

## Corporate Guardians Assisting Families During Difficult Times

### Why Choose A Corporate Guardian?

People often feel that they can take on the responsibilities under a power of attorney and act as a guardian (i.e. caregiver) for both the property and personal care needs of a family member. However, if the family member has suffered a life changing injury, the caregiver may find themselves overwhelmed by the demands of arranging for therapy and around-the-clock personal care for their loved one, and may turn to a corporate guardian for help.

Corporate guardians may also be helpful in situations which would require the court appointment of a guardian such as where an individual has not designated a power of attorney or where the named power of attorney has been removed by the courts.

There is a growing trend for the courts to appoint corporate guardians to act either as sole guardian for an incapable individual or as co-guardian together with a family member. Having the court appoint a corporate guardian can help ensure that family members have access to experts who understand the court's legal requirements and processes with respect to guardianships. Please note that, depending on the province, the term "guardian" may be replaced by "committee of the estate", "trustee of the estate" or "substitute decision maker for property", and can be used interchangeably.

### How TD Waterhouse Private Trust Adds Value

TD Waterhouse Private Trust, through The Canada Trust Company, has been providing professional trustee and guardianship services for over 140 years. We currently administer over 120 guardianship client files

with assets under administration of over \$125 million. A dedicated Trust Officer, who is sensitive to the needs

of clients, will help manage all aspects of the incapable person's financial needs with respect and discretion.

TD Waterhouse Private Trust brings a high level of expertise to the role of corporate guardian:

- Management Plans: Our Trust Officers have extensive experience in reviewing management plans as well as a strong understanding of the court requirements.
- Record Keeping & Court Passing Experience: We have the systems and processes in place to maintain detailed tracking of expenses and disbursements as well as an in-depth knowledge of the court process to "pass accounts".

Tax Preparation: We have access to an in-house team of tax specialists that will help complete all necessary tax returns and work with both clients and investment professionals to help develop tax efficient strategies.

- Access to a Team of Investment Professionals: Investing at any time is complex and even more so during times of market turbulence. Working with TD Waterhouse investment professionals helps to mitigate risk by ensuring that the investments are aligned with the investment strategy and risk tolerances of the incapable individual while working to maximize return, protect capital and guard against inflation. Access to investment professionals also helps to ensure that settlements are managed effectively to generate income for current needs and capital appreciation for the future.
- Permanence and Continuity: Having an account handled by a corporate guardian can help to ensure that someone will always be available to manage and care for the financial affairs of the incapable



individual. When a corporate guardian is named, there is no need for the court to consider the appointment of a back-up guardian and the corresponding transition plan, in the event the incapable individual outlives their guardian.

- **Risk Management:** A corporate guardian understands how to develop and adhere to a management plan that must be prepared as a court requirement. The specialized expertise of a corporate guardian helps to prevent family members from taking actions which may not comply with the court approved management plan.
- **Access to Specialized Service Providers:** TD Waterhouse Private Trust has access to, and has worked with, accessibility consultants who understand disabilities and who can work with the individual and their family to address their needs.
- **Management of all Financial Needs:** Bill payments such as property taxes, insurance, caregiver services, utilities, maintenance and repairs can be overwhelming to an individual guardian. Our Trust Officers have expertise in the payment and proper accounting of day to day bill payments to help ensure compliance with the court approved management plan.
- **National Scope:** TD Waterhouse Private Trust has a number of offices across the country, making professional assistance available nationally from Victoria to Halifax. If an incapable individual such as a parent lives in one province, while their next of kin such as a son or daughter lives in another province, the appointment of a corporate guardian will provide the next of kin with the comfort of knowing that a Trust Officer will be locally situated to manage their parent's financial affairs.

### How TD Waterhouse Private Trust Has Served As A Corporate Guardian

**Scenario #1:** A teenager was involved in an automobile accident, resulting in severe injuries leaving the young person wheelchair bound and unable to speak. The family also had younger children which meant that three external caregivers had to be engaged to provide the teenager with personal care on a 24/7 basis. TD Waterhouse Private Trust was engaged to act as corporate guardian for property to handle the payroll for the caregivers, therapists, and housekeeping services needed. TD Waterhouse was also able to engage the

services of accessibility experts to perform required renovations and provide customized equipment. The Trust Officer also ensured that expenses specifically related to the care of the injured teenager were separately tracked to provide the record-keeping required for the court's "passing of accounts" process.

Having a third party manage the payments and accounting also ensured that the teenager's regular expenses and usual family expenses were not incorrectly paid from the account. In addition, the Trust Officer's access to in-house investment professionals helped ensure that the funds were managed to help balance the teenager's current income needs with long term growth to help support the teenager throughout his adult life.

**Scenario #2:** A mother held power of attorney for property for her adult son who lived with her after he was involved in an accident that left him disabled and unable to manage his own financial affairs. The mother was worried about who would manage her son's affairs if she became too ill to continue or when she died since her only other child had their own family and would be unable to take on this responsibility. As a result, the mother chose to have TD Waterhouse Private Trust appointed as corporate guardian with respect to her son's property.

**Scenario #3:** During a delivery, an infant was deprived of oxygen due to human error with the result that the infant suffered severe brain injury. A large settlement was reached with the hospital and TD Waterhouse was engaged to act as co-guardian of property together with the parents. With TD Waterhouse in charge of all financial concerns for the infant, the burden of managing the settlement was removed from the parents who could then focus their energies on coping with the emotional stress of the situation.

Longer term, the parents also had peace of mind knowing that a professional will be managing the financial affairs of their child even after they are gone.

**Scenario #4:** A widowed, elderly gentleman, who was in the early stages of Alzheimer's, was having his financial affairs handled by his power of attorney. The staff at the branch where he conducted his banking became concerned and suspicious when his power of attorney began writing and cashing large cheques payable to the power of attorney.

Under the Substitute Decisions Act and through the Public Guardian and Trustee's office, the named power of attorney was removed by the court and TD Waterhouse was appointed as guardian. This court appointment of a corporate guardian ensured that the elderly gentleman's interests would be protected against fraud and would also provide him with a dedicated Trust Officer to help manage his financial affairs.

### **Conclusion:**

If there is a need to consider guardianship for an incapable individual, a Trust Officer of TD Waterhouse Private Trust would be pleased to discuss the options and assistance available through a corporate guardianship appointment.

Please contact our TD Waterhouse Private Client Services Centres to find out more. You can go online at <http://www.tdwaterhouse.ca/pcs/pt/index.jsp> to locate the TD Waterhouse Private Trust office nearest to you.

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