CERTIFIED PROFESSIONAL GUARDIAN BOARD

In The Matter Of: **Guardianship Services of Eastern Washington, CPGA No. 5136, and Dale R. Frederickson, CPG No. 5184, and Nancy Frederickson, CPG No. 6497, and Cheryl Wood, CPG No. 10312.**	**CPGB NO. 2003-011**

On March 8, 2010, the Certified Professional Guardian Board closed this matter based on the guardian compliance with the requirements of the Supplemental Agreement Regarding Discipline, dated August 10, 2009.

CERTIFIED PROFESSIONAL GUARDIAN BOARD

Guardianship Services of Eastern Washington, CPGA No. 5136, and Dale R. Frederickson, CPG No. 5184, and Nancy Frederickson, CPG No. 6497, and Cheryl Wood, CPG No. 10312.	)	**PGB No. 2003-011** **SUPPLEMENTAL AGREEMENT REGARDING DISCIPLINE**

The parties, Guardianship Services of Eastern Washington (GSEW) certified professional guardian agency number 5136, and Dale R. Frederickson (Mr. Frederickson) certified professional guardian number 5184, and Nancy Frederickson (Ms. Frederickson) certified professional guardian number 6497, and Cheryl Wood (Ms. Wood) certified professional guardian 10312, and the Certified Professional Guardian Board (Board) enter into this Supplemental Agreement Regarding Discipline (Supplemental ARD) pursuant to Regulation 514 of the Board's Disciplinary Regulations (DR) for Certified Professional Guardians. A Settlement Agreement Regarding Discipline (2004 Agreement) was entered into by Mr. Frederickson, GSEW, and the Board in July 2004. The 2004 Agreement required Mr. Frederickson and GSEW to take certain remedial actions and required that the Agency be managed by a certified professional guardian approved by the Board. There have been violations

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by GSEW and Mr. Frederickson of the 2004 Agreement and there have been violations by GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood of the Board's Standards of Practice for Certified Professional Guardians (SOP) and the Regulations of the Board. This Supplemental ARD is intended to be a resolution of the disciplinary matters arising out of the violations of the 2004 Agreement and the violations of the Board's SOP and Regulations described in this Supplemental ARD. This Supplemental ARD shall become effective as of the date the Supplemental ARD is adopted by the Board. The Supplemental ARD will be part of the permanent professional guardian licensing records of GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood and will be a public record and subject to public access. This Agreement will be posted on the Washington Courts Web site, Certified Professional Guardian Board Web page, which is maintained by the Administrative Office of the Courts.

1. STATEMENT OF FACTS

1.1 On or about August 21, 2003, the Board received a grievance from Spokane County Superior Court. The Court notified the Board that on or about July 9, 2003, GSEW had been removed for cause in Spokane County Superior Court Case No. 94-4-00365-0. The Court notified the Board that it had suspended GSEW from appointment to any new cases.

1.2 On or about July 12, 2004, the Board entered into a Settlement Agreement with GSEW and Mr. Frederickson pursuant to DR 513 in resolution of the grievance referred to above. A copy of the 2004 Agreement is attached at Exhibit 1 to this Supplemental ARD and incorporated herein by reference. In Section I of the 2004 Agreement, the Board required GSEW and Mr. Frederickson to carry out the following pertinent obligations:

> 6. GSEW shall no longer be managed by Mr. Frederickson. GSEW shall retain a certified professional guardian to manage the Agency. The manager shall not be related by blood or marriage to Mr. Frederickson or Ms. Nancy Frederickson.

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11. The restrictions on the practice of Mr. Frederickson and GSEW shall remain in effect unless modified by the Board at a later date.

1.3 GSEW and Mr. Frederickson substantially complied with the provisions of the 2004 Agreement. On or about January 11, 2005, Lin O'Dell, who was acting as the outside certified professional guardian, resigned from the position.

1.4 GSEW notified the Board of Ms. O'Dell's resignation on January 25, 2005. GSEW proposed that Gabrielle Roth Pitner, the corporate counsel for GSEW, take over the managerial role. Ms. Roth Pitner planned to take the Certified Professional Guardian Training in February 2005.

1.5 The Board confirmed that GSEW was required to retain an outside certified professional guardian manager pursuant to the 2004 Agreement and extended the deadline for compliance with that requirement to May 1, 2005. Ms. Roth Pitner was certified as a professional guardian on June 16, 2005 and acted as both corporate counsel and the outside manager for GSEW.

1.6 In May 2007, Ms. Roth Pitner was decertified as a certified professional guardian for failure to comply with CEU requirements. In a July 2, 2007 letter, Ms. Roth Pitner confirmed to the Board that GSEW did not have an outside manager. Ms. Roth Pitner suggested that an outside manager might not be necessary given her close involvement with GSEW as corporate counsel and she requested clarification of the role of the outside manager.

1.7 In January 2008, GSEW hired Cheryl Wood, a certified professional guardian, to serve as GSEW's outside manager. Ms. Wood is one of the designated guardians at GSEW and has been a part-time employee at GSEW since 1999. Cheryl Wood is the corporate manager.

1.8 On or about October 17, 2007, GSEW, Mr. Frederickson, Ms. Frederickson, and Cheryl Wood each sent in Annual Disclosures. The annual certification fee and annual disclosure were due July 1 of each year, but the guardian or agency had until September 1 to file the disclosure

and pay the annual certification fee, but a late fee charge would be applied. GSEW made an error in calendaring the annual disclosures. GSEW now has a hard copy calendar as well as the computer calendar system.

1.9 On February 25, 2008, the Board sent letters to GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood that the Board had not received any declarations in compliance with Application Regulation (AR) 117. Pursuant to AR 117, on January 31, 2008, all CPGs and Agencies were required to file a declaration with the Board stating either that the guardian or agency maintained a policy of errors and omissions insurance or is exempt from the requirement. GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood were notified in writing that if the Board had not received the declaration by March 5, 2008, there would be a referral for consideration of disciplinary sanctions, which could include decertification.

1.10 In late 2007, GSEW had contacted an insurance agent and was working with that agent to obtain errors and omissions insurance. GSEW communicated regularly with the agent and the agent kept assuring GSEW that the policy would be arriving any day. It was not until late February that GSEW learned that the agent would not be able to deliver a policy for another six weeks. GSEW contacted another agent and was able to get a policy within 10 days.

1.11 On March 10, 2008, GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood filed the required AR 117 Declaration with the Board, showing proof of liability insurance for the agency and its guardians. The policy's effective date was March 10, 2008.

1.12 Between December 19, 2007 and January 22, 2008, GSEW petitioned for guardianship in six cases in Spokane County Superior Court and named itself as the nominee to be appointed guardian. GSEW had consulted with its attorney, Ms. Pitner, who understood, at that time, that Ethics Advisory Opinion 2005-001 was to prevent guardians from soliciting business and GSEW

did not solicit business but was contacted by care facilities requesting GSEW to petition. In April 2008, GSEW changed its practices and no longer petitions for guardianship.

1.13 At all times relevant herein, Mr. Frederickson was a certified professional guardian pursuant to General Rule (GR) 23. Mr. Frederickson is one of the designated certified professional guardians of GSEW. Mr. Frederickson is the Office Manager of GSEW.

1.14 At all times relevant herein, Ms. Frederickson was a certified professional guardian pursuant to GR 23. Ms. Frederickson is one of the designated certified professional guardians of GSEW. Ms. Frederickson is the President of GSEW.

1.15 At all times relevant herein, Ms. Wood was a certified professional guardian pursuant to GR 23. Ms. Wood is one of the designated certified professional guardians of GSEW. Ms. Wood is the corporate manager of GSEW. Ms. Wood is a Board member of GSEW.

1.16 At all times relevant herein, GSEW was a certified professional guardian agency pursuant to GR 23.

2. VIOLATIONS

2.1 Based on the facts set forth in paragraphs 1.1 through 1.7 above, GSEW and Mr. Frederickson's conduct constitutes grounds for discipline pursuant to DR 514.4, which provides as follows:

> Failure of a professional guardian to comply with the terms of an Agreement Regarding Discipline may constitute additional grounds for discipline.

2.2 Based on the facts set forth in paragraphs 1.9 through 1.11 above, GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood failed to comply with Application Regulation 117, which provides in pertinent part:

> 117.5.1 By January 31 each year, every guardian and agency shall file with the Board a declaration signed under penalty of perjury, on a form approved by the Board, stating that the guardian or agency either maintains a policy of errors and omissions insurance, or is

exempt from said requirement, or has petitioned for and received a waiver based on a determination by the Board that it is impractical for the guardian or agency to comply with this regulation and the guardian or agency has provided a satisfactory alternative that meets the purpose of this regulation.

117.7.1 Failure to comply with this regulation in any part may subject the guardian or agency to the disciplinary sanctions listed in the Disciplinary Regulations, including suspension or revocation of certification.

2.3 Based on the facts set forth in paragraph 1.8 above, GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood failed to comply with Application Regulation 111.8 and DR 503.1, which provides in pertinent part:

111.8.1 Failure to pay the required annual certification fee and late fee and submit the required declaration by September 1 shall subject the CPG or Agency to revocation of certification by the Board. (Amended 1-13-03 and 10-11-04)

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

2.4 Based on the facts set forth in paragraph 1.12, GSEW failed to comply with Standard of Practice 403.1 which provides in pertinent part:

403.1 The guardian shall avoid self-dealing, conflict of interest, and the appearance of a conflict of interest. Self-dealing or conflict of interest arise when the guardian has some personal, family or agency interest from which a personal benefit would be derived. Any potential conflict shall be disclosed to the court immediately.

2.5 Based on the facts set forth in paragraphs 1.1 through 1.16 above, GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood's conduct constitutes grounds for discipline pursuant to Disciplinary Regulation (DR) 503, which provides, in relevant part:

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

503.1 Violation of or noncompliance with applicable statutes, court orders, court rules or other authority; and

503.4 Violation of the oath, duties, or standards of practice of a professional guardian.

3. 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.

3.1 Aggravating Factors. Prior discipline, violation of a prior settlement agreement

3.2 Mitigating Factors. Absence of dishonesty or selfish motive, remoteness of some prior offenses.

4. PRIOR RECORD OF DISCIPLINE

GSEW and Mr. Frederickson have a prior record of discipline with the Board as set forth in the 2004 Agreement.

5. DISCIPLINARY SANCTIONS

The Board imposes the following disciplinary sanctions on GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood for the conduct described in this Supplemental ARD. Pursuant to DR 515.1, any disciplinary sanction or remedy imposed by the Board on a certified guardian is a disciplinary sanction.

5.1 Letter of Admonishment. GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood shall each receive a letter of admonishment from the Board, as provided in 515.2.4. A letter of admonishment is generally appropriate when a guardian engages in professional misconduct incompatible with the standards of practice that does not cause significant injury to a party, the public, the legal system, and/or causes interference with a legal proceeding.

5.2 Monitoring.

5.2.1 GSEW shall be subject to monitoring of cases in which GSEW is the court-appointed guardian to determine whether the guardian is meeting its duties to its clients pursuant to statute, court order, and the Standards of Practice for Certified Professional Guardians. The

monitor shall be the Guardian Investigator, Deborah Jameson. Monitoring shall commence upon entry of this Supplemental ARD and shall be completed no later than three (3) months following commencement. The period to be reviewed shall be no earlier than September 2008.

5.2.2 During the period of monitoring, the monitor shall review fifteen (15) cases to be selected by the monitor at random, in which GSEW is the court-appointed guardian. The monitor shall review the following items in the selected cases:

a) The filing dates of all reports and inventories, including, but not limited to, notices of death, filed by the guardian with the court, or required to be filed by the guardian, to determine whether the documents have been filed within the time period required by statute and/or court order.

b) The billing and time records for the previous 30 day period for each file selected.

5.2.3 Verification of account blockage and/or bonding. The monitor shall review all cases filed by GSEW during the monitoring period to ensure that there is documentary support consistent with the 2005-001 Ethics Advisory Opinion in any case in which GSEW petitions for appointment of itself as guardian.

5.2.4 At the conclusion of the three month monitoring period, the monitor shall file a written report within 30 days with the Standards of Practice Committee that reflects the monitor's findings and conclusions regarding the files reviewed and the guardian's compliance with the items set forth above. The fees and costs of the monitor shall be paid by GSEW within thirty (30) days following presentation by the monitor of the monitor's bill. GSEW shall not be required to pay more than three thousand dollars ($3,000.00) in fees and costs for a three month period of monitoring The hourly rate of the monitor will be determined by adding the Guardian Investigator's hourly salary and 24.4% of the hourly salary (to reflect the cost of benefits).

5.2.5 After the Standards of Practice Committee (SOPC) has reviewed the monitor's findings and conclusions, it shall report to the Board on GSEW's compliance with this Supplemental ARD and any applicable statutes, rules, and regulations. The SOPC may recommend that GSEW be released from the monitoring requirement, or it may recommend that another three month period of monitoring be required. If the Board determines that another three month period of monitoring is warranted, the Board shall direct the monitor to review another randomly selected fifteen (15) cases according to the parameters set forth above. GSEW shall be required to pay the fees and costs for a second three month period of monitoring, not to exceed $2,500.00.

5.2.6 Following review of the monitor's second report, the Board may either release GSEW from the monitoring requirement, require further monitoring, or direct that a Complaint be issued for lack of compliance with this Supplemental ARD and any applicable statues, rules, and regulations.

5.3 Probation. The certifications of GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood shall be on probation until the Board releases them from the conditions of this Supplemental ARD to ensure compliance with the Supplemental ARD and with the duties, standards, and requirements for a professional guardian. (DR 515.3). If GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood comply with the Supplemental ARD, and the duties, standards, and requirements of a professional guardian for a minimum of six months, the probation will be lifted. If not, the probation period may be continued for another six months or the Board may take further disciplinary action.

6. VIOLATION OF SUPPLEMENTAL AGREEMENT

6.1 Violation of this Supplemental ARD by GSEW, Mr. Frederickson, Ms. Frederickson, and/or Ms. Wood will constitute grounds for discipline under the Disciplinary Regulations for Certified Professional Guardians.

6.2 In the event of an alleged breach of this Supplemental ARD, 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 Supplemental ARD. If the Board finds that Suspension Pending Disciplinary Proceedings is warranted, it may proceed pursuant to Disciplinary Regulation 519.

6.3 This Supplemental ARD is binding as a statement of all known facts relating to the conduct of GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood, but any additional existing acts may be proven in any subsequent disciplinary proceedings.

7. NOTICE

7.1 This Supplemental ARD shall be retained by the AOC in GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood's disciplinary file.

7.2 This Supplemental ARD shall be open to public access and disclosure and will be posted on the Washington Courts Web site, Certified Professional Guardian Board Web page, (http://www.courts.wa.gov/programs_orgs/guardian/).

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

8. ENTIRE AGREEMENT

This Supplemental ARD 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 Supplemental ARD may be modified or amended only by a written amendment signed by all parties.

9. SEVERABILITY

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

10. LAWS GOVERNING

This Supplemental ARD shall be governed by the laws of the State of Washington, and any question arising from the Supplemental ARD shall be construed or determined according to such law.

11. RIGHT TO COUNSEL

11.1. GSEW acknowledges that the agency has the right to individual counsel to represent the agency in this disciplinary matter, at the agency's expense, as set forth in Disciplinary Regulation 509. GSEW acknowledges that the agency has either consulted with counsel or has had the opportunity to do so and chosen not to consult with counsel.

11.2 Mr. Frederickson acknowledges that he has the right to individual counsel to represent him in this disciplinary matter, at his expense, as set forth in Disciplinary Regulation 509. Mr. Frederickson acknowledges that he has either consulted with counsel or has had the opportunity to do so and chosen not to consult with counsel.

11.3 Ms. Frederickson acknowledges that she has the right to individual counsel to represent her in this disciplinary matter, at her expense, as set forth in Disciplinary Regulation 509. Ms. Frederickson acknowledges that she has either consulted with counsel or has had the opportunity to do so and chosen not to consult with counsel.

11.4 Ms. Wood acknowledges that she has the right to individual counsel to represent her in this disciplinary matter, at her expense, as set forth in Disciplinary Regulation 509. Ms. Wood acknowledges that she has either consulted with counsel or has had the opportunity to do so and chosen not to consult with counsel.

12. PRESENTATION OF AGREEMENT TO THE BOARD

GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood understand that this Supplemental ARD is not binding or effective unless and until it is approved and signed by the Board. If the Board rejects this Supplemental ARD, GSEW, Mr. Frederickson, Ms. Frederickson, and Ms. Wood waive any objection to the participation in the final determination of the disciplinary matters described in this Supplemental ARD of any Board member who was present during the Supplemental ARD presentation.

COPY RECEIVED, NOTICE OF PRESENTATION WAIVED:

Nancy A. Frederickson — 3/17/09

Nancy Frederickson, Individually and on Behalf of
Guardianship Services of Eastern Washington,
Certified Professional Guardian Agency No. 5136
Certified Professional Guardian No. 6497

Date

Dale R. Frederickson — 3/17/09

Dale R. Frederickson
Certified Professional Guardian No. 5184

Date

Cheryl Wood — 3/17/09

Cheryl Wood
Certified Professional Guardian No.10312

Date

Gabrielle Roth Pitner — 3/16/09

Gabrielle Roth Pitner
Attorney for GSEW and
WSBA #31561

Date

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS

10 DAY OF Aug, 2009.

The Hon. Kimberley Prochnau
Chair, Certified Professional Guardian Board