

CERTIFIED PROFESSIONAL GUARDIAN BOARD

S. RENEE EWALT, CPG No. 6268,

Respondent

CPGB No. 2010-018

**AGREEMENT REGARDING DISCIPLINE
AND STIPULATED FINDINGS**

Disciplinary Regulation 514

The parties, S. Renee Ewalt (Ms. Ewalt) CPG No. 6268, 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. Ms. Ewalt 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 Ms. Ewalt and will be a public record and subject to public access.

1. JURISDICTION

1.1 At all times relevant herein, Ms. Ewalt was a certified professional guardian (CPG) pursuant to General Rule (GR) 23, CPG No.6268.

ORIGINAL

2. STATEMENT OF FACTS

2.1 On or about August 5, 2010, the Board opened a grievance, CPGB No. 2010-018, based on Ms. Ewalt's self-report regarding the Guardianship of DH, Okanogan County Superior Court Case No. 07-4-00092-4.

2.2 Ms. Ewalt reported that in June 2009, she petitioned the court to repair and sell a truck belonging to the incapacitated person in the above captioned case. Ms. Ewalt had obtained a repair estimate. Ms. Ewalt had established the fair market value of the truck as \$800.00 based on blue book valuation. The court entered an order authorizing the repair and sale of the truck. Ms. Ewalt advertised the truck, but did not receive any offers.

2.3 Ms. Ewalt sold the truck to her son for \$800.00 after he asked to purchase it. Ms. Ewalt reported the sale in her annual report to the court, but did not identify the purchaser as her son. Ms. Ewalt did not obtain court authorization to finalize the sale of the truck to her son.

2.4 An anonymous complaint was made to the Office of Public Guardian about the sale of the truck to Ms. Ewalt's son. Ms. Ewalt contacted the CPG Board and disclosed the events surrounding the sale of the truck to her son.

3. VIOLATIONS OF THE STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraphs 2.1 through 2.4, Ms. Ewalt's conduct constitutes grounds for discipline pursuant to 401.1 and 403.1 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. When a question exists between the standards and a statute, timely direction shall be sought from the court. If a guardian is aware of a court order of the court in a specific case which may lead to a conflict with these regulations, the guardian shall disclose this to the court.

SOP 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.

3.2 Based on the facts and violations set forth above, Ms. Ewalt'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 503.4 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. Self-reported following an anonymous complaint and voluntary admission of violation, absence of dishonesty or selfish motive, isolated incident, not likely to recur

5. PRIOR RECORD OF DISCIPLINE

Ms. Ewalt had no prior record of discipline with the Board.

6. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Ms. Ewalt 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.

Letter of admonishment. Ms. Ewalt shall receive a letter of admonishment from the Board, as provided in Disciplinary Regulation 515.2.4. A letter of admonishment is appropriate when a professional guardian engages in professional misconduct incompatible with the standards of practice.

8. NOTICE

This Agreement shall be retained by the AOC in Ms. Ewalt'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

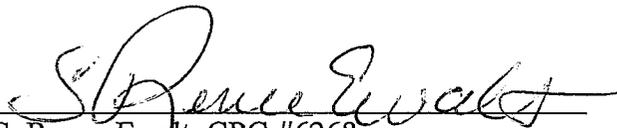
Ms. Ewalt acknowledges that she has the right to individual counsel for representation in this disciplinary matter, at her expense, as set forth in Disciplinary Regulation 509.1.

13. PRESENTATION OF AGREEMENT TO THE BOARD

Ms. Ewalt 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. Ewalt waives any objection to the participation in the final determination of this matter of any Board member who heard the Agreement presentation.

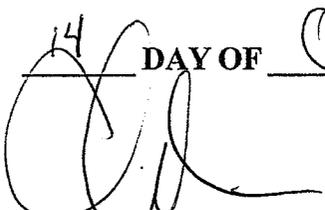
The SOPC reserves the right to withdraw this offer of settlement at any time prior to the presentation to the Board.

COPY RECEIVED, NOTICE OF PRESENTATION WAIVED:


S. Renee Ewalt, CPG #6268 _____ 9/19/10 _____
Individually Date

Date
Attorney for
WSBA # _____

**APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD
THIS**


14 DAY OF October, 2010.

Hon. Christopher Wickham
Chair, Certified Professional Guardian Board