


FILED

IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE

OCT 19 PM 12:03  
RICHARD R. ROOKER, CLERK

IN RE: APPOINTMENT OF CONSERVATOR )  
FOR JOHN DANIEL TATE )  
DOB: 11/10/1955 )  
SSN: XXX-XX-9638 )

)  )  
) )  
) DOCKET NO. 07P1654 )

PETITION FOR APPOINTMENT OF CONSERVATOR

COMES NOW, the PETITIONER, DAVID E. TATE, pursuant to T.C.A. § 34-13-1-01,  
*et seq.*, and would respectfully petition the Court and show to the Court as follows:

I. JURISDICTION

The residence of the RESPONDENT JOHN DANIEL TATE is 5909 Old Harding Pike,  
Nashville, Tennessee, 37205.

II. THE RESPONDENT

The name, date of birth, social security number, residence, and mailing address of the  
RESPONDENT are as follows:

NAME: JOHN DANIEL TATE  
DATE OF BIRTH: 11/10/1955  
SOCIAL SECURITY NUMBER: XXX-XX-9638  
RESIDENCE ADDRESS: 5909 OLD HARDING PIKE  
NASHVILLE, TENNESSEE 37205  
MAILING ADDRESS: SAME

III. DESCRIPTION OF DISABILITY OF THE RESPONDENT

The RESPONDENT JOHN DANIEL TATE has had a long history of substance abuse  
of alcohol addiction, and use of cocaine, pot and recreational usage of heroin. The  
RESPONDENT has had treatment on and off at various drug rehabilitation facilities, including  
Cumberland Heights and Crossroads. The RESPONDENT has been placed on anti-depressant

UL T. HOUSCH  
Corney at Law  
WASHINGTON SQUARE  
12 SECOND AVE NORTH  
NASHVILLE, TN 37201  
615-259-3313  
FAX 615-259-3315

medication several years ago while he was evaluated at Cumberland Heights, in 2004. During the year 2004, the **RESPONDENT** had relapsed, quickly becoming abusive of powdered cocaine and alcohol as if he had never stopped. While the **RESPONDENT** has been treated at Cumberland Heights in December 2004, the treatment did help, but **RESPONDENT** has relapsed with a campaign of "on again off again" of cocaine and alcohol. Beginning in January 2007, the **RESPONDENT** was introduced to crack cocaine in the Nashville area, and has been addicted to crack cocaine ever since. As the **RESPONDENT** described himself, he "has hit rock bottom and then found holes". For the past six (6) months, the **RESPONDENT** has increased his crack cocaine and alcohol substance abuse, with usage of at least one half (1/2) oz of crack cocaine per day and more on some days, at an average of \$500 to \$800 per day. (See Exhibit "A"- Vanguard Statement of John Tate). **RESPONDENT'S** condition is such, that if not treated, his well being and own safety and welfare will be affected, including overdose, and/or untimely death. The **RESPONDENT** is presently residing alone, at his home of 5909 Old Harding Pike, Nashville, Tennessee 37205. The **RESPONDENT** readily admits his substance abuse of cocaine and alcohol, but declines treatment or ongoing treatment to overcome such substance abuse with cocaine and alcohol. The **PETITIONER** has been unable to obtain any medical physician report to present to the Court at this time due to the estranged condition of the **RESPONDENT'S** (constant crack usage without sleep for one to four days at a time) and inability to have the **RESPONDENT** treated and/or admitted for treatment of substance abuse of cocaine and alcohol. Therefore, the **PETITIONER** requests the Court to order the **RESPONDENT** to undergo a psychiatric and/or psychological evaluation (including physical evaluation) to determine his present condition, both mentally and physically. The **PETITIONER** is of the belief that as a result of **RESPONDENT'S** chronic cocaine and alcohol substance abuse that **RESPONDENT**

is in a deluted state of mind and is unable to make personal and medical decisions, or to handle his financial and business affairs, and that a Conservator should be appointed for the person and of the estate to make these decisions for the **RESPONDENT**. The rights of the **RESPONDENT** should be transferred to the Conservator are all rights related to his personal, medical care, financial and business affairs.

#### **IV. THE PETITIONER**

The name, age, social security number, relationship, residence, and mailing address of the **PETITIONER** are as follows:

<b>NAME:</b>	<b>DAVID E. TATE</b>
<b>AGE:</b>	<b>58</b>
<b>SOCIAL SECURITY NUMBER:</b>	<b><u>XXX-XX-9820</u></b>
<b>RELATIONSHIP TO RESPONDENT:</b>	<b>BROTHER</b>
<b>RESIDENCE ADDRESS:</b>	<b>4827 FLEET GROVE AVENUE MEMPHIS, TENNESSEE 37117</b>
<b>MAILING ADDRESS:</b>	<b>SAME</b>

#### **V. THE PROPOSED CONSERVATOR**

The **PETITIONER** is requesting that he be appointed the Conservator for the estate and person of the **RESPONDENT, JOHN DANIEL TATE**. The **PETITIONER** has been actively involved with the **RESPONDENT** in trying to turn his life around; assisting in giving treatment; and assisting him with his financial affairs. However, the **PETITIONER** reasonably believes that the **RESPONDENT'S** condition of substance abuse for cocaine and alcohol has reached a level that **RESPONDENT** can not function on a day to day basis without someone overseeing his personal and financial affairs and his well being and treatment for his medical needs. The **PETITIONER** acknowledges that the **RESPONDENT** has reached a level of substance abuse that the **RESPONDENT** can go in cardiac arrest; and that such substance abuse has overcome **RESPONDENT'S** body to the extent that **RESPONDENT** is now fragile. The name, age,

social security number, relationship, residence, and mailing address of the Proposed Conservator is as follows:

<b>NAME:</b>	<b>DAVID E. TATE</b>
<b>AGE:</b>	<b>58</b>
<b>SOCIAL SECURITY NUMBER:</b>	<b><u>XXX-XX-9820</u></b>
<b>RELATIONSHIP TO RESPONDENT:</b>	<b>BROTHER</b>
<b>RESIDENCE ADDRESS:</b>	<b>4827 FLEET GROVE AVENUE MEMPHIS, TENNESSEE 37117</b>
<b>MAILING ADDRESS:</b>	<b>SAME</b>

**VI. CLOSEST RELATIVES TO BE NOTIFIED OF THE PROCEEDINGS:**

The closest family members to be notified are as follows:

<b><u>NAME:</u></b>	<b><u>RELATIONSHIP:</u></b>	<b><u>ADDRESS:</u></b>
<b>DEBBIE TATE MCCANN</b>	<b>SISTER</b>	<b>3214 EUEL WICHITA FALLS, TX 76305</b>
<b>BECK TATE FAUST</b>	<b>SISTER</b>	<b>510 HICKORY TRAIL DRIVE NASHVILLE, TN 37209</b>
<b>AMY TATE TYLER</b>	<b>SISTER</b>	<b>622 GOLD POINT TRACE WOODSTOCK, GA 30189</b>
<b>CARRIE TATE HANSON</b>	<b>SISTER</b>	<b>1804 OLD FORGE DRIVE LITTLE ROCK, AR 72227</b>
<b>DAVID E. TATE</b>	<b>BROTHER</b>	<b>4827 FLEET GROVE AVENUE MEMPHIS, TN 37117</b>

**VII. CUSTODIAN TO BE NOTIFIED OF PROCEEDINGS:**

The are no known Custodians to be notified of these proceedings.

**VIII. BASIS FOR FILING CONSERVATORSHIP PETITION:**

The **PETITIONER** is filing this Petition for Conservatorship because the **PETITIONER** verily believes the **RESPONDENT** is unable to make and carry out decisions concerning his own health, safety, welfare, business, and finances, and living conditions, and has reached a point and level of substance abuse that said condition prevents **RESPONDENT** from making his own

informed decisions regarding these matters; and that **RESPONDENT** needs to have a Conservator appointed to assist him in making said personal, medical, financial, and business decisions for him, including treatment for his substance abuse of cocaine and alcohol at a facility or treatment facility to accommodate **RESPONDENT'S** condition of substance abuse to avoid endangerment to himself or untimely death by overdose. Furthermore, the **PETITIONER** acknowledges that his brother, the **RESPONDENT**, has sought treatment in the past and has reached some level of sobriety from time to time, but to no avail; and that because of his recent cocaine addiction to "crack cocaine" and alcohol abuse that **RESPONDENT** needs the assistance of a Conservator on a day to day basis to help the **RESPONDENT** with his personal, medical, and financial decisions and treatment programs available for substance abuse. **PETITIONER** would further state that the other siblings of the **RESPONDENT** are in agreement that intervention of a Conservator is necessary to protect the safety and welfare of the **RESPONDENT** and to avoid **RESPONDENT** harming himself with further cocaine and crack cocaine use with alcohol. The **PETITIONER** stands ready to act as **CONSERVATOR** for his brother, **RESPONDENT**, to assist with and make any personal, medical, financial, and business decisions for him, including any treatment programs for substance abuse of crack cocaine and alcohol, and assisting the **RESPONDENT** with such care and attendance to avoid injury, harm or death of the **RESPONDENT**. The **PETITIONER** would further state that **RESPONDENT'S** living arrangements have become "climactic" in that he is in constant contact by phone with crack cocaine drug dealers and runners who supply the **RESPONDENT** with his crack cocaine; and such phone contacts daily help perpetuate **RESPONDENT'S** habit, which is further causing substantial harm to the health, welfare, and safety of the **RESPONDENT**. The **RESPONDENT** seeks to be Appointed Temporary Conservator for **RESPONDENT** to preserve the assets and property of **RESPONDENT** pending further orders of the Court.

### **IX. RESPONDENT'S PHYSICIAN OR PSYCHIATRIST**

The **RESPONDENT** was placed on anti-depressant medication while at Cumberland Heights. The **PETITIONER** is unaware of the name of the **RESPONDENT'S** physician and/or psychiatrist, except for Dr. Lucas Van Orden, Psychiatrist, and has not been able to obtain this information from the **RESPONDENT** at this time. The **RESPONDENT** has not cooperated in seeking psychiatric or psychological help from a psychiatrist or a psychologist at this time.

The **PETITIONER** seeks to have this Court order the **RESPONDENT** to undergo a psychiatric evaluation with Dr. William Kenner, M.D., to determine the extent of his mental and/or physical condition at this time. Therefore, **PETITIONER** seeks to have this Court order **RESPONDENT** to be examined by Dr. William Kenner, M.D., 113 30<sup>th</sup> Ave North, Nashville, Tennessee 37203, a Licensed Psychiatrist for the purpose of making the mental evaluation and reporting (under the Physician's Report) to the Court the findings of the psychiatrist relative to the need of a Conservator for **RESPONDENT**.

### **X. ASSETS, INCOME, AND NEEDS OF THE RESPONDENT:**

#### **A. INCOME:**

The **PETITIONER** would state unto the Court that the **RESPONDENT**, who is a musician, waiter, performer, recording artist and publisher, does not have gainful employment, and has not been gainfully employed over the last twelve (12) months. The **RESPONDENT** lives off his royalties and is currently depleting his "nest egg" savings for crack cocaine and alcohol for his substance abuse. **RESPONDENT'S** royalties generate approximately \$125,000.00 per year.

**B. ASSETS:**

The **PETITIONER** would state that **RESPONDENT** owns his home at 5909 Old Harding Pike, Nashville, Tennessee; and owns the following personal property, to wit: 2002 Yukon; an old 1960 Buick Convertible Automobile; certain recording studio state of the art equipment; a guitar collection; publishing catalog; with an IRA and nest egg investment accounts.

The **PETITIONER** reasonably believes that the **RESPONDENT'S** assets, including the IRA and nest egg investment account are worth in excessive of \$600,000.00.

**C. DEBTS:**

The **PETITIONER** is aware that the **RESPONDENT** is paying child support payments for his two minor children, pursuant to a Divorce Decree; and that he has several debts regarding his house; mortgage, upkeep and maintenance of his residence, and possibly credit cards.

**D. PROPERTY MANAGEMENT PLAN:**

The **PETITIONER** will propose a Property Management Plan in accordance with the assets of **RESPONDENT** and management of **RESPONDENT'S** care, welfare, and property.

**XI. BOND**

After a determination of the assets of **RESPONDENT**, the Court should determine the amount of bond to be set.

**XII. GUARDIAN AD LITEM:**

**PETITIONER** recommends that a Guardian Ad Litem be appointed in these proceedings to investigate and interview the **RESPONDENT** regarding the necessity of the Conservatorship for the person and of the estate; and to report to the Court his or her findings accordingly. The **PETITIONER** would further inform the Court that safe guards should be taken by the Guardian Ad Litem to ensure the Guardian Ad Litem's own safety in visiting and talking to the

**RESPONDENT** due to the estrangement of the substance abuse at hand, and the **RESPONDENT'S** contact with drug dealers and drug dealer runners.

**PREMISES CONSIDERED, PETITIONER PRAYS THAT:**

1. That service of process be issued to the **RESPONDENT** in accordance with the Tennessee Rules of Civil Procedure, and that the **RESPONDENT** be served at 5909 Old Harding Pike, Nashville, Tennessee 37205.
2. That the Clerk issue notice of these proceedings to the closest relatives of the **RESPONDENT** by certified mail, giving notice of these proceedings to the closest relatives of the **RESPONDENT**.
3. That the Court set a time and place for the hearing on this petition as soon as possible.
4. That the Court appoint a Guardian Ad Litem to investigate the allegations of the petition, and the necessity of a Conservatorship and report his or her findings to the Court.
5. That the Court issue an order directing a medical examination of the **RESPONDENT**, by ordering the **RESPONDENT** to be examined by Dr. William Kenner, M.D., and that the examining psychiatrist submit the results of the examination directly to the Court, on the Physician's Report, with copies to the **PETITIONER, RESPONDENT**, and the Guardian Ad Litem.
6. That the Court issue an order directing that the Guardian Ad Litem interview the **RESPONDENT** and any other person necessary for the recommendations of the duly appointed Guardian Ad Litem.
7. That upon completion of the psychiatric examination of the **RESPONDENT**, that



the Court accept the report of the psychiatrist and/or physician of the **RESPONDENT**.

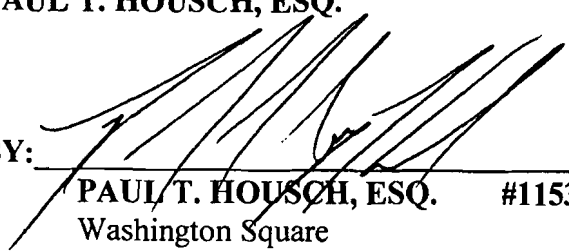
8. That at the hearing, the Court appoint the **PETITIONER DAVID E. TATE** as Conservator of the person and the property of John Daniel Date with such powers as the Courts deems appropriate; and approve the Property Management Plan submitted by the Conservator; authorize the Conservator to spend the **RESPONDENT'S** funds accordingly for this living accommodations; safety and welfare; authorize the Conservator to make all personal and medical decisions for the **RESPONDENT**, including treatment for the substance abuse; and for medical treatment of the **RESPONDENT**; continued medical treatment, for the **RESPONDENT** to avoid relapse of **RESPONDENT'S** condition of substance abuse and to authorize the Conservator to make all decisions regarding his physical, safety, business, welfare, health, life, liberty and pursuit of happiness, and well being to the extent necessary to protect **RESPONDENT**, accordingly.
9. That the bond be set in this matter according to the assets determined of the **RESPONDENT**.
10. That the fees and expenses of the attorney for the **PETITIONER** and the Guardian Ad Litem and the cost of this matter be charged as determined appropriate by the Court.

11. For the Court to appoint **PETITIONER** as Temporary Conservator for the person and property of the **RESPONDENT**, to preserve and protect the assets and property of **RESPONDENT** pending further orders of the Court.
12. For the Court to authorize the Temporary Conservator and/or Conservator to contact the Van Guard Group, 455 Devin Park Drive, Wayne, Penn 19087-1815, for **RESPONDENT'S** Account Nos., to wit: No. 09966533052; and No. A6V-263683, for purpose of protecting, preserving and monitoring the funds of said accounts of **RESPONDENT** pending further orders of the Court.
13. For such other general and further relief which the Court deems appropriate.

**RESPECTFULLY SUBMITTED,**

**PAUL T. HOUSCH, ESQ.**

**BY:**

  
\_\_\_\_\_  
**PAUL T. HOUSCH, ESQ. #11538**

Washington Square

Suite 310

222 Second Avenue North

Nashville, TN 37201

(615) 259-3313

**ATTORNEY FOR PETITIONER**

**DAVID E. TATES**

  
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**DAVID E. TATE**  
**PETITIONER**

OATH

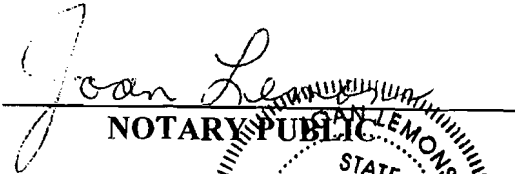
STATE OF TENNESSEE  
COUNTY OF SHELBY

I, David E. Tate, the above named **PETITIONER**, being duly sworn, hereby states that I have read the foregoing Petition for a Conservator for John Daniel Tate, and understand the contents thereof, and the same is true except to those matters stated on information, and belief, and those matters I believe to be true.

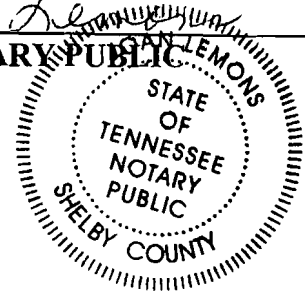


DAVID E. TATE

Sworn to and subscribed before me on this the 18 day of October, 2007.



NOTARY PUBLIC



My Commission Expires: ~~MY COMMISSION EXPIRES:~~  
~~August 20, 2011~~