

**MENTAL CAPACITY ACT 2005**

**IN THE MATTER OF**

**ANN CLARKE**

1. I, Hugh Adrian Scott Jones of Pannone LLP, 123 Deansgate, Manchester, M3 2BU, make the following submissions in respect of:-
  - a. Charges for the general management of Ann's affairs for the year March 2011 to 2012 and March 2012 to the date of discharge: and
  - b. Costs in these proceedings
2. These submissions are made pursuant to the Order of Mr Justice Peter Jackson dated 9<sup>th</sup> October 2012.

**Annual management charges**

3. First of all, in respect of charges for the general management of affairs, paragraph 6 of Practice Direction B supplemental to Part 19 of the Court of Protection Rules 2007 provides that:-
  - a. "Where professional deputies elect for detailed assessment of annual management charges, they may take payments on account for the first three quarters of the year, which are proportionate and reasonable taking into account the size of the estate and the functions they have performed. Interim bills must not exceed 20% of the estimated annual management charges – that is up to 60% for the whole year...At the end of the annual management year, the deputy must submit their annual bill to the Senior Courts Costs Office for detailed assessment and adjust the final total due to reflect payments on account already received."
4. At the start of the annual management year March 2011 to 2012, the estimated charges were calculated to be approximately £15,000 plus VAT. This was based on the previous year's charges of £12,000 plus VAT and taking into account that further complications were expected to arise. The actual time recorded by the end of the year was just over £14,300 plus VAT.
5. Ann's estate was valued at between £267,000 and £317,000.

6. In accordance with the above, payments on account for the first two quarters were taken in the sum of £1,492.80 and £3,589.12 totalling approximately 34% of the estimated annual management charges and below the 40% that the guidelines would suggest.
7. However, as soon as it became apparent that Ann would be returning to her Blackpool property and her net assets (excluding the house) were expected to fall below the threshold of £16,000 no further payments on account were taken.
8. Whilst I am fully aware that Paragraph 9 of Practice Direction B pursuant to Part 19 of the Court of Protection Rules 2007 states that:-
  - a. "where the net assets of P are below £16,000, the professional deputy for property and affairs may take an annual management fee not exceeding 4.5% of P's net assets on the anniversary of the Court Order appointing the professional as Deputy".

at the start of the annual management year March 2011 to 2012, Ann continued to reside in Spain and it had not been determined as to whether her Blackpool property would be sold.

9. In circumstances where fixed costs are not appropriate, paragraph 11 of Practice Direction B supplemental to Part 19 of the Court of Protection Rules 2007 states that:-
  - a. "professionals may, if preferred, apply to the Supreme Court Costs Office for a detailed assessment of costs. However, this does not apply if P's assets are below £16,000 where the option for detailed assessment will only arise if the Court makes a specific Order for detailed assessment in relation to an estate with net assets of a value of less than £16,000".
10. Accordingly, I would respectfully seek an Order for detailed assessment in relation to the annual management charges for the year March 2011 to 2012 (as above) so as to ratify those payments already taken on account.
11. As for the remainder of the year and the annual management charges for the year March 2012 to the date of discharge, I would propose raising no further bills.

### **Costs in the current proceedings**

12. In respect these proceedings, the general rule as to costs is that they shall be paid by P or charged to his estate.
13. Whilst the Court is allowed to depart from this general rule in certain circumstances, it is my submission that these have not been met.
14. I would therefore respectfully seek an Order for costs to be charged to Ann's estate.
15. Despite the allegations that have been made against me and my firm throughout the course of my Deputyship, I have continued to act in what I believed to be Ann's best interests and in an appropriate manner. All complaints to the Office of the Public Guardian have been fully investigated and no fault has been found.

16. Furthermore, the basis on which this application was contested has been upheld.
17. With proportionality in mind, the majority of the work has been carried out by a "Grade C" fee-earner, with the assistance of a Trainee. However, I have also been required to attend Court hearings and because Ann was a litigant in person, the responsibility for the preparation of bundles fell on me as the first listed Respondent.
18. In total, actual time recorded is just over £8,500 plus VAT.
19. Given the limited funds available, I would be prepared to agree my total costs at £7,000 plus VAT (without the need for assessment) and secured by way of Charging Order against Ann's Blackpool property and only payable after she has died.
20. Alternatively, I would look to have my costs assessed by the Senior Court Costs Office and similarly charged to Ann's estate on the same basis as above.

Signed   
Hugh Adrian Scott Jones

Dated 18/10/12