

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEauga COUNTY, OHIO  
Judge Timothy J. Grendell

Information Sheet

**Use of Estate Checking Account**

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**WARNING**

This Information Sheet is intended to provide you with a brief overview of the subject matter, effective as of the date noted in the upper left-hand corner. The law may have changed since that date. Additionally, this Information Sheet may not provide you with all information that you require to be fully informed of the law that is applicable to your case.

You must decide how to best use the information provided, and whether you should seek legal advice from an attorney of your choosing on any question you have regarding this Information Sheet. While the Help Center can provide you with a limited amount of information, the Help Center staff cannot provide you with legal advice, and this Information Sheet is not intended to provide you with legal advice that is applicable to your case.

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**Background**

Our Probate Local Rules, which can be downloaded from the Court's website, require that an Estate Representative,<sup>1</sup> who has been appointed in a Full Administration, must establish an estate checking account.

**Full Administration**

1. Below is Probate Local Rule 78.5(D)(4)

*Estate Checking Account. Except if the Fiduciary may file a Certificate of Termination as permitted by R.C. 2109.301(B)(2), the Fiduciary shall establish and use an estate checking account for the receipt and disbursement of all funds including the deposit of all sale proceeds, checks payable to the decedent, decedent's cash, and the payment of all expenses, costs, fees, reimbursements, and distributions. As soon as possible, the Fiduciary shall close out all the decedent's bank accounts and other financial accounts and deposit the proceeds into the estate checking account. Unless the Court permits otherwise by court order pertaining to the estate, the Fiduciary shall (i) pay all estate creditors, costs, fees, reimbursements, distributions and all other credits by (a) check drawn upon the estate checking account or (b) wire transfer from the estate checking account (so long as there is documentation that sets forth the recipient of the funds), and*

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<sup>1</sup> "Estate Representative" is the person appointed by the probate court to handle the probate estate, whether the probate process is a Full Administration (in which case the name of that person is the Executor, Administrator, or Administrator with Will Annexed), the Commissioner of a Release from Administration, or the applicant of a Summary Release from Administration. Sometimes that person is called a "fiduciary."

*(ii) not (a) make any cash withdrawals from the estate checking account, including any check for cash, counter withdrawals for cash, or ATM cash withdraws, or (b) establish or use for estate purposes any debit or credit cards.*

2. Suggestions.

a. Establish an Estate Checking Account.

- i. Promptly after receipt of your letters of appointment, you should obtain a federal income tax EIN number for the estate. Although we recommend that you use a tax advisor to assist you, consider obtaining the EIN number using the IRS website - <https://sa.www4.irs.gov/applyein/>. In order to set up an estate checking account, the bank will require both the estate EIN number and a copy of your letters of appointment.
- ii. Select your bank. It need not be the decedent's bank. Determine what will be the cost of checks. You may need a large number of checks. Also, determine what will be the bank's monthly fee and the minimum account balance required to avoid a monthly fee. You could deposit into the estate checking account your own money as a loan to the estate in an amount to avoid the monthly fee.

b. Close Out Decedent's Financial Account(s). As soon as possible, close out the decedent's financial accounts and deposit those funds to the estate checking account. You may want to delay closing out a checking account if the IRS uses that checking account to receive a tax refund by direct deposit. Discuss this issue with your tax advisor.

c. Set up a Log for all Deposits and Checks. Typically, the monthly statements for the estate checking account will only show deposits and checks, without any explanation of the nature of a deposit or check. You need to have and maintain a written log that describes all deposits and checks. When you file Accounts with the Court you must attach the monthly statements for the estate checking account and you must describe the nature of each deposit and each check in the Account that you file.

d. Deposits. All checks, including the proceeds of any sale of probate assets, must be deposited in the estate checking account.

e. Payment of Creditors and other Expense.

- i. All creditor claims and other expenses related to the estate must be paid by check. If an expense must be paid before the estate checking account is established, then you may pay those expenses by check only from your own funds, which will be treated as a loan from you to the probate estate, and may be reimbursed to you after the estate checking account is funded. Such expenses may include home expenses (e.g., utilities, insurance, mortgage payments, cable, etc.). After the estate checking account is established, all

creditor claims and other expenses must be paid only by an estate checking account check. If the estate checking account does not have sufficient funds, then you could loan funds to the estate checking account to cover such payments from the estate checking account. In all events, do not pay any creditor claims or other expenses by cash, debit or credit cards, or direct payments from your checking account or the estate checking account.

- ii. Regarding the funeral director invoice, if you intend to pay the funeral bill from your funds, then pay it using your own check (not credit or debit card), rather than a check from the estate checking account.
  - iii. Use an estate checking account check to pay any disbursements to beneficiaries or next of kin.
  - iv. If you pay estate creditor claims or other expenses from your own funds with the intention of being reimbursed from the estate (which you should not do if the estate checking account has been established), then create a list of the creditors (and the amount paid per creditor) that you paid, in which case the amount paid by you should equal the reimbursement check paid to you from the estate checking account.
  - v. When you pay any creditor, you should have an invoice from the creditor that equals the amount on the check. Store copies of all invoices that you pay until at least one year after the probate estate proceeding is closed.
- f. Do not do the following:
- i. Do not do a direct transfer from the estate checking account to your account for any reason or to creditors, beneficiaries, or next of kin. Again, only pay by an estate checking account check.
  - ii. Do not use a credit or debit card to pay creditors, beneficiaries, or next of kin
  - iii. Do not use cash to pay to any creditor, beneficiaries, next of kin, or any other person or entity that has an interest in the estate.
  - iv. Do not take cash from the estate checking account, including bank counter withdrawals or ATM machines.

**LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.**

**IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.**