CERTIFIED PROFESSIONAL GUARDIAN BOARD

	)	**CPGB No. 2011-025**
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Maureen Carroll, CPG No. 10908	)	**Agreement Regarding Discipline for Noncompliance with Continuing Education Regulations**
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The parties, Maureen Carroll (Ms. Carroll) CPG No. 10908, and the Certified Professional Guardian Board (Board) enter into this Agreement Regarding Discipline (Agreement) pursuant to Continuing Education Regulations 211 and the Board's Disciplinary Regulations for Certified Professional Guardians. Ms. Carroll has failed to follow the Continuing Education Regulations, resulting in this disciplinary proceeding before the Board. This Agreement is a resolution of this disciplinary proceeding and shall become effective after all parties have signed the Agreement. The Agreement will be a part of the professional guardian record of Ms. Carroll and will be a public record and subject to public access.

1. JURISDICTION

1.1 At all times relevant herein, Ms. Carroll was a certified professional guardian (CPG) pursuant to General Rule (GR) 23, CPG No.10908. Ms. Carroll became certified in 2009.

1.2 The Certified Professional Guardian Board is responsible for reviewing any allegation that a certified professional guardian or certified professional guardianship agency has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. Pursuant to its Disciplinary Regulations, the Board may impose discipline, sanctions, costs and other remedies upon a finding of violation, or may recommend that the Washington Supreme Court impose discipline, sanctions and

costs, when the recommendation is for suspension or decertification of the certified professional guardian or agency.

2. STATEMENT OF FACTS

2.1 All Certified Professional Guardians were required to report continuing education credits for the year 2010 no later than January 31, 2011. Reminders regarding the continuing education reporting requirements were sent out by email on October 20, 2010, November 18, 2010, December 1, 2010, January 5, 2011, February 10, 2011, and April 20, 2011. If the guardian failed to file the declaration reporting credits by January 31, 2011 or had not earned the twelve required credits prior to December 31, 2010, the guardian was required to pay a special service fee of $50 and had until April 30, 2011 to come into compliance without further sanctions. If a Certified Professional Guardian was not in compliance by April 30, 2011, a notification letter was sent out by certified mail, return receipt requested, informing the guardian that the guardian had ten days to petition the Education Committee of the Board and show the undue hardship, infirmity, administrative error, or other good cause for extending the time or waiving compliance with the continuing education requirements. The Education Committee could approve the petition or enter into an agreement with the guardian as to time and other requirements for achieving compliance.

2.2 On or about May 4, 2011, the Board sent a letter to Ms. Carroll by certified mail, return receipt requested notifying her that she was not in compliance with continuing education regulations that required her to pay a special service fee of $50 for obtaining credits needed for 2010 in 2011. The letter advised Ms. Carroll that she could petition the Education Committee of the Board and show the undue hardship, infirmity, administrative error, or other good cause for extending the time or waiving compliance with the continuing education requirements.

2.3 Ms. Carroll responded that she would pay the special service fee and the fee was paid by June 2, 2011.

2.4 The Education Committee considered Ms. Carroll's past compliance with continuing education compliance, and other required filings by guardians to the Board. In 2010, Ms. Carroll had to pay a late fee for filing her continuing education declaration on May 20, 2010. In 2009, Ms. Carroll had to

pay a late fee for filing her continuing education declaration on March 30, 2009. The Committee determined that an Agreement Regarding Discipline would be appropriate and referred this matter to the Standards of Practice Committee for resolution.

3. VIOLATIONS

3.1 Based on the facts set forth in paragraphs 2.2-2.4, Ms. Carroll's conduct constitutes grounds for discipline pursuant to Education Regulation 208 and 211, which provide in pertinent part:

> **208.1** Compliance Report. Within 30 days from the end of the preceding reporting period, each Guardian shall submit an affidavit to the Committee, at the AOC, setting forth all information required by the Affidavit Reporting CEUs concerning such Guardian's completion of approved continuing education during the preceding reporting period. Such affidavit shall also contain a report of "carryover" credits, if any, as delineated in Regulation 202. (Amended 3/8/10).
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> **208.2** Supplemental Report. If an active Guardian has not completed the minimum education requirement for the preceding reporting period, or complied with Regulation 208.1, compliance may still be accomplished by:
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> > **208.2.1** Submitting by April 30, the affidavit called for by Regulation 208.1, the Affidavit Reporting CEUs, setting forth therein the extent of the active Guardian's compliance with the minimum education requirement.
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> > **208.2.2** Paying at the time of filing such supplemental affidavit a special $50 service fee.
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> **208.3** An active Guardian who fails to comply with the provisions of this regulation shall be subject to the procedures and provisions of Regulation 211.
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> **211.1** An active Guardian who has not complied with the educational or reporting requirements of GR 23 and these regulations by April 30 of each year may be decertified by the Board.
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> **211.2** To effect such decertification, the Committee shall send to the non-complying Guardian by certified mail, directed to the Guardian's last known address as maintained on the records of the Administrative Office of the Courts, a written notice of non-compliance. The notice shall advise such active Guardian of the pendency of decertification unless within 10 calendar days of receipt of such notice such active Guardian completes and returns to the Committee a petition, to which supportive affidavit(s) showing undue hardship, infirmity, administrative error, or other good cause may be attached for extension of time for, or waiver of, compliance with the requirements of GR 23 and these regulations, or for a ruling by the Committee of substantial compliance with the requirements.
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> **211.3** If such petition is not filed, such lack of action shall be deemed acquiescence by the active Guardian in the finding of non-compliance. The Committee shall report such fact to the Board with the Committee's recommendations for decertification. The Board shall decertify the Guardian.
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> **211.4** If such petition is filed, the Committee may, at its discretion, approve the same without hearing or may enter into an agreement on terms with such active Guardian as to time and other requirements for achieving compliance with GR 23 and these regulations.

3.2 Based on the facts and violations set forth above, Ms. Carroll'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**
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> (2) Duties and Powers.
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> . . .
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> (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.
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> **DR 503** A professional guardian may be subject to disciplinary action for any of the following:
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> **503.1** Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.
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> **503.3** Failure to perform any duty one is obligated to perform as a professional guardian.

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. Pattern of conduct.

4.2 Mitigating Factors. Absence of dishonesty or selfish motive, lack of harm, timely efforts to correct the situation.

5. PRIOR RECORD OF DISCIPLINE

Ms. Carroll 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. Carroll 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.

Reimbursement. Based on the type of violation, an appropriate disciplinary sanction is reimbursement of the costs of this disciplinary proceeding. Ms. Carroll is required to reimburse the Board one hundred dollars ($100.00) for the costs of this disciplinary proceeding.

Probation. Ms. Carroll shall be on probation for a period of two years from the date of this Agreement. The terms of her probation require that she file all Board required declarations on time, including, but not limited to, the annual disclosure/declaration, errors & omissions insurance declaration, continuing education declaration.

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, late filing of any required declarations for a two year period from the date of this Agreement, including continuing education, Errors and Omissions insurance, and annual disclosures. Late filing is defined as any filing beyond the original due date: for continuing education, late filing would be filing a declaration after January 31; for E&O insurance and annual disclosures, late filing would be filing the declaration or disclosure after August 1.

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 alleged to be in breach of the Agreement. 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. Carroll but any additional existing acts may be proven in any subsequent disciplinary proceedings.

8. NOTICE

This Agreement shall be retained by the AOC in Ms. Carroll's disciplinary file. This Agreement shall be open to public access and disclosure. 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. Carroll acknowledges that she has the 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. Carroll 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. Carroll 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:

Maureen Carroll, CPG #5711 — Date 9/5/11

Date

Attorney for Maureen Carroll
WSBA #_____

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS 10th DAY OF October, 2011.

Honorable ~~Christopher Wickham~~ James W. Lauler
Chair, Certified Professional Guardian Board