Human Resources Administration
Department of Social Services

Trustee Guidelines

for Administration of a Supplemental Needs Trust

Michael R. Bloomberg
Mayor

Human Resources Administration
Department of Social Services

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Commissioner

BRC-300

ACCOUNTINGS:

Each accounting must include copies of the following documents:

- Bank Statements
- Receipts or Bills for any item over $250
- Credit Card Statements
- Cancelled Checks
- Bond Certificate and Bond Premium Paid
- New Court Orders
- Appointment of Guardian for the Beneficiary, if applicable
- Deed to the Property Owned by the trust, if not already submitted
- Title to any Car or Vehicle purchased with trust funds, if not already submitted.
- Updated address and telephone number for trustee and other professionals involved with the trust.

The first submission of an accounting must include:

- Signed Copy of the Supplemental Needs Trust Agreement
- Court Order authorizing the SNT to be established
- Proof of trust funding (Page of bank statement showing deposit)
- Annuity Contract
- Deed to the Property Owned by the trust, if any.

The City of New York established a "Supplemental Needs Trust Monitoring Unit".
You may contact the office at the following address:

Supplemental Needs Trust Monitoring Unit
P.O. Box 3786
Church Street Station
New York, NY 10008-3786
Attn: Director, SNT

SUPPLEMENTAL NEEDS TRUST INFORMATIONAL

As a trustee for a Beneficiary of a Supplemental Needs Trust (SNT) you are responsible for protecting and administering trust funds for a Beneficiary while managing the day to day activities of the trust including making decisions about purchasing items and managing and investing trust assets. A trustee is defined as "a person to whom the property of a Beneficiary is legally entrusted". Being a trustee creates a "fiduciary duty" defined as: "acting in the best interests of the beneficiary". Failure to act in the best interests of the beneficiary can lead to legal action against you for breaking or 'breaching' your Fiduciary duty. Breaching your Fiduciary duty may result in your being required to repay money to the trust or possible criminal prosecution.

SEVERAL LEGAL MANDATES AND GENERAL RULES GOVERNING TRUST PURCHASES ARE:

1. Federal and state law requires that all purchases must be for the sole benefit of the Beneficiary, meaning that something purchased with trust funds must, at the very least, primarily benefit the Beneficiary. Also, the trust assets must be used to enhance the quality of life of the Beneficiary by providing for his/her special needs and supplemental care. The trust funds are not allowed to be used in a lavish or excessive way.
2. If the Beneficiary is a minor, you must consider whether the purchase is a 'parental obligation, something a parent should be providing for their child. If so, the parents must provide it; the funds must not come from the trust.
3. The trustee is prohibited from using trust funds to benefit friends, family or anyone other than the Beneficiary. Examples of this Self Dealing include loaning yourself or someone else money without interest, or hiring yourself or a close friend to do something on behalf of the trust.
4. With some exceptions, the Beneficiary cannot have any access to the funds, nor can he/she be allowed to direct the funds in any way.
5. Trustees are given broad discretion over what is an appropriate expenditure to make from trust funds. However, those decisions are subject to review by the HRA Supplemental Needs Trust Monitoring Unit and the Courts.

The Courts have the power to issue orders. Follow the court order and submit a copy of the order with the annual accounting which must be completed reporting all assets, income and disbursement related to the trust account for the previous year. The Annual Trust Accounting Document will be mailed to the trustee in January and must be completed and returned to HRA before May 1st, at the address shown on page 4 of this document. Trust funds may be used to pay for a professional financial advisor/CPA for preparation of the Annual Trust Accounting.

For details on documents which must be provided with the annual accounting, see the list on **page 4** of this informational.

TRUST PAYMENT GUIDELINES

Rent and Utilities:
These expenses incurred on behalf of the Beneficiary may be paid from the trust. The SNT contract may also provide specific guidelines regarding these payments.

Vacation, dining, activities:
Only Beneficiary and one companion may be paid for with trust monies.

Gifts, Charity, Political Donations:
Not allowable expenses.

Credit/Debit Cards:
If used for trust fund purchases, a single card must be used only for the beneficiary with receipts and detailed records being maintained.

Insurance:
The trust can only pay for insurance on items that are part of the trust, such as a house or a car.

ACQUISITION OF SIGNIFICANT ASSETS:

The purchase of significant assets such as a house or car, and other items, e.g. furniture must meet the special needs of the Beneficiary. The trust agreement may require additional steps be taken before the purchase can be made, such as petitioning a court or asking the Supplemental Needs Trust Monitoring Unit for consent. Decisions regarding expending monies from the trust principal must be made prudently and be justifiable from a budgetary perspective, ensuring the purchase is for the sole benefit of the beneficiary.

For large purchases requiring title, such as a car or house, the trust must be the title holder.

MANAGING AND INVESTING TRUST ASSETS:

Assets are any item of economic value owned by the trust, especially that which could be converted to cash. Examples of assets are cars, stocks, artwork, appliances, furniture and high value items such as jewelry and artwork. If trust funds are used to purchase these items or if it was owned by the beneficiary prior to the establishment of the trust and it retains a value, it is an asset of the trust, and must be included in the total value of the trust.

INVESTING IN ASSETS:

For stock/bond/security investments, meticulous records must be maintained and brokerage statements must be retained. You should consider professional financial advice, as there may be other investment options that may be better suited for trust funds. Insurance should be purchased for larger items like cars or property.

MAINTENANCE:

Many assets, such as cars need maintenance or upkeep to retain the value. The trust can pay for the maintenance. However, the trust should only pay for the use by the Beneficiary towards care and maintenance of the vehicle as well as for gas, tolls, etc. As the primary purpose of a vehicle is for the beneficiary's transportation, expenses incurred for use not involving the beneficiary should be covered separately from the trust.

MANAGING ASSETS:

The trustee may sell an investment, such as a car, appliance, or furniture. The cash generated from the sale is the property of the trust, and must be deposited into the trust account immediately.

The trust may be required to pay taxes each year on any income received or property owned.

Consultation with a tax professional is allowed if necessary using trust funds.

DOCUMENTS TO KEEP:

As trustee, appropriate documents must be retained and maintained. The following lists several documents which must be maintained.

Court Documents: All court papers must be kept, as they are legal documents that help Courts and HRA interpret the trust agreement and the law.

Trust Agreement: The Trust Agreement is the legal document that governs the trust. A signed copy should be kept by you at all times.

Bond – When a bond is required, there is a certificate issued with the details of the bond. A bond is a certificate that guarantees that if something happens to the money, the company issuing the certificate will pay the lost money.

Checks – Keeping copies of checks is important to a proper accounting, and are useful in resolving issues with accountings or management.

Bills – Bills provide proof of how much is being expended on utilities and other services.

Annual Accountings – Copies of the annual accountings submitted for each and every year with requested documentation attached for the trust must be retained

Annuity Contract- If an annuity is purchased using trust funds, it must be irrevocable and the trust must be named as the death beneficiary. Retain a statement of the current value.

Deed to Property – Deed to property owned by the trust.

Title to Car – The proof of motor vehicle ownership.

Insurance Policies – Policy(ies) purchased on behalf of the trust.

Receipts – Receipts for disbursements over $250