



**REASONS FOR ORDER**

**Mental Health Ordinance (Cap. 136)<sup>1</sup>**

**(Section 59O)**  
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**BETWEEN**

**The Director of Social Welfare**

**Applicant<sup>2</sup>**

**and**

**Madam L**

**Subject<sup>3</sup>**

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**Members of Guardianship Board constituted**

Chairperson of the Board: Mr Charles CHIU Chung-yee

Member referred to in section 59J (3) (b): Ms YEUNG Mei-ling

Member referred to in section 59J (3) (c): Mr Stephen HO Kam-yu

**Date of Reasons for Order:** 16<sup>th</sup> June 2008.

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<sup>1</sup> Sections cited in this Order shall, unless otherwise stated, be under Mental Health Ordinance (Cap. 136) Laws of Hong Kong.

<sup>2</sup> S2 of Mental Health Guardianship Board Rules

<sup>3</sup> S2 of Mental Health Guardianship Board Rules and S59N(3)(a) of Mental Health Ordinance

**Background**

1. The Subject, Madam L was a 71-year-old woman who was known to private psychiatrist for paranoid Schizophrenia since 1970s. She came from a wealthy family and had never married. Of her nine surviving siblings, eight were living either in Australian or Canada. Her younger brother, Mr K shared the closest relationship with the subject and her half-younger brother, Mr M is the only sibling living in Hong Kong.
2. Madam L used to live alone in a private flat in Yuen Long. However, Madam L has been hospitalized for in-patient psychiatric treatment at mental hospital since 15 August 2007.
3. Madam L claimed she had received one million dollar from her late father. Her younger brother, Mr K found Madam L overspending at least four hundred thousand dollars in her few trips to Canada, Australia and the Philippines in early 2007 and other unknown activities. For example, Madam L gave five-hundred dollars as tips to buy a cup of coffee during travelling. Therefore, Mr K brought his concern to the Madam L's psychiatrist in order to seek professional assistance to help manage her finance.
4. Furthermore, Madam L had not paid the maintenance fee of her flat at Yuen Long from February 2006 to February 2008. As checked with the building management, legal action is being taken against the subject for recovering the outstanding payment.

5. Upon enquiry, Madam L showed no idea of the outstanding maintenance fee. Neither could she tell if there was other outstanding payments, such as telephone, electricity, water, gas, etc. She gave a solution that her “spirit” could give an instruction of writing a cheque to settle the payments through auto-payment service in bank.
6. Since Mr K was diagnosed to suffer from terminal cancer and his life expectancy was estimated to be only few months’ time counting from the medical opinions given in November 2007. He had the promise of Mr M to render more concern to Madam L on his behalf.
7. In late April 2008, Mr K passed away. All medical condition and information about Mr K are kept confidential from Madam L. **(The social enquiry report maker requested the Board to keep this information confidential from the subject.)**

### **Mental and health conditions**

8. In 1970s, the subject was diagnosed of paranoid Schizophrenia. According to her two younger brothers, she had irregular drug compliance for decades. She had defaulted treatment three years ago for lacking of insight.
9. On 15 August 2007, her neighbours reported to police for assistance due to her mental relapse. Afterwards, she was admitted to a mental hospital for irritability, abnormal thoughts, neglect of self-care (e.g. taking off clothing and walking in the corridor), hearing non-existent voice and limited insight into mental illness. Her diagnosis was schizoaffective disorder and current episode with psychosis symptoms.

10. Since admission, she showed progressive improvement on mental condition. She was settled in mood, cooperative in the ward routine, and compliant to drug and treatment. Yet, she will exhibited active psychotic symptoms and lacked of insight into mental illness. In her delusion, she was given a title of “King of animals” by God as stated in the Bible and so the President of USA wanted to grant her a Nobel Prize to honour her good work of salvation to the world. To her, this in-patient treatment was a “kidnapping”. She opined she could be freed from distressed mental state if she was discharged back to her flat at Yuen Long and so she was eager for discharge.

11. Regarding her mental capability, she maintained general orientation, e.g. reciting long scriptures of Bible, performing simple calculation, having basic knowledge of simple banking service, road safety etc. But she usually presented some irrelevant speech in the later part in her conversation. Particularly, the idea of “spirit” incapacitated her from making realistic decision and planning in financial management.

12. Physically speaking, the subject managed independent mobility and all activated of daily living. Currently, she was granted ‘ground parole’ in the area of mental hospital.

### **Circumstances leading to application**

13. Having assessed the subject’s overspending problem and her mental incapability in making decision on the proper use of money, the case medical social worker of the hospital has therefore applied for a guardianship order on 28 January 2008 wishing that a suitable guardian would be appointed to safeguard the welfare of the Subject.

**Hearings at the Board on 16 June 2008**

14. Since the subject's half younger brother, Mr M, neither wanted to be an applicant of this order nor be involved in decision making for the subject because of his heavy engagement with his teaching job and personal affairs, he preferred the appointment of a public officer as the subject's guardian.

15. The subject, Madam L said she did not have any bodily discomfort and agreed that she now stayed at a mental hospital.

16. Madam L said she was "kidnapped" to a hospital on 9 July 2008. In August 2007, she was transferred to the mental hospital as she yelled to leave the hospital. She grumbled against hospital stays because she was not allowed to sleep in the daytime and was required to rise up from bed in the morning. As she needed to sleep all the time, she felt very uncomfortable living at the mental hospital. She liked to move to elderly care home because she would be allowed to sleep as and when she liked. She visited an elderly home once. She might think of partly living at the elderly care home. Furthermore, she heard no voices at her ears except some minor sizzling sounds.

17. After explaining on guardianship, Madam L thought she needed no one to help her all along in buying her necessities and food. Later, she said she liked to live at the elderly care home.

18. Ms Y, the applicant and medical social worker of the mental Hospital, said regarding the wait listing for a subvented care and attention home placement, it was the medical team's decision.

19. Ms C, the social enquiry report maker, said agreed to the future guardian be given also the medical consent power. She confirmed the indebtedness of management fee arrears and the relating legal costs. The Board noted from the land search that the property might have more than one owner. She and the applicant agreed to a Part II recommendation from the Board.

### **Order not to disclose documents**

20. As requested by the social enquiry report maker, Ms C, the Board having carefully considered its mandatory duty under section 7 of the rules not to disclose documents to parties including the subject, once it is satisfied that disclosure would adversely affect the health or welfare of the subject or others; and also its duty to the subject under section 59K(2);

21. The Guardianship Board ORDERS that the relevant paragraphs in the social enquiry report and supplementary report should be withheld from the subject on the ground that the Board believes that disclosure would adversely affect the health or welfare of the subject.

### **Issues and Reasoning**

#### Reasoning for receiving the subject into guardianship

22. The Board accepts and adopts the views of the two medical doctors as contained in the three supporting medical reports as well as the social enquiry report and the views and recommendations as contained therein and accordingly decided to receive the subject into guardianship in order to protect and promote the interests of welfare of subject.

Reasoning for choosing the legal guardian

23. The Board accepts and adopts the view of the social enquiry report maker who recommended, as contained in the report, the Director of Social Welfare to be appointed as the guardian of the subject in this case.

**DECISION**

24. The Guardianship Board is satisfied on the evidence and accordingly finds:-

- (a) That the subject, as a result of schizoaffective disorder, is suffering from a mental disorder within the meaning of section 2 of the Ordinance which warrants the subject's reception into guardianship;
- (b) The mental disorder limits the subject's capacity to make reasonable decisions in respect of a substantial proportion of the matters which relate to the subject's personal circumstances.
- (c) The subject's particular needs may only be met or attended to by guardianship, and no other less restrictive or intrusive means are available as the subject lacks capacity to make decisions on her own welfare plan, treatment plan and finances, which has resulted in the subject's bank accounts being frozen;

In this case, the predominant needs of the subject remained to be satisfied are, namely, decision to be made on discharge from hospital, future welfare plan, future treatment plan and finance;

(d) The Board concluded that it is in the interests of the welfare of the subject that the subject should be received into guardianship.

25. The Guardianship Board applied the criteria in section 59S of the Ordinance and was satisfied that the Director of Social Welfare was the only appropriate person to be appointed as guardian of the subject.

(Mr Charles CHIU Chung-yee)  
Chairperson of Guardianship Board