CERTIFIED PROFESSIONAL GUARDIAN BOARD

IN THE MATTER OF:	CPGB NO. 2007-007(B)
Marsha Caldwell, CPG No. 9594, Respondent.	FORMAL COMPLAINT

Pursuant to General Rule 23 (GR 23) and the Disciplinary Regulations for Certified Professional Guardians, the Certified Professional Guardian Board (hereinafter "Board") hereby alleges violations of the Disciplinary Regulations by Marsha Caldwell as follows:

I. JURISDICTION

1. Pursuant to GR 23, the 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 (DR), the Board may impose disciplinary 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. Marsha Caldwell is a certified professional guardian. Ms. Caldwell's certified professional guardian number is 9594.

ORIGINAL

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3. During all times relevant to this action, Mary (Kathy) Kuehn was a certified professional guardian. Ms. Kuehn's certification number was 4779. Ms. Kuehn was decertified as a professional guardian on or about September 10, 2007.

4. During all times relevant to this action, Kuehn and Caldwell Guardian Care and Consulting (Kuehn and Caldwell) was a certified professional guardianship agency. Kuehn and Caldwell's certification number was 10083. Kuehn and Caldwell was decertified as a guardianship agency on or about September 10, 2007.

II. FACTS

A. General Facts Applicable To All Cases Mentioned Herein

1. During all times relevant to this action and before September 10, 2007, Kuehn and Caldwell was a for-profit guardian and fiduciary services corporation. Ms. Caldwell and Ms. Kuehn had final decision-making authority for incapacitated persons on behalf of Kuehn and Caldwell, and both were responsible for the management of the agency.

2. At some time after October 2006, Ms. Kuehn ceased working at Kuehn and Caldwell. On or about April 25, 2007, Ms. Kuehn faxed a signed letter to the Board Review Panel concerning her involvement with Kuehn and Caldwell. Ms. Kuehn wrote that she had "not been on the payroll [of Kuehn and Caldwell] since October 2006[,]" and that she had "not been working at Kuehn and Caldwell since last October." During the period intervening October 2006 and Kuehn and Caldwell's decertification in September 2007, Ms. Caldwell was the only designated certified professional guardian working at Kuehn and Caldwell.

3. On or about June 22, 2007, Ms. Caldwell entered into an Agreement Regarding Discipline with the Board stemming from a complaint filed by Judge Laurie on or about March 12, 2007, in the case of *In re the Guardianship of E* , Kitsap County Superior Court Cause No. 04-4-00247-7.

4. The Agreement Regarding Discipline (hereinafter "Agreement") was signed by Ms. Caldwell on or about May 16, 2007 and by the Board on or about June 22, 2007.

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5. Paragraph II.A. of the Agreement provides:

> Ms. Caldwell agrees that she will accept no new appointments as a court-appointed guardian, either as an individual or on behalf of a guardianship agency. Kuehn and Caldwell Agency agrees to accept no new appointments as a court-appointed guardian.

6. Paragraph II.B. of the Agreement provides:

> Ms. Caldwell agrees to notify the court in writing within 30 days of the effective date of this Agreement on all cases in which Kuehn and Caldwell Agency is the court-appointed guardian that the agency no longer has two designated CPGs (certified professional guardians) as required by GR 23. Ms. Caldwell will either seek a successor guardian on the agency's cases or else, with approval from the court in which the case is filed, secure a second CPG for the Kuehn and Caldwell Agency within 90 days of the effective date of this Agreement. If the superior court appoints a successor guardian on any of the Kuehn and Caldwell Agency cases, Ms. Caldwell may not accept appointment as the successor guardian, either individually or as a designated CPG for another agency.

7. On or about September 10, 2007, the Board decertified Mary Kuehn and Kuehn and Caldwell as certified professional guardians for failure to comply with dues regulations.

8. On or about October 31, 2007, the Board sent notice to Ms. Caldwell that they believed that Ms. Caldwell was in breach of the Agreement as detailed in the Seventh Cause of Action.

B. *In re the Guardianship of E*, Kitsap County Superior Court Cause No. 04-4-00247-7.

1. On or about April 12, 2004, under cause number 04-4-00247-7, Kuehn and Caldwell petitioned the Kitsap County Superior court for appointment as guardian of the person and estate of E.

2. On or about April 30, 2004, the Kitsap County Superior Court appointed Kuehn and Caldwell as the guardian of E (hereinafter "Appointment Order"). The Appointment Order included the following requirements:

a. **Report of Substantial Change in Income of Assets:** Within 30 days of any substantial change in the Estate's income or assets, the Guardian of the Estate

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shall report to the Court and schedule a hearing. The purpose of the hearing will be for the Court to consider changing the bond or making other provisions in accordance with RCW 11.88.100.

b. **Inventory**: Within three months of appointment, the Guardian of the Estate shall file an inventory of all property if (sic) the Incapacitated Person, which shall come into the Guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item. A review hearing upon filing of the inventory is required.

c. **Personal Care Plan**: The Guardian of the Person shall complete and file within three months after appointment a Personal Care Plan which shall comply with the requirements of RCW 11.92.043(1).

d. **Status of Incapacitated Person**: Unless otherwise ordered, the Guardian of the Person shall file an annual report on the status of the Incapacitated Person that shall comply with the requirements of RCW 11.92.403(2).

e. **Authority for Investment and Expenditure**: The authority of the Guardian of the Estate for investment and expenditure of the ward's estate is as follows: Reserved for further direction of the court.

f. **Legal Fees**: The legal fees and costs of Kuehn and Caldwell are reserved pending determination of the assets of the ward. The Guardian may petition for payment of fees and costs at a subsequent hearing with applicable notice to all interested parties.

g. **Guardian's Report**: The Guardian's report shall cover the 12 (twelve) month period following the appointment. The Guardian's report is due within 90 days of the end of the reporting period and shall comply with the requirements of RCW 11.92.040(2).

h. **OTHER**: The guardian is allowed access to $7,000.00 of the ward's funds. All other funds remain blocked pending the filing of a bond in the amount of $25,000.00. The bond shall be filed by May 5, 2004.

3. The following are areas in which Kuehn and Caldwell failed to follow the court order appointing guardian:

a. The bond was signed by the Court on October 13, 2006, several years late.

b. The initial inventory and Personal Care Plan was filed over a month late.

c. The inventory filed on or about September 3, 2004, failed to list the account balances of a Merrill Lynch Investment Account, account number xxxx-xx77 (hereinafter

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"Merrill Lynch Account") and a Bank of America checking account, account number xxxxxx34, at the beginning of the guardianship on April 30, 2004. The account balances listed by Kuehn and Caldwell reflected the value on July 30, 2004 for the Merrill Lynch Account and July 7, 2004, for the Bank of America checking account. Omitted from the list of financial accounts is a Kitsap Bank account.

d. Kuehn and Caldwell did not block access to E's accounts. Between April 30, 2004, and September 16, 2004, Kuehn and Caldwell accessed and removed funds from one or more specific accounts in an amount in excess of $7,000, including but not limited to E's Bank of America checking account.

e. Kuehn and Caldwell filed the first annual accounting over a month late. On or about August 9, 2005, Ms. Caldwell filed a Guardian's Report and Accounting covering the period from April 30, 2004 through April 30, 2005.

4. On or about February 21, 2006, Messenger House filed a creditor's claim for the care of E . The claim was for "care furnished through February 20, 2006 the claim is in the liquidated amount of $15,015.00....". Messenger House filed a Creditor's Motion to Allow Claim; Revoke Letters of Guardianship; Appoint Successor Guardian; and Grant Requested Relief with the Court. The claim amount escalated to $33,847.00 as of May 12, 2006.

5. On or about July 28, 2006, the Court issued an order allowing Kuehn and Caldwell to sell E's condominium, which was located at 137 Madison Avenue, Bainbridge Island, WA 98310. On or about August 11, 2006, the Court entered an order directing the sale of E's condominium. On or about August 24, 2006, Kuehn and Caldwell signed a HUD-1 Form, Settlement Statement with Robert K. Winn and Sharon K. Winn, the purchasers of E's condominium. The HUD-1 Form listed the settlement date, proration date, and disbursement date as August 24, 2006. On or about August 24, 2006, Kuehn and Caldwell transferred the deed of E's condominium to Mr. and Mrs. Winn.

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6. On or about September 20, 2006, Kuehn and Caldwell filed a Return on Sale of Real Property, and the court confirmed the sale of E's estate and authorized the transfer of the deed and the payment of the fees and expenses laid out by Kuehn and Caldwell in their Return on Sale of Property. These documents were filed 30 days late. The sale of the property closed before proper court approval.

7. On or about June 8, 2006, Ronald E. Anderson was appointed as GAL by the court to investigate the conduct of Kuehn and Caldwell in the guardianship matter of E.

Mr. Anderson filed his report with the Court on October 6, 2006. His report is incorporated herein by reference. Mr. Anderson ultimately recommended that Ms. Caldwell and Kuehn and Caldwell should be removed from E's case.

8. On March 8, 2007, Judge Anna M. Laurie of the Kitsap Superior Court issued a memorandum opinion finding that Kuehn and Caldwell had violated past court orders regarding the failure to file a bond, failure to block accounts and provide security for liquid assets, delayed on obtaining spending authorization, delayed in filing accountings, and failed to report significant changes in assets. Judge Laurie also found that Kuehn and Caldwell sold E's condominium without proper court authorization and failed to file accountings timely and in the proper form. Finally, Judge Laurie found that Kuehn and Caldwell had paid themselves $21,292.91 from E's estate. Judge Laurie found that of that total, only $9,511.66 was an appropriate fee. Thus, Judge Laurie entered a finding against Kuehn and Caldwell for the amount of $11,531.25 that was to be repaid to the E estate.

9. On March 12, 2007, Judge Laurie filed a grievance with the Board against Kuehn and Caldwell for the reasons stated in her March 8, 2007, Memorandum Opinion.

10. As a result of the complaint filed against Kuehn and Caldwell, Ms. Caldwell entered into an Agreement Regarding Discipline with the Board on June 22, 2007.

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C. *In re the Guardianship of R*, Kitsap County Superior Court Cause No. 05-4-00729-9

1. On or about August 11, 2006, Kuehn and Caldwell was appointed as successor limited guardian of the estate in the matter of *In re the Guardianship of R*, Kitsap Superior Court cause no. 05-4-00729-9.

2. In the August 11, 2006, Order Appointing Successor Guardian of the Estate, the Court directed that Letters of Guardianship be issued to Kuehn and Caldwell upon the filing of an oath and a $100 bond. An Amended Appointment Order was issued by the Court on September 15, 2006, requiring a bond in the amount of $10,000.

3. On January 11, 2007, Scott Thomason provided written notice to Ms. Caldwell and Kuehn and Caldwell that rent for R was past due in the amount of $1,538.

4. On March 23, 2007, the Office of the Attorney General for the State of Washington filed a motion for an order to show cause seeking the removal of Kuehn and Caldwell as guardian for R. The motion alleged that Kuehn and Caldwell had not filed the required $10,000 bond and oath, and as a result had not been issued Letters of Guardianship.

5. On March 23, 2007, the Court issued an emergency order suspending Kuehn and Caldwell as R's limited guardian of the estate.

D. *In re the Guardianship of B*, Kitsap County Superior Court Cause No. 97-4-00257-4

1. On or about June 25, 2004, Kuehn and Caldwell was appointed as guardian for B under Kitsap County Superior Court cause no. 97-4-00257-4.

2. On or about August 24, 2007, the Court ordered that "all financial records (monthly ledgers, bank statements, bank account numbers) in the possession of Marsha Caldwell (Kuehn and Caldwell Guardian Care and Consulting) be turned over to Craig Lindsay at the Law office of Buskirk Havers Lindsay and Olsen (sic), within 15 days of this Order."

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3. Ms. Caldwell did not comply with the Court's Order and failed to turn over all of the required documents during the period provided in the Order.

4. On November 2, 2007, Ms. Caldwell was held in contempt of court for intentionally failing to comply with the Court's August 24, 2007 Order.

E. In re the Guardianship of D , Kitsap County Superior Court Cause No. 03-4-00254-1

1. On or about November 12, 2004, Kuehn and Caldwell was appointed as guardian for D under Kitsap Superior Court cause no. 03-4-00254-1.

2. On or about June 29, 2007, the Court ordered that "all financial records (monthly ledgers, bank statements, bank account numbers) in the possession of Marsha Caldwell (Kuehn and Caldwell Guardian Care and Consulting) be turned over to Craig Lindsay at the Law office of Buskirk Havers Lindsay and Olsen (sic), within 15 days of this Order."

3. Ms. Caldwell did not comply with the Court's Order and failed to turn over all of the required documents during the period provided in the Order.

4. On November 2, 2007, Ms. Caldwell was held in contempt of court for intentionally failing to comply with the Court's June 29, 2007 Order.

F. *In re the Guardianship of* F , Kitsap County Superior Court Cause No. 02-4-00260-8

1. On or about June 14, 2002, Kuehn and Caldwell was appointed as guardian for F under Kitsap County Superior Court cause no. 02-4-00260-8.

2. On or about June 29, 2007, the Court ordered that "all financial records (monthly ledgers, bank statements, bank account numbers) in the possession of Marsha Caldwell (Kuehn and Caldwell Guardian Care and Consulting) be turned over to Craig Lindsay at the Law office of Buskirk Havers Lindsay and Olsen (sic), within 15 days of this Order."

3. Ms. Caldwell did not comply with the Court's Order and failed to turn over all of the required documents during the period provided in the Order.

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4. On November 2, 2007, Ms. Caldwell was held in contempt of court for intentionally failing to comply with the Court's June 29, 2007 Order.

G. *In re the Guardianship of H*, Kitsap County Superior Court Cause No. 99-4-00210-4

1. On or about May 27, 2005, Kuehn and Caldwell was appointed as guardian for H under Kitsap Superior Court cause no. 99-4-00210-4.

2. On or about August 24, 2007, the Court ordered that "all financial records (monthly ledgers, bank statements, bank account numbers) in the possession of Marsha Caldwell (Kuehn and Caldwell Guardian Care and Consulting) be turned over to Craig Lindsay at the Law office of Buskirk Havers Lindsay and Olsen (sic), within 15 days of this Order."

3. Ms. Caldwell did not comply with the Court's Order and failed to turn over all of the required documents during the period provided in the Order.

4. On November 2, 2007, Ms. Caldwell was held in contempt of court for intentionally failing to comply with the Court's August 24, 2007 Order.

H. *In re the Guardianship of A*, Clallam County Superior Court Cause No. 06-4-00080-3

1. On or about May 19, 2006, Kuehn and Caldwell was appointed as guardian for A under Clallam County Superior Court cause no. 06-4-00080-3.

2. On or about August 16, 2007, Ms. Kuehn filed a notice with the Court stating:

> PLEASED BE ADVISED that I, Kathy Kuehn, pursuant to the Certified Professional Guardian Board, Agreement Regarding Discipline, Section 2 Paragraph C. (Exhibit A). I am no longer acting as a designated CPG of Kuehn and Caldwell Guardian Care and Consulting, the duly appointed and acting Guardian herein.

3. On or about August 31, 2007, Ms. Kuehn filed her Guardians Resignation with the Court. She stated, "PLEASE BE ADVISED that I, the duly appointed and acting Guardian herein, hereby resigns (sic) as Guardian."

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4. Also on or about August 31, 2007, Ms. Caldwell filed a Declaration with the Court that stated as follows:

> I am the Certified Professional Guardian who has worked on this case since [the] original ruling by this court May 2006. My name is on the Letters of Guardianship and I am willing to continue in this capacity.
> I have the necessary history and professional abilities to continue without disruption to the client or his living situation. I have obtained a Stand-by guardian of Mr. Dewey Abbott. Mr. Abbott is also a Certified Professional Guardian. His license number is CPG 010068.

5. On or about August 31, 2007, a hearing was held on this case. During the hearing, Mr. Abbott advised the court that he was not willing to act as a standby guardian for Ms. Caldwell, whereupon Ms. Caldwell requested that she be given thirty days to find another standby guardian. The Court denied Ms. Caldwell's request and appointed Mr. Abbott as successor guardian for A.

6. Ms. Caldwell requested appointment as an individual guardian, not on behalf of Kuehn and Caldwell or any other certified professional guardian agency. Ms. Caldwell provided no documentation to the Court on August 31, 2007, that Kuehn and Caldwell had obtained a second certified professional guardian. This was in violation of her agreement with the Certified Professional Guardian Board.

I. *In re the Guardianship of* C1, Clallam County Superior Court Cause No. 06-4-00078-1.

1. On or about May 19, 2006, Kuehn and Caldwell was appointed as guardian for C1 under Clallam County Superior Court case no. 06-4-00078-1.

2. On or about August 16, 2007, Ms. Kuehn filed a notice with the Court that stated as follows:

> PLEASED BE ADVISED that I, Kathy Kuehn, pursuant to the Certified Professional Guardian Board, Agreement Regarding Discipline, Section 2 Paragraph C. (Exhibit A). I am no longer acting as a designated CPG of Kuehn and Caldwell Guardian Care and Consulting, the duly appointed and acting Guardian herein.

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3. On or about August 31, 2007, Ms. Kuehn filed her Guardians Resignation with the Court. She stated, "PLEASE BE ADVISED that I, the duly appointed and acting Guardian herein, hereby resigns (sic) as Guardian."

4. On or about August 31, 2007, Ms. Caldwell filed a Declaration with the Court that stated as follows:

> I am the Certified Professional Guardian who has worked on this case since [the] original ruling by this court May 2006. My name is on the Letters of Guardianship and I am willing to continue in this capacity.
> I have the necessary history and professional abilities to continue without disruption to the client or his living situation. I have obtained a Stand-by guardian of Mr. Dewey Abbott. Mr. Abbott is also a Certified Professional Guardian. His license number is CPG 010068.

5. On or about August 31, 2007, a hearing was held on this case. During the hearing, Mr. Abbott advised the court that he was not willing to act as a standby guardian for Ms. Caldwell, whereupon Ms. Caldwell requested that she be given thirty days to find another standby guardian. The Court denied Ms. Caldwell's request and appointed Mr. Abbott as successor guardian for .

6. Ms. Caldwell requested appointment as an individual guardian, not on behalf of Kuehn and Caldwell or any other certified professional guardian agency. Ms. Caldwell provided no documentation to the Court on August 31, 2007, that Kuehn and Caldwell had obtained a second certified professional guardian. This was in violation of her agreement with the Certified Professional Guardian Board.

J. *In re the Guardianship of* C2 , Clallam County Superior Court Cause No. 06-4-00079-1.

1. On or about May 19, 2006, Kuehn and Caldwell was appointed as guardian for C2 under Clallam County Superior Court case no. 06-4-00078-1.

2. On or about August 16, 2007, Ms. Kuehn filed a notice with the Court that stated as follows:

> PLEASED BE ADVISED that I, Kathy Kuehn, pursuant to the Certified Professional Guardian Board, Agreement Regarding Discipline, Section 2

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Paragraph C. (Exhibit A). I am no longer acting as a designated CPG of Kuehn and Caldwell Guardian Care and Consulting, the duly appointed and acting Guardian herein.

3. On or about August 31, 2007, Ms. Kuehn filed her Guardians Resignation with the Court. She stated, "PLEASE BE ADVISED that I, the duly appointed and acting Guardian herein, hereby resigns (sic) as Guardian."

4. On or about August 31, 2007, Ms. Caldwell filed a Declaration with the Court that stated as follows:

> I am the Certified Professional Guardian who has worked on this case since [the] original ruling by this court May 2006. My name is on the Letters of Guardianship and I am willing to continue in this capacity.
>
> I have the necessary history and professional abilities to continue without disruption to the client or his living situation. I have obtained a Stand-by guardian of Mr. Dewey Abbott. Mr. Abbott is also a Certified Professional Guardian. His license number is CPG 010068.

5. On or about August 31, 2007, a hearing was held on this case. During the hearing, Mr. Abbott advised the court that he was not willing to act as a standby guardian for Ms. Caldwell, whereupon Ms. Caldwell requested that she be given thirty days to find another standby guardian. The Court denied Ms. Caldwell's request and appointed Mr. Abbott as successor guardian for C2

6. Ms. Caldwell requested appointment as an individual guardian, not on behalf of Kuehn and Caldwell or any other certified professional guardian agency. Ms. Caldwell provided no documentation to the Court on August 31, 2007, that Kuehn and Caldwell had obtained a second certified professional guardian. This was in violation of her agreement with the Certified Professional Guardian Board.

III. VIOLATIONS OF DISCIPLINARY REGULATIONS AND STATUTES

A. First Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell failed to follow Superior Court orders as follows: failed to timely file complete verified

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inventories and personal care plans, failed to file bonds and oaths, failed to block (restrict) bank account assets, and failed to file accountings timely, which are in violation of the following statutes and disciplinary regulations:

1. SOP 401.1, which provides that "[t]he 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 the affairs of an incapacitated person."

2. SOP 401.3, which provides that "[t]he guardian shall provide reports and accountings that are timely, complete, accurate, understandable, and in a form acceptable to the court."

3. SOP 408, which provides that "[i]n each guardianship, the guardian shall comply with the requirements of the court that made the appointment."

4. SOP 406.2, which provides that "[t]he guardian shall maintain all bonding, blocking, and insurance requirements as may be required by the court."

5. SOP 401.4, which provides that "[t]he guardian shall not act outside of the authority granted by the court."

6. SOP 401.3, which provides that "[t]he guardian shall provide reports and accountings that are timely, complete, accurate, understandable, and in a form acceptable to the court."

7. RCW 11.88 and 11.92 et seq.

B. Second Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell failed to timely pay the just claims of E's creditors, to wit: Messenger House Care Center, in the case of *In re the Guardianship of* E, Kitsap County Superior Court cause no. 04-4-00247-7, and failed to timely pay the just claims of R's creditors, to wit: Scott Thomason, in the case of *In re the Guardianship of* R, Kitsap Superior

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Court cause no. 05-4-00729-9, which is a violation of the following statutes and disciplinary regulations:

1. RCW 11.92.035, which provides that "[a] guardian of the estate is under a duty to pay from the estate all just claims against the estate of the incapacitated person, whether they constitute liabilities of the incapacitated person which arose prior to the guardianship or liabilities properly incurred by the guardian for the benefit of the incapacitated person or his or her estate and whether arising in contract or in tort or otherwise, upon allowance of the claim by the court or upon approval of the court in a settlement of the guardian's accounts."

2. SOP 401.1, which provides that "[t]he 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 the affairs of an incapacitated person."

3. SOP 406.1, which provides that "[t]he guardian shall know and obey the law related to managing an incapacitated person's estate."

4. SOP 406.3, which provides that "[t]he guardian shall manage the estate with the primary goal of providing for the needs of the incapacitated person."

5. SOP 408, which provides that "[t]he guardian shall perform duties and discharge obligations in accordance with current Washington law governing certification of guardian."

C. Third Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell failed to obtain all necessary Court orders for the sale of E's condominium in the case of *In re the Guardianship of* E., Kitsap County Superior Court cause no. 04-4-00247-7, which is a violation of the following statutes and disciplinary regulations:

1. RCW 11.92, 11.56 and 11.100.

2. SOP 401.1, which provides that "[t]he guardian shall at all times be thoroughly familiar with RCW 11.88, RCW 11.92, GR 23, these standards and any other regulations or

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statutes which govern the conduct of the guardian in the management of the affairs of an incapacitated person."

3. SOP 401.4, which provides that "[t]he guardian shall not act outside of the authority granted by the court."

4. SOP 408, which provides that "[i]n each guardianship, the guardian shall comply with the requirements of the court that made the appointment."

D. Fourth Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell failed to inform the Court of a substantial change in the assets of E's estate within the required thirty days in the case of *In re the Guardianship of* E, Kitsap County Superior Court cause no. 04-4-00247-7, which is a violation of the following statutes and disciplinary regulations:

1. RCW 11.92.090(3), which provides that "[t]he guardian or limited guardian shall report any substantial change in income or assets of the guardianship estate within thirty days of the occurrence of the change."

2. SOP 401.1, which provides that "[t]he 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 the affairs of an incapacitated person."

3. SOP 401.3, which provides that "[t]he guardian shall provide reports and accountings that are timely, complete, accurate, understandable, and in a form acceptable to the court."

4. SOP 408, which provides that "[i]n each guardianship, the guardian shall comply with the requirements of the court that made the appointment."

E. Fifth Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell failed to timely turn over financial records as directed by the Court in the cases of *In re the Guardianship of* B, Kitsap County Superior Court cause no. 97-4-00257-4, *In re*

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the Guardianship of D , Kitsap County Superior Court cause no. 03-4-00254-1, *In re the Guardianship of* F , Kitsap County Superior Court cause no. 02-4-00260-8, and *In re the Guardianship of* H , Kitsap County Superior Court cause no. 99-4-00210-4, which is a violation of the following statutes and disciplinary regulations:

1. SOP 401.1, which provides that "[t]he 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 the affairs of an incapacitated person."

2. SOP 401.3, which provides that "[t]he guardian shall provide reports and accountings that are timely, complete, accurate, understandable, and in a form acceptable to the court."

3. SOP 408, which provides that "[i]n each guardianship, the guardian shall comply with the requirements of the court that made the appointment."

F. Sixth Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell failed to ensure that Kuehn and Caldwell, a certified professional guardianship agency, had two certified professional guardians in the cases of *In re the Guardianship of* E , Kitsap Superior Court, cause no. 04-4-00247-7, *In re the Guardianship of* R , Kitsap County Superior Court cause no. 05-4-00729-9, *In re the Guardianship of* A , Clallam County Superior Court cause no. 06-4-00080-3, *In re the Guardianship of* C1 , Clallam County Superior Court cause no. 06-4-00078-1, and *In re the Guardianship of* C2 , Clallam Superior Court cause no. 06-4-00079-0, which is a violation of the following statutes and disciplinary regulations:

1. GR 23(d)(2)(ii), which provides that all agencies "shall have at least two (2) individuals in the agency certified as professional guardians".

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2. SOP 401.1, which provides that "[t]he guardian shall at all times be thoroughly familiar with RCW 11.8, RCW 11.92, GR 23, these standards and any other regulations or statutes which govern the conduct of the guardian in the management of the affairs of an incapacitated person."

G. Seventh Cause of Action: Based on the facts set forth in Section II above, Ms. Caldwell violated the terms of her Agreement Regarding Discipline, dated June 22, 2007, by requesting appointment as an individual guardian, a successor guardian, and/or a guardian on behalf of Kuehn and Caldwell in the cases of *In re the Guardianship of* A , Clallam County Superior Court cause no. 06-4-00080-3, *In re the Guardianship of* C1 , Clallam County Superior Court cause no. 06-4-00078-1, and *In re the Guardianship of* C2 , Clallam County Superior Court cause no. 06-4-00079-0, which is a violation of the following statutes and disciplinary regulations:

1. SOP 401.1, which provides that "[t]he guardian shall at all times be thoroughly familiar with RCW 11.8, RCW 11.92, GR 23, these standards and any other regulations or statutes which govern the conduct of the guardian in the management of the affairs of an incapacitated person."

IV. REQUEST FOR DISCIPLINARY ACTION AND SANCTIONS

Based on the foregoing, it is requested that respondent Marsha Caldwell be found in violation of the Disciplinary Regulations for Certified Professional Guardians and that she be decertified forthwith, remedies and costs be imposed on respondent in accordance with the Disciplinary Regulations, and for such other and further relief as deemed just and equitable.

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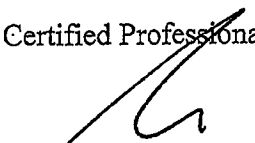
DATED this 17 day of December, 2007.

Certified Professional Guardian Board



Robin Balsam
Chair of the Review Panel in PGB 2007-007(B)
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