

GUARDIAN:
WARD:

Guardian not authorized to register Series E United States Savings Bonds purchased with minor ward's funds as being jointly owned by minor ward and guardian. Such bonds should be registered in name of minor ward alone, with appropriate reference to legal guardianship.

May 18, 1950.

Hon. S. F. Wier,
Judge of Probate
Atchison County,
Rock Port, Missouri.



5/22/50

Dear Sir:

This is in reply to your recent request for an opinion from this office, which request reads as follows:

"We have a guardianship estate in this Court as follows:

"William Jones died leaving a widow, Helen Jones and one child, Mary Ann Jones, a minor. The widow, Helen Jones has qualified as the guardian and curatrix of the minor child. The ward's estate consists of cash only. The Guardian and Curatrix has invested the entire funds belonging to the minor in United States Series E Bonds, having them registered in the following names:

'Mary Ann Jones
or
'Mrs. Helen Jones.'

"Is this Court within its rights to approve such an investment?"

The privilege of the guardian to invest the funds of the ward in United States Savings Bonds of the E Series is unquestioned. That right is conferred by Sec. 418 (Mo. R.S. 1939) which reads in part as follows:

"Guardians and curators shall, unless the money be invested in improving the real estate of wards as hereinafter provided, loan the money of their wards at the highest legal rate of interest that can be obtained, on prime real estate security, or invest it in bonds of the United States, or bonds guaranteed by the United States.* * *"

The question then resolved itself to the proper manner of registering Series E Savings Bonds purchased by a guardian with funds of the ward.

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Your attention is directed to United States Treasury Department Regulations governing United States Savings Bonds, Department Circular No. 530, Sixth Revision, dated February 13, 1945, Section 315.4 par. (b) (2) reads as follows:

"A minor, whether or not under legal guardianship, may be named as owner, co-owner, or beneficiary on bonds purchased by another person with such person's own funds. A minor may name a co-owner or beneficiary on bonds purchased by him from his wages, earnings, or other money in his possession. But bonds purchased by another person with funds already belonging to a minor should be registered in the name of the minor alone, followed by an appropriate reference if the minor is under legal guardianship, as, for example, 'John Smith, a minor under legal guardianship', or 'John Smith, a minor under legal guardianship of Henry C. Smith.'"

To register the Savings Bonds as you indicate in your letter as jointly owned by both the ward and the guardian when purchased by funds belonging to the ward would seem improper. An investment of the ward's funds in the guardian's own name as an individual is generally improper, and renders the guardian liable for any loss that may result irrespective of any question of good faith or honest intention on his part. A guardian is required to handle the funds of the ward as a separate trust fund preserving its identity as such, and not mingling or using it with any other fund. For the guardian to hold title jointly with the ward is such a failure to identify the bonds as the property of the ward as to be improper.

It is the opinion of this office that ownership of Series E United States Savings Bonds purchased with funds belonging to a ward should be registered as prescribed by the United States Treasury Regulations and not as being jointly owned by the guardian and ward.

Since these bonds have already been issued may we direct your attention to section 315.32 of the Treasury Regulations (cited supra) which provides in part that reissue of a savings bond will be made to show a change in the name of owner, co-owner or designated beneficiary.

For your further guidance section 315.38 of the Treasury Regulations stipulates the manner of redemption and payment to legal guardians in the following words:

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"If the form of registration of a savings bond indicates that the owner is a minor or has been judicially declared to be incompetent to manage his estate and that a guardian or similar representative has been appointed for the estate of such minor or incompetent by a court having jurisdiction or is otherwise legally qualified, payment will be made only to such guardian or similar legal representative. In such case the request for payment appearing on the back of the bond should be signed by the guardian or other legal representative as such, for example, 'John A. Jones, a guardian (committee) of the estate of Henry W. Smith, a minor (an incompetent).'" Unless the form of registration gives the name of the representative, there must be submitted in support of the request a certificate of a certified copy of the letters of appointment from the court making the appointment under the seal of the court. Except in the case of corporate fiduciaries, such certificate or certification should state that the appointment is in full force and should be dated not more than six months prior to the date of presentation of the bond for payment. See Subpart O for payment provisions applicable to bonds registered in the names of guardians and similar fiduciaries. Where the form of registration does not indicate that the owner is a minor for whose estate a guardian has been appointed, a notice that such guardian has been appointed will not be accepted by the Treasury Department for the purpose of preventing payment to the minor or to a parent or other person on behalf of the minor as provided in the two following sections. However, if a legal guardian presents for payment a bond so registered accompanied by proof of his appointment, payment shall be made to such guardian."

CONCLUSION.

Series E. United States Savings Bonds purchased by a guardian or curator with funds belonging to a minor ward should be registered in the name of the minor alone, followed by an appropriate reference to the legal guardianship. Such bonds should not be registered as jointly owned by the guardian and ward.

Respectfully submitted,

JOHN E. MILLS
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney-General