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STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
PROBATE DIVISION
FIRST JUDICIAL DISTRICT
Case Type 14: Guardianship/Conservatorship

Court File No. 19HA-PR-16-658

In Re Guardianship of:

Charles Paul Helmer,

**ORDER APPOINTING SUCCESSOR GUARDIAN
AND DISCHARGING OF CURRENT GUARDIAN**

Respondent

C.A. File No. VA-20-41

This matter came on for hearing before the undersigned judge of district court on *February 4,* 2021 on a petition seeking an appointment of a professional Successor Guardian for the Respondent named above. Appearing were (*check as applicable*):

- Patricia Benson, Petitioner for Successor Guardian
- Jenny Nystrom, Assistant Dakota County Attorney on behalf of Petitioner
- Karissa Richardson, Respondent's attorney
- Charles Paul Helmer, Respondent
- Anne Fuller, Current Guardian and Objector
- Lori Guzman, Attorney for Current Guardian and Objector

or

Charles Paul Helmer, Respondent, was not present and waived his/her appearance as communicated through his/her attorney

Other: _____

The matter, having been considered by the court and the court being duly advised in the premises now makes the following:

FINDINGS OF FACT

1. The appointment of a professional Successor Guardian is supported by the facts set forth in the Petition and the Physician's Statement in Support of Guardianship and Conservatorship, all of which are incorporated herein as additional findings of fact, and as summarized below.
2. FINDING OF INCAPACITY:

Successor Guardianship:

A. Respondent is incapacitated with regard to the person because Respondent lacks sufficient understanding or capacity to make or communicate responsible decisions. The Respondent's inability is reflected by the following facts:

- (i) Respondent is a 22-year-old male, who has significant diagnoses related to his cognitive abilities and mental health as detailed in the Order Appointing Guardian filed on March 22, 2017 under this Dakota County Court File [19HA-PR-16-658].

- (ii) Respondent was found to be an incapacitated person in the original Order for Guardianship filed on March 22, 2017 and his mother, Anne Fuller, was appointed as his guardian. The findings regarding capacity and the need for guardianship in the March 22, 2017 order are incorporated by reference and adopted herein as additional findings of fact.

and

B. The Respondent is unable to meet Respondent's needs for medical care, nutrition, safety or shelter, even with appropriate technological and supported decision-making assistance, as reflected by the following facts:

- (i) See paragraphs numbered 2.A. above which are incorporated herein.
- (ii) Respondent has had several civil commitments in the previous three years. The court takes judicial notice of the findings and orders under Dakota County Probate Court File Numbers 19HA-PR-17-631, 19HA-PR-18-570, 19HA-PR-19-527, 19HA-PR-20-691 and 19HA-PR-20-939. Respondent was most recently committed as mentally ill on December 10, 2020.
- (iii) Pursuant to the most recent Personal Well-Being Report filed on May 14, 2020, the current guardian recommends no changes to the scope of the guardianship. Respondent continues to be in need of a guardian. Respondent continues to be in need of a guardian.
- (iii) On December 8, 2020, Dakota County Adult Protection received a report regarding Respondent and Patricia Benson was assigned to investigate. After investigating the matter, Ms. Benson filed a Petition for Successor Guardian requesting the appointment of a professional guardian.
- (iv) While not acknowledging or admitting to any wrongdoing while serving as guardian for Respondent, Anne Fuller agrees to resign her role as guardian to allow Ms. Fuller to focus on being a parent to Respondent as opposed to focusing on serving as his guardian.

3. Less restrictive means have been attempted or considered and are not sufficient to meet the Respondent's identified needs, as reflected by the following facts:

- A. Supported Decision Making and a Health Care Agent were considered but not appropriate because Respondent's current support and Guardian, Fuller, is better able to assist Respondent at this time acting as his mother as opposed to his guardian.
- B. Community or Residential Services were attempted but do not address the concerns because such services do not meet the complex needs of Respondent.
- C. Commitment was attempted and is in place but cannot address the long-term issues that require guardianship such as appropriate housing.

D. Less restrictive options have been attempted over the last several years as detailed in paragraphs 4.B.(i)-(vii) above, but Respondent is need of a professional guardian to prevent further compensation.

4. The Respondent is incapable of exercising the following rights and powers:

Successor Guardianship:

- All of the rights and powers under Minn. Stat. § 524.5-313 subd. (c) for a respondent. A limited Successor Guardianship is not appropriate because Respondent requires assistance with all personal decision-making decisions.

(If the Respondent is capable of performing some but not all powers and duties, specify which powers and duties CANNOT be performed by the Respondent.)

Successor Guardianship, § 524.5-313 (c):

- To establish the place of abode for the Respondent within or without the State, Minn. Stat. § 524.5-313(c)(1);
- To provide for the Respondent's care, comfort and maintenance needs, Minn. Stat. § 524.5-313(c)(2);
- To take reasonable care of the Respondent's clothing, furniture, vehicles and other personal effects, Minn. Stat. § 524.5-313(c)(3);
- To give any necessary consent to enable, or to withhold consent for, the Respondent to receive necessary medical or other professional care, counsel, treatment or service, Minn. Stat. § 524.5-313(c)(4);
- To approve or withhold approval of any contract, except for necessities, which the Respondent may make or wish to make (**only given if no conservator is appointed**), Minn. Stat. § 524.5-313(c)(5);
- To exercise supervision authority over the Respondent, Minn. Stat. § 524.5-313(c)(6);
- To apply on behalf of the Respondent for any assistance, services, or benefits available to the Respondent through any unit of government, Minn. Stat. § 524.5-313(c)(7);
- Establish an ABLE account, Minn. Stat. § 524.5-313(c)(9)
- Institute suit on behalf of Respondent and represent Respondent in any civil court proceedings, Minn. Stat. § 524.5-313(c)(10)
- Other: _____
All other powers, duties and responsibilities conferred on the Successor Guardian under applicable law.

5. Respondent is not a patient of a State Hospital for the mentally ill or a mentally retarded or dependent or is not a neglected ward of the Commissioner of Human Services. Respondent is under the temporary custody of the Commissioner of Human Services.

6. Respondent is in need of a Successor Guardian to protect respondent's person.

7. The court finds the Successor Guardian is the most suitable and best qualified among those available and willing to discharge the trust and is not excluded from appointment pursuant to Minn. Stat. § 524.5-309(c).

CONCLUSIONS OF LAW

1. The Respondent is an incapacitated person whose needs cannot be met by less restrictive means.
2. Dakota Conservators, Inc. should be appointed Successor Guardian of Charles Paul Helmer.

ORDER

NOW, THEREFORE, IT IS ORDERED:

1. That the current Guardian, Ann Marie Fuller, voluntarily resigns and is hereby discharged as Guardian for Charles Paul Helmer.
2. Dakota Conservators, Inc. is hereby appointed Successor Guardian of Charles Paul Helmer.
3. Letters of Successor Guardianship shall issue to Dakota Conservators, Inc., upon the filing of an acceptance of appointment, and such letters shall reflect that Dakota Conservators, Inc. is authorized to perform the powers and duties set out in paragraph 3 below.
4. Appointment of powers and duties:

The Successor Guardian shall have the power and duty to:

- All of the rights and powers on behalf of the respondent under Minn. Stat. § 524.5-313(c) paragraphs 1, 2, 3, 4, 5, 6, 7, 9, and 10. A limited Successor Guardianship is not appropriate because Respondent requires assistance with all personal decision-making.

(If the Successor Guardian is granted limited powers and duties, specify which powers and duties are vested in the Successor Guardian by this Order.)

- Have custody of Respondent and establish the place of abode for the Respondent within or without the State, Minn. Stat. § 524.5-313(c)(1);
- Provide for the Respondent's care, comfort and maintenance needs, Minn. Stat. § 524.5-313(c)(2);
- Take reasonable care of the Respondent's clothing, furniture, vehicles and other personal effects, Minn. Stat. § 524.5-313(c)(3);
- Give any necessary consent to enable, or to withhold consent for, the Respondent to receive necessary medical or other professional care, counsel, treatment or service, Minn. Stat. § 524.5-313(c)(4);
- Approve or withhold approval of any contract, except for necessities, which the Respondent may make or wish to make (**only given if no conservator is appointed**), Minn. Stat. § 524.5-313(c)(5);
- Exercise supervision authority over the Respondent, Minn. Stat. § 524.5-313(c)(6);
- Apply on behalf of the Respondent for any assistance, services, or benefits available to the Respondent through any unit of government, Minn. Stat. § 524.5-313(c)(7);
- Establish an ABLE account, Minn. Stat. § 524.5-313(c)(9)
- Institute suit on behalf of Respondent and represent Respondent in any civil court proceedings, Minn. Stat. § 524.5-313(c)(10)

Other: _____;
All other powers, duties and responsibilities conferred on the Successor Guardian under applicable law.

5. The duration of the appointment of the Successor Guardian is limited to 72 months for the following reasons: Respondent is under 30 years of age, therefore duration cannot exceed 72 months pursuant to Minn. Stat. § 524.5-310(d).
6. That the court-appointed attorney for the Respondent is hereby discharged.
7. That Ann Marie Fuller shall turn over any case notes from the past year and any additional relevant information regarding Respondent to the Successor Guardian, Dakota Conservators, Inc., within 30 days of this order.

BY THE COURT



Judge of the District Court

Date: 2/4/21