FACT SHEET FOR PRIVATE COMMITTEES

Your Investment Decisions

As a Private Committee who is managing the financial affairs of an adult who has been declared "incapable", you will need to keep a reasonable amount of money in the adult's bank account to take care of routine needs. Any amount over and above that should be invested. The investments you make must be reasonable and proper, given the circumstances of the person whose affairs you manage. This fact sheet will help you determine the approach to take when choosing the appropriate investments.

Prudent Investor Requirement

The Patients Property Act says that, for the purposes of investing, all Committees are trustees, under the Trustee Act. The Trustee Act establishes the standard of care for trustees. This standard of care is known as that of a "prudent investor". Therefore, Committees are required to exercise the care, skill, diligence, and judgment that a "prudent investor" would when making investment decisions. As a prudent investor, you are required to develop an investment plan or strategy and you should put it in writing.

While the prudent investor requirement is new for many trustees in British Columbia, trustees in other provinces and states have been managing trust investments under similar requirements for a number of years. Given the experiences of these other jurisdictions, the definition of the prudent investor has generally evolved to mean:

- Make investments necessary that a prudent investor would to protect capital and provide income.
- Risk and return objectives must be reasonable and suitable.
- Provide reasonable diversification of investments.
- Act with prudence when delegating investment authority to an agent.
- Trustee should incur only costs that are reasonable and appropriate.
- Adopt a balanced approach to managing investments.

Given the level of care that is required when managing investments, you may wish to seek the assistance of an investment professional.

Investment Risks

There are a number of financial risks associated with investments, especially when you are managing someone else's investments. Should an investment loss occur while you are acting as

Committee, you could be held personally liable for this loss. The Trustee Act states that you cannot be held liable for an investment loss if your conduct that led to the loss conformed to an investment plan or strategy, comprising reasonable assessments of risk and return that a prudent investor would have adopted under similar circumstances. A Committee should make every effort to maintain overall portfolio risk at a reasonable level when developing an investment plan or strategy for the person's investment. For example, the need for stable income would suggest a strategy that limits fluctuation in asset values. An adult's estate must not be exposed to unnecessary risks. A prudent investor only exposes an adult's estate to the level of risk that is associated with the investment return required to achieve the adult's financial objectives.
Critical ways to reduce risks:

- Develop an investment plan in writing
- Seek professional assistance
- Diversify when making investments
- Invest in a conservative manner (minimize risks)
- Monitor investment performance on a regular basis.

This section highlights the importance of developing a written investment plan or strategy, the need to seek the assistance of a qualified professional investment adviser, and the importance of monitoring the performance of investments you are responsible for managing.

Professional Assistance:

You have a legal obligation to manage the person's affairs as a prudent investor. However, you are not expected to have the investment knowledge or experience that most professional investors possess. The Trustee Act permits you to delegate your authority to manage the adult's investments to an agent. As Committee, you can delegate your investment responsibility to an agent once you have determined the investment objectives and if you exercise prudence in:

- Selecting an agent
- Establishing the terms and limits of the authority delegated
- Acquainting the agent with the investment objectives
- Monitoring the performance of the agent to ensure compliance with the terms of the delegation.

There are a number of organizations and individual professionals that provide investment advice services and these include brokerage firms, financial advisers, and financial planners. When choosing an agent, you want to be sure that they are knowledgeable, reputable, dependable and understand the legal requirements of trustees to act as prudent investors. You want to ensure that the fees being proposed by potential investment advisers are both competitive and reasonable. Make sure you ask for an explanation of all fees and commissions, as some investment products, like mutual funds and segregated funds, may have hidden management fees (load fees and administration fees) that are triggered if the investments are sold within a certain period of time.

Identify the Person's Financial Objectives/Goals

The first step in developing an investment plan is to determine the financial objectives of the person whose affairs you are managing. To do this, you need to know what you are managing. You should already have a pretty good idea of the adult's assets and liabilities. Using this information you can create a net worth statement (total assets minus liabilities equals net worth) which will help you identify what assets should be invested. Next, you should prepare a budget outlining the adult's current income and expenses to determine if there is positive cash flow (estate value is growing) or negative cash flow (estate value is getting smaller). It is always good practice to establish a budget as it provides a financial road map that you can follow during the Committeeship.

Once you have an understanding of current income and expenses, you should try to identify any significant costs that may be incurred in the future. Common examples include additional medical costs, caregiver/companion costs, travel costs, acquiring a specialized vehicle, renovations, or the purchase of a residence usually for a younger adult. Other factors to consider include income tax implications, time horizon, the adult's risk tolerance, and any previous investment preferences. After considering these items, you should have an understanding of the person's financial objectives.

Develop an Investment Plan/Strategy

After you have identified the person's financial objectives, the next step is to determine the investment income required to meet these objectives and then develop an investment plan/ strategy to achieve these goals. Key considerations that should be incorporated into any investment plan are current economic conditions, current market conditions, diversification, liquidity of the investments (easily converted into cash), and reasonableness of the investment plan. It is strongly recommended that you seek professional assistance from a qualified investment adviser to assist with the development of an investment strategy.

Investment Options

As a prudent investor you are able to invest in any security or investment that conforms with your stated investment plan/strategy. Some of the more common investment products or securities in which you can invest funds include, but are not limited to:

<u>Debt Securities:</u>

- Guaranteed Investment Certificates (GICs)
- Treasury Bills (T-bills)
- Savings Bonds
- Bonds
- Debentures

Equity Securities:

- Common Shares
- Preferred Shares

Investment Funds:

- Mutual Funds
- Segregated Funds
- Closed-End Investment Funds
- Labour Sponsored Investment Funds

Insured Deposits

We strongly recommend that you deposit funds only with banks, credit unions and other financial institutions who are members of the Canada Deposit Insurance Corporation (CDIC), or the Credit Union Deposit Insurance Corporation (CUDIC). Deposits in member institutions are automatically insured against loss, up to certain limits. The insurance limit for banks is currently $60,000, and for credit unions, it is $100,000. You may want to keep the amount on deposit with any institution under that limit.

Personal Loans

Extending personal loans to yourself or related individuals is considered an inappropriate investment when we review your Committeeship accounts because it is a direct conflict of interest. When appointed by the Court, Committees are placed in a position of trust to manage someone else's affairs and they cannot benefit in any way from the funds they are responsible for managing. As well, Committees are accountable for the decisions they make and should make every effort to minimize the risk of investment losses when managing an adult's affairs.

Real Estate

Making real estate investments for the purpose of rental income or for development purposes can be very risky. Such investments require large sums of capital (dollars) while the expected investment return hinges on the market value of the real estate increasing (price speculation). For most Committeeships, this type of investment would not be considered prudent. Should you wish to invest in real estate, please contact your Committee Review Officer to discuss the matter further.

The person for whom you are Committee may already own real estate or may require a home to live in. Maintaining or purchasing a home for the adult to reside in can be an appropriate investment.

Gold, Art, Other Investments

Investing in precious metals, art, and antiques is not considered to be prudent investment decision for most Committees. Such assets currently owned by the individual for their personal enjoyment should not necessarily be sold. However, such investments are usually very speculative and the items may be difficult to sell in a timely manner. Remember, as a "prudent investor" you need to develop an investment plan that balances risk with an appropriate investment return .

Investor Education Kit

The BC Securities Commission has designed an Investor Education Kit which you may find helpful. While the information is written to assist an individual to manage their own investments, you can use this in your role as Committee. Some of the brochures included are:

- Getting Started
- Investment Planning Worksheet
- Choosing Your Financial Advisers
- Mutual Funds
- Investing and the Internet
- Characteristics of Various Types of Securities (poster)

To obtain the Investor Education Kit, you can contact the British Columbia Securities Commission by calling 1-800-373-6393, or email inquiries@bcsc.bc.ca. You can also look at, or print off the information on the BCSC website at www.bcsc.bc.ca.

Review of Investments

When you present your accounts for review, the Public Guardian and Trustee will examine the investments you manage as Committee. You will be asked to provide a copy of your investment plan or strategy along with detailed information about the investments you are managing. Your Committee Review Officer will review this information to ensure that you are managing the adult's investments in a prudent and professional manner. If you have invested funds in a manner that does not appear to be prudent, you may be liable for the losses incurred by the adult's estate. The Public Guardian and Trustee will be unable to pass your accounts if the investment decisions are inappropriate.

Any Questions, Please Call

Managing investments can be a complex and intimidating responsibility. The prudent investor concept was recently introduced into our Trustee Act and you may have questions. You may find our website www.trustee.bc.ca is a useful reference. Please contact your Committee Review Officer with any questions you have about investments and your Committeeship.

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