CERTIFIED PROFESSIONAL GUARDIAN BOARD

Sound Guardianship, LLC **CPGA 10722** **and** **Pam Privette, CPG No. 9714,** **Respondents.**	)))))))))	**CPGB No. 2011-007 and 2011-018** **AGREEMENT REGARDING DISCIPLINE AND STIPULATED FINDINGS** ***Disciplinary Regulation 514***

The parties, Sound Guardianship, LLC, (Sound) CPGA No. 10722 and Pam Privette, (Ms. Privette) CPG No. 9714, (Respondents, collectively) 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. Respondents have 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 records of Sound and Ms. Privette and will be a public record and subject to public access.

Pursuant to General Rule 23 (GR 23) and the Disciplinary Regulations for Certified Professional Guardians, the Certified Professional Guardian Board ("Board") alleges violations of the Disciplinary Regulations (DR) by Sound Guardianship, LLC and Pam Privette ("Respondents").

1. JURISDICTION

1.1 At all times relevant herein, Ms. Privette was a certified professional guardian (CPG) pursuant to General Rule (GR) 23, CPG No.9714. Ms. Privette was certified in August 2001. Ms. Privette is president of Sound Guardianship, LLC.

1.2 At all times relevant herein, Sound Guardianship, LLC was a certified professional guardian agency (CPGA) pursuant to GR 23, CPGA No.10722. Sound was certified in August 2007. At the time of the incident in question, Ms. Privette had final decision-making authority for incapacitated persons on behalf of Sound Guardianship, LLC.

1.3 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, 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. BACKGROUND FACTS

Guardianship of GS, Pierce County Superior Court Case No. 09-4-01399-6

2.1 On or about March 4, 2011, the Board opened a grievance under Certified Professional Guardian Board (CPGB) Number (No.) 2011-007, based on allegations that Respondents did not assume responsibility for GS's financial affairs in a timely manner and improperly restricted visits between the IP and all family and friends for approximately six weeks.

2.2 Due to conflicts between the IP's children and an ongoing investigation into alleged inappropriate conduct and transactions, Ms. Privette was appointed full guardian of the person and estate on December 23, 2009. At the time of appointment Respondent was ordered to obtain a $50,000 bond.[1] Respondent obtained a $50,000 bond on March 9, 2010, 76 days after appointment. Subsequently, Letters of Guardianship were issued March 16, 2010, 83 days after appointment.[2] Between the date of appointment and the date Letters of Guardianship were issued, invoices from Sound Guardianship indicate Respondent performed the following tasks on behalf of GS:

- Conferred with attorneys.
- Applied for a bond.
- Submitted three change of address.
- Met with living facility staff.

[1] A guardianship bond guarantees the legal guardian's performance of all guardianship duties. When required, it acts as a form of insurance that protects the well being of the IP.
[2] Letters of guardianship are a record of the court's entrustment of care to a guardian. They serve as proof of appointment and authority to take action in a guardianship. Guardians are required to obtain letters of guardianship prior to taking any action in guardianship.

- Prepared initial report.
- Reviewed care plan.
- Obtained bonds, financial information and personal property from attorney.
- Transported GS to physician after a fall.
- Prepared letters to change care.
- Conferred with physician.
- Communicated with company regarding GS's pension.

2.3 On December 28, 2009, five days after appointment, an attorney for one of the IP's children gave Respondent extensive detailed information regarding the financial affairs of the IP, including bank records and evidence of financial exploitation. On May 17, 2010, Respondent filed the Initial Report, Care Plan and Inventory of Guardian which included a preliminary inventory. On February 16, 2011, Respondent filed an Interim Status Report. Both the Initial Report and the Interim Status Report indicated the Respondent had not marshaled all assets (cash and personal property). In addition, more than one year after appointment, Respondent had not been recognized as having the authority to receive information about the IP's financial accounts with Boeing Employees Credit Union (BECU). According to the Respondent, the delay in receiving inform from BECU regarding the accounts related partially to the complex issues concerning acting as a full guardian of the person of GS, due in part to the inappropriate conduct and transactions of some of the IP's children.

2.4 As of March 2011, fifteen months after appointment, the Respondent had not taken any action to investigate the alleged financial exploitation of the IP. On March 7,

2011, one of GS's daughters requested and the court approved appointment of an independent Certified Public Accountant to complete the financial analysis needed to marshal assets. The Respondent did not object to this appointment. No information has been presented to the Board regarding injury or damage having occurred to the IP or the IP's estate based on the Respondent's failure to marshal assets in a timely fashion.

2.5 On or about May 5, 2010, Respondent moved the IP to a senior living community in Puyallup, Washington that provides Alzheimer's and dementia care. According to the Respondent, the IP was moved to provide her with greater structure and supervision and to lessen the pressures from some of her children that preclude her from fully integrating at her prior residence. Family and friends, however, were not informed of the IP's location or given any reason for moving GS. According to the Respondent, the IP's children were told only that she was being moved based on the refusal of her prior facility to allow her to remain there. A letter to the facility, from the Respondent, dated May 14, 2010, informed the facility that per her directive the IP's family and friends were to be given no information about the IP or her location. Per the directive, the IP's family and friends were prohibited from speaking or visiting with the IP for approximately two months. In a letter dated May 19, 2010, Respondent provided similar written instructions to the facility the IP was being moved from. According to Sound Options, the agency responsible for preparing the visit schedule for the IP, all visits by family and friends with the IP were suspended on or about May 5, 2010 to June 17, 2010.

Guardianship of EB, Thurston County Superior Court Case No. 10-4-00620-1

2.6 On or about April 25, 2011, the Board opened a second grievance, CPGB 2011-018, based on allegations that Respondent did not assume responsibility for EB's financial affairs in a timely manner and did not initiate meaningful contact with EB within a reasonable time after appointment.

2.7 On February 28, 2011, Respondent was appointed full guardian of the person and estate. On March 21, 2011, twenty-one days after appointment, Letters of Guardianship were issued to Respondent. Between the date of appointment and the date Letters of Guardianship were issued, invoices from Sound Guardianship indicate Respondent performed the following tasks on behalf of EB.

- Communicated with Guardian ad litem and obtained documents.
- Obtained documents from attorney.
- Phone calls to former caregiver, neighbor and sister.

2.8 Respondent met with the IP personally for the first time on April 11, 2011. A bookkeeper employed by the Respondent met with the IP on March 1, 2011.

Applications Regulations 100

2.12 On or about October 27, 2011 Jean Bohling and Maureen Carroll, certified professional guardians terminated employment with Respondent.

2.13 Pam Privette has been the only certified professional guardian working for Sound Guardianship, LLC from November 1, 2011 to present.

3. VIOLATIONS OF STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraphs 2.2 and 2.7, Respondent's conduct constitutes grounds for discipline pursuant to RCW 11.88.127, which provides that a guardian may not act on behalf of the incapacitated person without valid letters of guardianship, and pursuant to Standards of Practice 401.1 and 401.4 which provide 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.
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> **SOP 401.4** The guardian shall not act outside of the authority granted by the court.

3.2 Based on the facts set forth in paragraph 2.2, Respondent's conduct constitutes grounds for discipline pursuant to RCW 11.88.100, which provides that when a bond is required, it must be obtained and filed before letters of guardianship are issued, and pursuant to Standards of Practice 401.1, 401.4 and 406.2 which provide 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.
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> **SOP 401.4** The guardian shall not act outside of the authority granted by the court.
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> **SOP 406.2** The guardian shall maintain all bonding, blocking, and insurance requirements as may be required by the court.

3.3 Based on the facts set forth in paragraphs 2.3, 2.4, and 2.8, this conduct constitutes grounds for discipline pursuant to Standards of Practice 401.5 which provide in pertinent part:

> **SOP 401.5** The guardian shall protect the personal and economic interests of the incapacitated person and foster growth, independence, and self-reliance.

3.4 Based on the facts set forth in paragraph 2.5, the Respondent's conduct constitutes grounds for discipline pursuant to Standards of Practice 401.9 and 404.6 which provide in pertinent part:

> **SOP 401.9** The guardian shall cooperate with and carefully consider the views and opinions of professionals, relatives, and friends who are knowledgeable about the incapacitated person.
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> **SOP 404.6** A relocation should include consultation with professionals actively involved in the care of the incapacitated person, the incapacitated person, objective third parties and, whenever possible, appropriately involved family and friends of the incapacitated person.

3.5 Based on the facts set forth in paragraphs 2.9, Respondent's conduct constitutes grounds for discipline pursuant to Standard of Practice 401.15 which provides in pertinent part:

> **SOP 401.15** Guardians of the Person shall have meaningful in-person contact with their clients as needed and shall maintain telephone contact with care providers, medical staff, and others who manage aspects of care as needed and appropriate. Meaningful in-person contact shall provide the opportunity to observe the incapacitated person's circumstances and interactions with care givers.

4 VIOLATION OF REGULATIONS

4.1 Based on the facts set forth in paragraphs 2.12 and 2.13, Respondent's conduct constitutes grounds for discipline pursuant to Regulation 119 which provides in pertinent part:

> **119.1** Pursuant to General Rule of Court (GR) 23, a certified agency must have at least two individual certified professional guardians designated as having final decision-making authority for incapacitated persons or their estates ("designated guardians").
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> **119.2** If a change in circumstances results in an agency having only one designated guardian, the agency shall notify the Board within five (5) calendar days of the change of circumstances. The agency shall have sixty (60) calendar days from the date the agency is no longer in compliance with GR 23 to add a designated guardian to the agency. During that sixty-day period, the agency must file a copy of its board minutes or a board resolution designating an additional guardian as a person with decision-making authority for incapacitated persons or their estates with the Certified Professional Guardian Board. If the agency fails to meet the requirements of GR 23 and these regulations regarding the required number of designated guardians, the Board may decertify the agency. The Board shall send the agency written notice that the Board intends to decertify the agency at least fifteen (15) calendar days before the Board takes action.
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> **119.3** If a change in circumstances results in an agency no longer having any designated guardians, the agency shall notify the Board within five (5) calendar days of the change of circumstances. The AOC shall send the agency a notice of noncompliance by mail. The notice shall state that the Board will decertify the agency unless within fifteen (15) calendar days the agency files proof with the Board that the agency has at least one designated guardian. Said proof shall be in the form of board minutes or a board resolution designating a certified professional guardian with decision-making authority for incapacitated persons or their estates. If the agency files proof with the Board that it has one designated guardian, then Regulation 119.2 shall apply. The sixty-day period referenced in Regulation 119.2 shall be deemed to have commenced on the same date as the fifteen–day period in this regulation. If the agency does not file proof within the fifteen-day period in this regulation that the agency has at least one designated guardian, then the Board may decertify the agency.
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> **119.4** If a change in circumstances results in an agency having no designated guardians, the agency shall within ten (10) calendar days notify any Superior

Court that has appointed the agency as guardian in a case that is still an active guardianship case. The agency shall file a notice in each active guardianship case stating that the agency has no designated certified professional guardian with final decision-making authority for incapacitated persons or their estates. In the notice, the agency shall describe a plan to correct this situation or to transition the guardianships to qualified guardians or agencies. The agency shall file a copy of this notice with the Board. If the agency fails to file this notice with the court or the Board, the Board may decertify the agency.

119.5 The Board may decertify an agency for its failure to file any notice required under Regulation 119. The Board shall send the agency notice at least fifteen (15) calendar days before the Board intends to take such action.

4.2 Based on the facts and violations set forth above, Respondent'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.

DR 503.3 Failure to perform any duty one is obligated to perform as a professional guardian.

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

5. 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.

5.1 Aggravating Factors. None.

5.2 Mitigating Factors. None.

6. PRIOR RECORD OF DISCIPLINE

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

7. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Respondents 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.

7.1 Letter of Reprimand. The Board hereby imposes a letter of reprimand on Respondents. This Agreement constitutes the letter of reprimand and shall be placed in the Board's disciplinary files for Respondents.

7.2 Revocation of Certification. Sound Guardianship, LLC will be decertified for failure to have two designated guardians. Ms. Privette will revise all Orders Appointing and Letters of Guardianship for Sound Guardianship, LLC to reflect appointment of Pam Privette as an individual certified professional guardian. Ms. Privette will submit official copies of revised documents to the Board within 90 days of this signed agreement.

8. COSTS

8.1 Reimbursement. Respondents shall not assess IPs fees for responding to grievances CPGB 2011-007 and CPGB 2011-018 or complaints that flowed from said grievances. Respondent shall reimburse the Board $3,000.00.

9. VIOLATION OF AGREEMENT

9.1 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, failing to have current letters of guardianship, failing to have meaningful contact with any incapacitated person for whom they serve as guardians, and failure to assume responsibility to protect and preserve the guardianship estate of any incapacitated person for whom they serve as guardian.

9.2 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 guardians 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.

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

10. NOTICE

This Agreement shall be retained by the AOC in Respondents' disciplinary files. This Agreement is a public document and 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.

11. 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.

12. 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.

13. 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.

14. RIGHT TO COUNSEL

Respondents acknowledge that they have the right to individual counsel for representation in this disciplinary matter, at their own expense, as set forth in Disciplinary Regulation 509.1.

15. PRESENTATION OF AGREEMENT TO THE BOARD

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

Pam Privette, CPG ~~#9616~~ 9714 — Date 3/12/13
Individually and as the President and one of the designated CPGs of Sound Guardianship LLC.

N. Joseph Lynch — Date 3/12/13
Attorney for Respondent
WSBA #7481

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS

8 day of April, 2013.

Honorable James Lawler, Chair
Certified Professional Guardian Board