

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
PROBATE COURT DEPARTMENT**

In The Matter of the Guardianship and)	
Conservatorship of:)	
)	Case No.: 22GC00224
THOMAS J. PRICE, JR., an impaired adult.)	Division 8
<hr/>)	Chapter 59

**JEFF PRICE’S RESPONSE IN OPPOSITION TO PETITIONER’S PETITION
FOR ORDER FOR MEDICAL EXAMINATION AND EVALUATION**

COMES NOW Thomas J. Price, III (Jeff), son of Thomas J. Price, Jr., who is an interested party herein, and for his and for his objections and opposition to Petitioner Petition for Order for Medical Examination and Evaluation, states as follows:

1. Thomas J. Price III, aka Jeff Price (hereinafter referred to as “Jeff Price”), is the son of Thomas J. Price, Jr. and is an interested party herein.
2. Jeff Price opposes Petitioner Teresa Kuhn’s Petitioner’s Petition for Order for Medical Examination and Evaluation for the reasons stated in Respondent Thomas Price, Jr.’s Opposition To Petitioner’s Petition for Order for Medical Examination and Evaluation, incorporated by reference herein. [DOC 51]
3. Martin J. Schermoly, M.D. testified unequivocally at his June 20, 2023 deposition that Thomas Price was mentally competent, and in **no** need of either a guardian or conservator. Dr. Shermoly has been Thomas J. Price, Jr.’s internist since at least 2011. In the last year, alone, Dr. Shermoly has seen and examined Mr. Price on at least 4 occasions (June 2022, August 2022, November 2022 and March 2023). Dr. Shermoly, on September 15, 2022, wrote that Thomas J. Price, Jr. has sufficient capacity to “make sound judgments” and manage his financial affairs. [Exhibit 1, attached] On November 25, 2022, Dr. Shermoly wrote:

“At this time I believe Thomas is capable of directing his care and finances. He requires minimal assistance to set out his medication as well as assistance with ambulation as stated above.” [Exhibit 2, attached]

4. In response to Paragraph 9 of Petitioner’s Petition for the appointment of a neurologist (DOC 50), Jeff Price states as follows:

a) On or about July 22, 2022, Thomas Price, Jr. met with his financial advisor (Brooke Donley Behrens) at Edward Jones over Mr. Price’s concerns over his risk tolerance, market fluctuations, and desire to see about moving his funds to a Cash Reserve/Money Market account. Edward Jones had his portfolio 40% moderate and 60% high risk which Mr. Thomas Price, Jr. was very uncomfortable with. At this point, his account was down 1 million dollars from the prior year.

b) Subsequent phone conferences were had with Edward Jones, wherein both Edward Jones and Teresa Kuhn were very much against making any changes to Mr. Price’s account, changing his risk tolerance, or otherwise moving any of Mr. Price’s assets to a safe and conservative money market account.

c) Due to Edward Jones reluctance to move Mr. Price’s assets to more conservative investments (including into a money market account), Thomas J. Price, Jr. met with representatives of Creative Planning - a trust and wealth management company located in Overland Park, Kansas – in an effort to transfer his Edward Jones account to Creative Planning so it could be conservatively managed.

d) This led to Edward Jones (and/or acting in concert with Petitioner Teresa Kuhn), to freeze Mr. Price’s Edward Jones accounts, and making a report to Kansas’ Adult Protection Services (“APS”), alleging financial exploitation.

e) APS’ Amanda Fulks fully investigated the Edward Jones’ allegation. After APS completed its investigation, and based on all information gathered, it found such allegation of financial exploitation to be “**Unsubstantiated**” in accordance with K.S.A. 39-1430. [Exhibit 3, attached]

5. Accordingly, Jeff Price submits that the appointment of a neurologist is both unnecessary and unwarranted.

WHEREFORE based upon the above and foregoing, Jeff Price prays for an order of the Court denying and overruling Petitioner’s Petition for Order for Medical Examination and Evaluation at this juncture in the case and requests the Court deny said Petition.

Respectfully submitted,

**MONACO, SANDERS, RACINE,
POWELL & REIDY, L.C.**

/s/ Dan Sanders

Dan C. Sanders KS Bar #17467

8700 State Line Road, Ste. 110

Leawood, KS 66206

(816) 523-2400

FAX: (816) 941-0006

E-Mail: dsanders@kcattorneys.net

ATTORNEYS FOR JEFF PRICE

CERTIFICATE OF SERVICE

The undersigned affirms that a true copy of the foregoing document was emailed on June 29, 2023, to:

Jon A. Blongewicz
Jon A. Blongewicz, Attorney at Law, P.A.
10990 Quivira Road, Suite 200
Overland Park, KS 66210
blongewicz@leawoodattorneys.com
ATTORNEY FOR THOMAS PRICE, JR.

Michelle M. Burge
The Counts Law Firm, LLC
4200 Somerset Drive, Suite 200
Prairie Village, LS 66208
mburge@countslawkc.com
ATTORNEY FOR PETITIONER

Leslie C. Byram,
Leslie C. Byram, PA
9401 Nall Avenue, Suite 100
Prairie Village, Kansas 66207
leslie@byramlaw.com
GUARDIAN AD LITEM

and


David C. Kirk
8000 Foster
P.O. Box 13304
Overland Park, Kansas 66282
Dkirk121@yahoo.com
TEMPORARY CONSERVATOR

/s/ Dan Sanders

September 15, 2022

To whom it may concern:

Thomas J. Price Jr., date of birth 2/7/1936, has been a patient in my practice for many years. He has required increased assistance from family members to manage his daily affairs. He is still able to make sound judgements. He is able to appropriately direct family members regarding financial matters.



Martin J Schermoly, MD

EXHIBIT

tabbles®

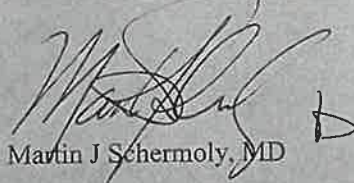
1

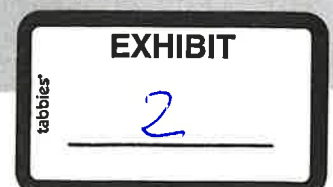
11/25/2022

This letter is regarding Thomas J. Price, Jr., date of birth 2/7/1936. This is an addendum to the report of examination and evaluation form that was completed on 11/4/2022.

I have been caring for Thomas since 2011. His major health issues at this time are related to severe diabetic neuropathy with gait instability. He was no longer able to care for himself independently and now resides in assisted living. He requires the use of a walker to maintain balance and ambulate. Second problem has been progressive onset of dementia. He was evaluated 8/19/2022 by Jennifer Watkins, APRN, who is associated with Olathe Health Neurology Consultants. At the time of that visit she ordered an MRI of the brain and a DAT scan. The patient was seen in my office on 11/4/2022. Neither of these studies had been completed at that time. There was no significant change in his clinical condition. After discussion regarding the potential diagnoses and benefits related to these 2 tests he expressed the wish not to undergo any additional testing at this time. I agreed with his decision as the information obtained is unlikely to change his current treatment or prognosis. The patient was very clear in his wish to avoid any excessive testing or medication. He preferred to emphasize quality of life at this time.

At this time I believe Thomas is capable of directing his care and finances. He requires minimal assistance to set out his medication as well as assistance with ambulation as stated above. He requires assistance with the details of managing his finances. He is capable expressing his wishes and directing such assistance.


Martin J Schermoly, MD



From Amanda Fulks
Contact Information (913)942-3240

Monday, December 12, 2022

Thomas Price
34600 W 135th Street
Olathe, Kansas 66061

Dear Thomas Price:

Adult Protective Services (APS) received a report on Tom Price in which you were identified as an alleged perpetrator of Abuse, Neglect, Exploitation and/or Fiduciary Abuse. The investigation of this situation yielded the following results:

Allegation	Finding	Intake Date	Finding Date
Financial Exploitation	Unsubstantiated	9/14/2022	12/12/2022

Based on the finding(s) listed above your name will not be entered into the APS Registry of substantiated perpetrators. (Due Process instructions on the back of this page)

The basis of the finding is as follows:

This allegation is based on Kansas Statute (KSA 39-1430) for abuse, neglect or exploitation of certain adults:

The summary for this decision is as follows:

On 9/14/22 DCF assigned a report alleging financial exploitation of Tom Price. Based on the information gathered during the investigation, there is insufficient evidence to determine financial exploitation has occurred as defined by K.S.A. 39-1430.

Distribution: Addressee File

DCF Prevention and Protection Services, 915 SW Harrison, 530-East, Topeka, KS 66612; (785-296-4653)

