

CERTIFIED PROFESSIONAL GUARDIAN BOARD

IN THE MATTER OF:

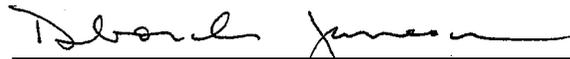
ELAINE H. JUDD, CPG No. 10351

CPGB NO. 2009-009

On September 13, 2010, the Certified Professional Guardian Board closed this matter based on the guardian's compliance with the requirements of the Agreement Regarding Discipline, dated November 9, 2009. The probation period is ended.

Dated this 15th day of September, 2010.

Certified Professional Guardian Board



Deborah Jameson, Guardian Program Coordinator

2. STATEMENT OF FACTS

2.1 On or about September 14, 2009, a grievance was opened by the Administrative Office of the Courts (AOC). The Standards of Practice Committee (SOPC) of the Board directed that the grievance be opened under the Disciplinary Regulation 520 audit process in order to enter into an Agreement Regarding Discipline with the guardian.

2.2 In Grays Harbor County Case No. 07-4-00043-1, the inventory and personal care plan were due on December 10, 2007. The inventory was filed on December 29, 2008. The personal care plan was filed on April 10, 2008. The annual report was due on December 10, 2008 and was filed on December 31, 2008.

2.3 In Grays Harbor County Case No. 07-4-00227-1, the inventory and personal care plan were due on October 14, 2008. The inventory and personal care plan were filed on June 29, 2009. The petition for an order authorizing disbursements on behalf of the incapacitated person was due no later than the filing of the inventory, but was filed on September 4, 2009.

2.4 In Grays Harbor County Case No. 07-4-00079-1, the inventory was due on March 10, 2008 and was filed on May 28, 2009. The petition for an order authorizing disbursements on behalf of the incapacitated person was due no later than the filing of the inventory, but was filed on September 4, 2009. The annual report was due on March 10, 2009 and was filed on August 24, 2009.

2.5 In Grays Harbor County Case No. 07-4-00200-0, the inventory was due on April 22, 2008 and was filed on May 28, 2009. The petition for an order authorizing disbursements on behalf of the incapacitated person was due no later than the filing of the inventory, but was filed on August 17, 2009. The annual report was due on April 22, 2009 and was filed on May 28, 2009.

2.6 In Grays Harbor County Case No. 07-4-00240-9, the inventory was due on September 25, 2008 and was filed on June 29, 2009. The petition for an order authorizing disbursements on behalf of the



incapacitated person was due no later than the filing of the inventory, but was filed on September 4, 2009.

2.7 In Grays Harbor County Case No. 08-4-00034-0, the inventory was due on April 5, 2009 and filed on July 31, 2009.

2.8 In Grays Harbor County Case No. 06-4-00196-0, the inventory and personal care plan were due on October 5, 2007. The inventory and personal care plan were filed on March 12, 2008. The petition for an order authorizing disbursements on behalf of the incapacitated person was due no later than the filing of the inventory, but was filed on September 29, 2009.

2.9 In Grays Harbor County Case No. 07-4-00006-6, the inventory was filed on April 10, 2008. The petition for an order authorizing disbursements on behalf of the incapacitated person was due no later than the filing of the inventory, but was filed on September 29, 2009.

2.10 In Pacific County Case No. 06-4-00072-1, the guardian was appointed as a successor guardian on August 1, 2008. The guardian filed an updated inventory on July 2, 2009. The petition for an order authorizing disbursements on behalf of the incapacitated person was due no later than the filing of the inventory, but was filed on September 28, 2009.

2.11 The guardian said that she was unaware of the requirement under RCW 11.92.040(6) to obtain an order authorizing disbursements until she took the University of Washington Extension Outreach Guardian Certificate Program. The guardian will obtain the order in all future cases and will come into compliance on all current cases. Regarding the late filings of other reports, the guardian said that she took on too many cases and her top priority was ensuring client's health and welfare. She understands that completing reports is also a priority and has not taken on new cases.

3. VIOLATIONS OF THE STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraphs 2.2 through 2.10, Ms. Judd's conduct constitutes grounds for discipline pursuant to 401.1 and 401.3, which provides in pertinent part:

SOP 401.1 The guardian shall at all times be thoroughly familiar with RCW 11.88, RCW 11.92, GR 23, these standards, and any other regulations or statutes which govern the conduct of the guardian in the management of affairs of an incapacitated person.

SOP 401.3 The guardian shall provide reports and accountings that are timely, complete, accurate, understandable, and in a form acceptable to the court.

3.2 Based on the facts and violations set forth above, Ms. Judd's conduct constitutes grounds for discipline pursuant to General Rule (GR) 23(c)(2)(viii) and Disciplinary Regulation (DR) 503, which provide in pertinent part:

GR 23 Rule for Certifying Professional Guardians – Certified Professional Guardian Board

...
(2) Duties and Powers.
...

(viii) Grievances and Discipline. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. The Board may impose sanctions upon a finding of violation. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

DR 503 A professional guardian may be subject to disciplinary action for any of the following:

DR 503.1 Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.

4. AGGRAVATING AND MITIGATING FACTORS

Pursuant to DR 515.1.4, the Board may consider the existence of aggravating and mitigating factors in determining the sanctions to be imposed.

4.1 Aggravating Factors. Multiple offenses

4.2 Mitigating Factors. Absence of dishonesty, absence of prior disciplinary record, and implementation of remedial measures

5. PRIOR RECORD OF DISCIPLINE

Ms. Judd has no prior record of discipline with the Board.

6. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Ms. Judd for the conduct described in this Agreement. Pursuant to DR 515.1, any disciplinary sanction or remedy imposed by the Board on a certified guardian is a disciplinary sanction.

6.1 Letter of admonishment. The Board hereby imposes a letter of admonishment on Ms. Judd. This Agreement constitutes the letter of admonishment and shall be placed in the Board's disciplinary files for Judd.

6.2 Audit. All of Ms. Judd's cases will be audited six months after the adoption of this Agreement to ensure compliance with filing deadlines for the following reports/petitions: Inventory, Personal Care Plan, Petition re Disbursements, Bond, Annual Report, Petition re Settlement of Estate. If Ms. Judd is in not in compliance on all of her cases, the Board may require another audit within a year after this Agreement is adopted.

6.3 Probation. Ms. Judd shall be under probation for a period of not less than six months to ensure her compliance with the duties, standards and requirements for a professional guardian. If Ms. Judd complies with the duties, standards and requirements of a professional guardian for six months, the probation will be lifted. If not, the probation period may be continued for another period not to exceed six months or the Board may take further disciplinary action.

6.4 Case Tracking System. Ms. Judd shall create and implement a unified tracking system for all guardianships which will prevent any future missed or late filings of reports as well as providing better case management. Ms. Judd will demonstrate to the SOPC that the tracking system has been created and is adequate.

7. VIOLATION OF AGREEMENT

7.1 Failure to comply with the terms of this Agreement shall constitute additional grounds for discipline pursuant to DR 514.4. Failure to comply includes, but is not limited to, not filing timely reports and failing to create a case management system.

7.2 In the event of an alleged breach of this Agreement, the Board will issue a Complaint pursuant to its Disciplinary Regulations, providing notice and an opportunity for a hearing to the certified professional guardian agency and to the certified professional guardian(s) alleged to be in breach of the ARD. If the Board finds that Suspension Pending Disciplinary Proceedings is warranted, it may proceed pursuant to Disciplinary Regulation 519.

7.3 This Agreement is binding as a statement of all known facts relating to the conduct of Ms. Judd but any additional existing acts may be proven in any subsequent disciplinary proceedings.

8. NOTICE

8.1 This Agreement shall be retained by the AOC in Ms. Judd's disciplinary file.

8.2 This Agreement shall be open to public access and disclosure

8.3 Notice of the discipline imposed shall be sent to all superior courts pursuant to DR 514.3.2.

9. ENTIRE AGREEMENT

This Agreement comprises the entire agreement of the parties with respect to the matters covered herein, and no other agreement, statement, or promise made by any party which is not included herein shall be binding or valid. This Agreement may be modified or amended only by a written amendment signed by all parties.

10. SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision of this Agreement is illegal or invalid for any reason, the remainder of the Agreement will not be affected.

11. LAWS GOVERNING

This Agreement shall be governed by the laws of the State of Washington, and any question arising from the Agreement shall be construed or determined according to such law. This Agreement is a public record and is subject to public disclosure or release.

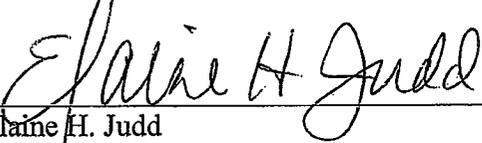
12. RIGHT TO COUNSEL

Ms. Judd acknowledges her right to individual counsel for representation in this disciplinary matter, at her expense, as set forth in Disciplinary Regulation 509.1.

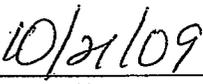
13. PRESENTATION OF AGREEMENT TO THE BOARD

Ms. Judd understands that this Agreement is not binding unless and until it is approved and signed by the Board. If the Board rejects this Agreement, Ms. Judd waives any objection to the participation in the final determination of this matter of any Board member who heard the Agreement presentation.

COPY RECEIVED, NOTICE OF PRESENTATION WAIVED:



Elaine H. Judd
CPG No. 10351



Date

Attorney for
WSBA # _____

Date

**APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD
THIS**

9 DAY OF NOV 2009.



Hon. Kimberley Prochnau
Chair, Certified Professional Guardian Board