

Delinquent and Suspended Fiduciaries

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The court receives many phone calls when attorneys and parties receive a "Notice of Deficiency." There is at times confusion with respect to the status of the fiduciary upon the receipt of the "Notice of Deficiency." MCR 5.203 defines when a fiduciary is delinquent and when they become suspended. If it appears to the court that the fiduciary or fiduciaries are not properly administering the estate, a "Notice of Deficiency" must be sent.

If you have received a "Notice of Deficiency" (PC-600), you are being notified that upon review of the file, you or your fiduciary have failed to comply with a required duty. At that time, you are considered "delinquent." The "Notice of Deficiency" has several check boxes that will define what you have to file or do. Once you have received that notice, the following is applicable:

- You have 28 days from the date of the notice to correct the deficiency; *i.e.*, file your inventory, annual report, receipt of ward, etc.;
- If you do not file the requested document or complete what you are asked to complete within the 28 days of the notice, the court will automatically give you one 28-day extension. All efforts should be made to take care of the deficiency as soon as you receive the notice.
- If you cannot take care of the deficiency within the combined 56-day period, you may request a second 28-day extension. This request must be made in writing using Oakland County Probate Court Form

1063, entitled "Request for Extension of Time for Compliance."

If the fiduciary fails to perform the duties required in the time allowed, the court will suspend you. If a fiduciary is suspended, they in essence lose their powers to act as fiduciary until the deficiency is cured and you are reinstated by the court. In the event you are suspended:

- You must comply with a notice of deficiency requirements; *i.e.*, file required documents, etc.
- You must also file a "Petition for Reinstatement" (PC-603), which will be set for hearing unless "Full Waivers and Consents" (PC-561) are received from all interested persons and are presented prior to the hearing date.
- All necessary filing fees must be submitted with the delinquent documents (inventory fee, account fee, etc.) and there is a \$20.00 filing fee for the "Petition for Reinstatement."

Our goal is to decrease the number of suspended fiduciaries. This requires fiduciaries to act within the 28-day or 56-day grace period once the "Notice of Deficiency" is received. If you have questions or concerns with respect to a "Notice of Deficiency," please contact the court at 248-858-0260. To obtain copies of the above forms, please see our Web site at:

- www.oakgov.com/probate/form_application
 - Click on "In House Forms" for OCPC Form 1063
 - Click on "SCAO Forms" for PCs including 561 and 603
- Stay tuned!