CERTIFIED PROFESSIONAL GUARDIAN BOARD

Jason B. Couey, CPG #9948	)	**CPGB No. 2008-015** **AGREEMENT REGARDING DISCIPLINE AND STIPULATED FINDINGS** ***Disciplinary Regulation 514***

The parties, Jason B. Couey, CPG No. 9948, and the Certified Professional Guardian Board (Board) enter into this Agreement Regarding Discipline and Stipulated Findings (Agreement) pursuant to the Board's Disciplinary Regulations for Certified Professional Guardians. Mr. Couey has committed violations of the Standards of Practice for Certified Professional Guardians, 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 Mr. Couey 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 Washington State Administrative Office of the Courts (AOC).

ORIGINAL

1. JURISDICTION

1.1 At all times relevant herein, Jason B. Couey was a certified professional guardian (CPG) pursuant to General Rule (GR) 23, licensed as CPG #9948.

2. STATEMENT OF FACTS

2.1 Mr. Couey was appointed as the guardian of the person and estate in Spokane County Superior Court Case No. 04-4-00453-7 on August 18, 2004. On or about July 31, 2008, the Board opened a grievance, CPGB No. 2008-015, based on allegations that Mr. Couey failed to file timely reports and failed to keep time records. On June 13, 2008, the court entered an order finding that Mr. Couey did not keep time records to substantiate his entitlement to fees and was disorganized when it came to reporting and meeting timelines for reports. The court permitted Mr. Couey to resign as guardian, but required him to repay $850 in guardian fees.

2.2 On July 24, 2008, Mr. Couey resigned as the guardian in Spokane County Superior Court Case No. 93-4-00530-1, however he has not yet obtained an order approving his final report.

2.3 On April 28, 2008, Mr. Couey resigned as the guardian in Spokane County Superior Court Case No. 04-4-00618-1. He has not completed his final accounting nor obtained an order approving the final accounting. RCW 11.92.053 requires a guardian to petition the court for an order settling the account within ninety days.

2.4 On April 29, 2008, the incapacitated person in Spokane County Superior Court Case No. 03-4-01077-6 passed away. Mr. Couey did not file a Notice of Death until August 21, 2008. RCW 11.92.043(3) requires the guardian to notify the court within thirty days of any substantial change in the incapacitated person's condition. Mr. Couey has not completed his final accounting nor obtained an order approving the final accounting. RCW 11.92.053 requires a guardian to petition the court for an order settling the account within ninety days.

2.5 On July 14, 2008, the incapacitated person in Spokane County Superior Court Case No. 99-4-01242-1 passed away. Mr. Couey filed a Notice of Death on August 21, 2008. Mr. Couey has not completed his final accounting nor obtained an order approving the final accounting. RCW 11.92.053 requires a guardian to petition the court for an order settling the account within ninety days.

2.6 Mr. Couey is the standby guardian in nineteen cases in Spokane County. He has informed the guardian that he does not intend to serve as standby guardian, but he has not provided any official notice for the court file.

2.7 Mr. Couey did not comply with continuing education requirements in 2007. In 2008, Mr. Couey did not comply with the regulation requiring all guardians to obtain Errors and Omissions Insurance or obtain a waiver. Mr. Couey did not pay annual dues for 2008 because he planned to surrender his guardian certification.

3. VIOLATIONS OF THE STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraph 2.1, Mr. Couey's conduct constitutes grounds for discipline pursuant to Standard of Practice (SOP) 403.3, which provides in pertinent part:

> SOP 403.3 All compensation for the services of the guardian shall be documented, reasonable in amount, and incurred for the incapacitated person's welfare. The guardian shall not pay or advance himself/herself fees or expenses except as approved by the court.

3.2 Based on the facts set forth in paragraphs 2.1 through 2.5, Mr. Couey's conduct constitutes grounds for discipline pursuant to SOP 401.3 and SOP 408, which provide in pertinent part:

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

SOP 408 The guardian shall perform duties and discharge obligations in accordance with current Washington law governing the certification of guardian. In each guardianship, the guardian shall comply with the requirements of the court that made the appointment.

3.3 Based on the facts set forth in paragraph 2.7, Mr. Couey's conduct constitutes grounds for discipline pursuant to Application Regulation (AR) 117 which provide 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.
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> 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.

3.4 Based on the facts set forth in paragraph 2.7, Mr. Couey's conduct constitutes grounds for discipline pursuant to AR 111.8, 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)

3.5 Based on the facts and violations set forth above, Mr. Couey'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.

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.

DR 503.4 Violation of the oath, duties, or standards of practice of 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. None.

4.2 Mitigating Factors. Absence of dishonesty or selfish motive and absence of a prior disciplinary record.

5. PRIOR RECORD OF DISCIPLINE

Jason B. Couey has no prior records of discipline with the Board.

6. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Mr. Couey 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 Mr. Couey agrees that he will accept no new appointments as a court appointed guardian.

6.2 Mr. Couey will prepare final reports and/or obtain orders approving the reports no later than January 31, 2009, in the following cases:

Spokane County Superior Court Case No. 93-4-00530-1
Spokane County Superior Court Case No. 04-4-00618-1
Spokane County Superior Court Case No. 03-4-01077-6
Spokane County Superior Court Case No. 99-4-01242-1

6.3 By January 31, 2009, Mr. Couey will prepare a Notice of Withdrawal and file it with the court and send a copy to the current guardian in all cases in which he is a standby guardian.

6.4 Mr. Couey agrees to accept decertification by the Board once he has completed the steps outlined above.

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.

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 Mr. Couey but any additional existing acts may be proven in any subsequent disciplinary proceedings.

8. NOTICE

This Agreement shall be retained by the AOC in Mr. Couey's disciplinary file.

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

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

Mr. Couey acknowledges that he has the right to individual counsel for representation in this disciplinary matter, at his expense, as set forth in Disciplinary Regulation 509.1.

13. PRESENTATION OF AGREEMENT TO THE BOARD

Mr. Couey understands that this Agreement is not binding unless and until it is approved and signed by the Board. If the Board rejects this Agreement, Mr. Couey 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:

Jason B. Couey

12/29/08
Date

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS

12 DAY OF JAN., 2009.

Chair, Certified Professional Guardian Board