

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of the Estate of TIMOTHY AVERILL, a
Minor,

UNPUBLISHED
October 31, 1997

GORDON AVERILL, Conservator of the Estate
of TIMOTHY AVERILL, a Minor,

Appellant.

No. 196213
Lenawee Probate Court
LC No. 00-040339

Before: Saad, P.J., and O'Connell and Matuzak,* JJ.

PER CURIAM.

Appellant, Gordon Averill, conservator of the estate of his minor son, appeals as of right from the denial of his motion to appoint a co-conservator, and to amend the letters of authority restricting investments on behalf of the trust. We affirm.

The letters of authority and order of appointment at issue here required that all funds be “deposited in a federally insured banking institution” and that no funds be withdrawn without court order. Mr. Averill petitioned to remove this restriction and add United Bank & Trust as a co-conservator in order to invest the trust funds in mutual funds. The probate court denied the request, ruling that the trust funds could either be invested in a bank or with Gleaners Insurance, a local company. Alternatively, the probate court stated that if Mr. Averill filed a bond to secure the trust amount, he could invest the money however he chose.

Mr. Averill contends that the probate court abused its discretion in restricting the investments by the conservator. We disagree. MCL 700.486; MSA 27.5486 permits a court to limit the powers of a conservator at any time, and such a limitation must be indorsed upon the orders of appointment. MCL 700.471; MSA 27.5471 permits a court to require that a conservator furnish a bond conditioned upon faithful discharge of all duties. Therefore, we conclude that the probate court did not abuse its discretion in restricting the terms of the trust’s investment options, nor did it abuse its discretion in requiring Mr. Averill to furnish a bond if he wanted to invest the money in places other than those specified in the letters of authority and order of appointment.

* Circuit judge, sitting on the Court of Appeals by assignment.

Although Mr. Averill may not make the highest profit by investing at either a bank or Gleaners, he is under a duty to observe the standards in dealing with the trust assets that would be observed by a prudent man dealing with the property of another. *In re Green Charitable Trust*, 172 Mich App 298, 312-313; 431 NW2d 492 (1988). He must act with care, diligence, integrity, honesty, loyalty, fidelity, restraint from self-interest, good faith, and sound business judgment. *Id.* By following the restrictions imposed by the probate court, Mr. Averill will satisfy his duty as trustee and conservator of his son's estate and act as a prudent man dealing with the property of another.

Affirmed.

/s/ Henry William Saad

/s/ Peter D. O'Connell

/s/ Michael J. Matuzak