Spouses, for example, should always have successor executors in case of the event of simultaneous deaths.

By statute, Guardianship Services of Seattle is a corporation and therefore is not eligible to serve as executor of an individual's estate. However both Ed Gardner, CPA and Tom O'Brien, MPA, can be named as individuals to serve as executor of an estate and use GSS staff for support when necessary.



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For More Information

If you would like to obtain additional information or discuss a specific situation, please feel free to contact us. To speak with a representative of Guardianship Services of Seattle, simply call 206 284 6225.

If you would like to send an e mail enquiry, use and address from Contacting GSS Staff above, or go to our website at <http://www.trustguard.org>

GSS maintains another website, <http://www.proguard.org>, which contains detailed descriptions of guardianships, trusts and public entitlements

GSS is a leader in the development of services of professional guardians and trustees. Tom O'Brien, Edward Gardner, Leesa Camerota and other GSS staff are frequent contributors a training seminars for professional guardians, attorneys and guardians ad litem. Tom O'Brien is a member of the Professional Guardian Certification Board.

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Frequently Asked Questions

1. *How do you communicate with clients and families?*

We are easily available to our clients and family members by phone and e-mail, or for personal meetings as required. We have a 24 hour emergency number, should that be needed. We send out periodic statements of activity on the account. We have found that remaining responsive to our individual clients and their family members is the single most effective way to generate satisfaction with our services

2. *How do you charge?*

Our fees are hourly. A fee schedule is available.. We are able to charge a percentage rate on accounts over \$1,000,000, as described in our fee schedule.

3. *What are you portfolio investment practices?*

Before making investment decisions we consult with the client and family members to make judgments about likely trust expenses, the goals of the investment portfolio and to discuss investment strategy. Although we make the final decision as to investments we do seek to satisfy the preferences we have solicited in this process. We invest in loaded and no load mutual funds, Treasury notes, certificates of deposit and similar instruments. We manage stock investments either through a discount broker or through a portfolio manager. When using portfolio managers, the fees are generally less than 1%. We do not issue or own investment instruments. Our investment approach is conservative and in accord with the prudent investor rule. We consider the client's age, disability, tax issues and projected budget requirements when formulating an investment strategy. We do not use pooled accounts

4. *If we want to use a particular investment broker, is that possible?*

We commonly act on referrals to brokers trusted by the family.

5. *Do you know about Medicaid, Medicare, SSI and similar programs?*

We have extensive knowledge of public entitlements. We have acted as guardian for many individuals who require these programs and we have a lot of experience obtaining and maintaining eligibility for these programs. We manage many Special Needs Trusts which requires us to use trust funds creatively and in accord with the limits imposed by needs based entitlements, while effectively addressing the needs of the client. Some of the considerations involved in this work are set out on the "Public Entitlements" page of www.proguard.org.

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6. *How many trusts do you manage?*

We have approximately 450 trusts under management. The majority of these are Special Needs Trusts.

7. *Are your financial reports understandable to an ordinary person?*

Our ledgers are designed to be understandable. Some individuals initially require help understanding them.

8. *How do you keep us informed of what you are doing?*

Ledger reports can be sent monthly, although most people prefer to receive them quarterly.

9. *Can we be involved in how funds are spent?*

We prefer to have input from the client and family on spending decisions. The final decision on such matters rests with the trustee.

10. *How will we request funds for a particular item?*

We like to establish an annual budget which in essence pre-approves certain spending. Disbursements may be requested by phone, letter or e-mail. We do require documentation of spending in the form of invoices, receipts and the like. We require advance approval by the trustee of spending.

11. *Are you aware of the requirements of the court for reports?*

We are very familiar with reporting requirements. We helped develop the model forms currently in use.

12. *Are you audited?*

We are audited annually by an independent auditor.

13. *Do you have insurance or bonding?*

We carry General Liability Coverage \$1,000,000 per incident, \$2,000,000 aggregate; and Errors and omissions insurance \$2,000,000 per incident, \$2,000,000 aggregate.

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The majority of our work is in matters in which we are directly supervised by the court. In individual cases, the court requires posting of a fiduciary bond and often requires accounts to be blocked such that a court order is required to gain access to the funds. GSS has court ordered fiduciary bonds in individual cases in an aggregate amount of approximately \$12,000,000. The aggregate market value of funds held in blocked accounts is \$44,564,328.90

14. *How does GSS go about making major purchases?*

As with all spending from a trust, the Trustee has final responsibility for the prudence and appropriateness of the purchase decision and the cost. This burden is increased for more expensive items.

For house purchases, we like to know that the client will remain in the house for 5 years or so, that there are funds available for taxes, insurance and maintenance, that the client can afford any personal care needed to live independently; and generally that the purchase is in the best interests of the client, and appropriate under the terms of the trust. Ordinarily, the property is held as a trust asset. In close consultation with the client, the trustee chooses a real estate agent and provides parameters for the purchase such as price and location. The client and the agent look at properties, chose one within those parameters and the trustee negotiates the purchase.

For purchase of an automobile, GSS prefers to work through an independent broker who charges a flat transaction fee. A budget for the purchase is established by the trustee in consultation with the individual. The broker discusses preferences within this budget with the client, including any accessibility options that may be needed. The broker assists the client to identify a specific vehicle and the trustee completes the purchase. GSS assures that appropriate insurance is in place

For purchases of major appliances we ordinarily discuss the purchase with the client, decide on a reasonable amount to spend, the client shops and make the specific choice. An invoice is sent to the trustee and is paid. If the client requires assistance from the trustee in any way, that is available.

Assistance is available in instances in which the individual, due to disability, needs assistance in selecting purchases that will have a significant impact and those in which personal tastes are a factor.