

CERTIFIED PROFESSIONAL GUARDIAN BOARD

)	
)	
Comprehensive Guardianship)	CPGB No. 2011-012
Services, Inc., CPGA No. 5131,)	
James Christnacht, CPG No. 5168, and)	AGREEMENT REGARDING DISCIPLINE
Debra Christnacht, CPG No. 9616)	AND STIPULATED FINDINGS
)	
Respondents)	<i>Disciplinary Regulation 514</i>
_____)	

The parties, Comprehensive Guardianship Services, Inc., (Comprehensive) CPGA No. 5131, James Christnacht, (Mr. Christnacht) CPG No. 5168, and Debra Christnacht, (Ms. Christnacht) CPG No. 9616, (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 Comprehensive, Mr. Christnacht, and Ms. Christnacht and will be a public record and subject to public access.

1. JURISDICTION

1.1 At all times relevant herein, James Christnacht was a certified professional guardian (CPG) pursuant to General Rule (GR) 23, CPG No.5168. Mr. Christnacht was certified in February 2001. Mr. Christnacht is the president of Comprehensive and one of the two designated CPGs of Comprehensive.

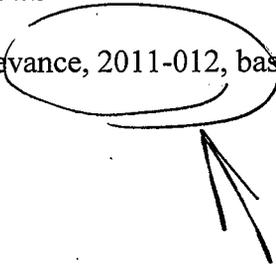
1.2 At all times relevant herein, Debra Christnacht was a certified professional guardian (CPG) pursuant to General Rule (GR) 23, CPG No.9616. Ms. Christnacht was certified in April 2001. Ms. Christnacht is one of the two designated CPGs of Comprehensive.

1.3 At all times relevant herein, Comprehensive was a certified professional guardian agency (CPGA) pursuant to General Rule (GR) 23, CPGA No.5131. Comprehensive was certified in February 2001. Mr. Christnacht and Ms. Christnacht have the final decision making authority for incapacitated persons on behalf of Comprehensive.

1.4 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 On or about February 28, 2011, the Board opened a grievance, 2011-012, based on Respondents' performance in a re-audit of guardianship cases.



2.2 On October 6, 2009, Respondents were randomly selected to have their cases audited for timeliness of filing certain reports. Seven out of Respondents' seventeen cases were audited and in each of those cases there were instances of prior non-compliance with filing deadlines. In many of Respondents' cases, the annual report was filed with the court on the date of the hearing and copies were not provided to the incapacitated person, as required by the Standards of Practice. The Standards of Practice Committee of the Board decided to re-audit Respondents' cases in six months.

2.3 On or about February 4, 2011, all of Respondents' cases were re-audited for the timeliness of filing certain reports for the period between September 2009 and November 2010.

2.4 At the time of the re-audit, Comprehensive was appointed as the guardian and had instances of prior non-compliance in eight cases as follows:

1. #4-86226, Pierce County: The annual report was due on 12/8/09 and filed on 12/14/09 (about 6 days late).
2. #96-4-01439-0, Pierce County: The annual report was due on 1/29/10 and filed on 2/5/10 (about 5 days late). The final report was due on 5/7/10 and filed on 7/21/10 (about 74 days late).
3. #05-4-00945-7, Pierce County: The annual report was due on 3/26/10 and filed on 3/30/10 (about 4 days late).
4. #02-4-02229-1, King County: The annual report was due on 1/14/10 and filed on 1/28/10 (about 14 days late).
5. #03-4-00825-4, King County: The annual report was due on 1/25/10 and filed on 2/9/10.
6. #96-4-00293-8, Thurston County: The annual report was due on 10/21/09 and filed on 1/7/10 (about 75 days late).
7. #95-4-00845-6, Pierce County: The annual report was due on 2/28/10 and filed on 3/5/10 (about 7 days late).
8. #4-63180, Pierce County: The final report was due on 4/30/10 and filed on 6/22/10 (about 52 days late).

2.5 At the time of the re-audit, James Christnacht was appointed as the guardian and had instances of prior non-compliance in three cases as follows:

1. #93-4-01271-6, Pierce County: The annual report was due on 2/19/10 and filed on 4/6/10 (about 47 days late).
2. #86-4-01305-1, Pierce County: The annual report was due on 2/12/10 and filed on 2/19/10 (about 7 days late).
3. #10-4-00292-1, Pierce County: A petition regarding disbursements and budget was due at the time of the inventory on 8/12/10, but was filed on 2/18/11 (about 186 days late).

2.6 The Respondents admitted that copies of pleadings were not provided to the incapacitated person prior to the guardianship hearing in the following five cases:

1. #93-4-01271-6, Pierce County
2. #96-4-01439-0, Pierce County
3. #86-4-01305-1, Pierce County
4. #03-4-00825-4, King County
5. #95-4-00845-6, Pierce County

2.7 In Pierce County Case No. 96-4-01439-0, there have been no letters of guardianship issued since when the guardianship was established in 1998. The incapacitated person has died and the guardian is closing the estate and has received letters of administration.

2.8 In Pierce County Case No. 86-4-01305-1, the letters of guardianship expired on February 19, 2010 and new letters were issued on March 23, 2011, over a year later.

2.9 In Pierce County Case No. 95-4-00845-6, the letters of guardianship expired on March 3, 2011 and new letters were issued on March 23, 2011.

2.10 Mr. Christnacht said that he was the responsible guardian in all of the cases, both those in his name and those in the Comprehensive's name. In his explanation he noted that he filed working copies in accordance with the local court rules even if he did not file his reports. He

noted in two cases that he was unable to obtain the information necessary to complete the reports. In terms of his providing copies of pleadings to the incapacitated person, he said that he sends them notice of hearings. Mr. Christnacht said that he has not provided copies because his clients are vulnerable and subject to exploitation. He has not obtained court orders that would waive the requirement to provide copies.

3. VIOLATIONS OF THE STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraphs 2.3-2.10, Respondents' conduct constitutes grounds for discipline pursuant to 401.1, 401.3, 401.4, 403.10 and 408, 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.

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 401.4 The guardian shall not act outside of the authority granted by the court.

SOP 403.10 Unless otherwise directed by the court, the guardian shall provide copies of all material filed with the court and notice of all hearings in the guardianship to the incapacitated person.

SOP 408 Applicable Law. 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.

3.2 Based on the facts and violations set forth above, Respondents' 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.

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. Multiple offenses, pattern of conduct, and substantial experience as a guardian.

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

5. PRIOR RECORD OF DISCIPLINE

Respondents have no prior record of discipline with the Board.

6. 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.

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

6.2 Monitoring. The Board imposes the following requirements on Respondents:

6.2.1 Respondents shall be subject to monitoring of cases in which Respondents are the court-appointed guardian to determine whether they are meeting their duties to their clients regarding filing deadlines and having a case management system. The monitor shall be a mutually agreed upon attorney. Monitoring shall commence upon entry of this Agreement and will last for a six month period.

6.2.2 During the period of monitoring, the monitor shall review Respondents' cases on at least two occasions to verify the filing dates of all reports and inventories, filed by the guardian with the court, or required to be filed by the guardian, to determine whether the documents have been filed within the time period required by statute and/or court order.

6.2.3 The monitor shall also review Respondents' case management system for tracking filing deadlines. Respondents shall create and implement a unified tracking system for all guardianships which will prevent any future missed or late filings of reports as well as providing better case management. Respondents will demonstrate to the monitor that the tracking system has been created and is adequate.

6.2.4 The monitor shall also ensure that the Respondents are providing their incapacitated clients with copies of all pleadings filed with the court and notices of hearing prior to the court hearing or that Respondents have obtained specific court direction waiving this requirement.

6.2.5 The monitor shall also ensure that Respondent has current letters of guardianship in all of their cases.

6.2.6 At the conclusion of the six month monitoring period, the monitor shall file a written report within 30 days with the Standards of Practice Committee that reflects the monitor's findings and conclusions regarding the files reviewed and the guardian's case management system.

6.2.7 The fees and costs of the monitor shall be paid by Respondents within thirty (30) days following presentation by the monitor of the monitor's bill. Respondents shall not be required to pay more than one thousand dollars (\$1000.00) in fees and costs for a six month period of monitoring

6.2.8 After the Standards of Practice Committee (SOPC) has reviewed the monitor's findings and conclusions, it shall report to the Board on Respondents' compliance with this Agreement and any applicable statutes, rules and regulations. The SOPC may recommend that Respondents be released from the monitoring requirement, or it may recommend other disciplinary sanctions.

6.3 Probation. Respondents shall be under probation for a period of not less than six months to ensure their compliance with the duties, standards and requirements for a professional guardian. If Respondents complies with the duties, standards and requirements of a professional guardian for six months, the probation will be lifted. If not, the probation period may be continued for another period not to exceed six months or the Board may take further disciplinary action.

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, filing reports late, failing to develop and use a case management system, failing to provide copies of reports to clients, failing to have current letters of guardianship, and failing to pay the monitor promptly.

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 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.

7.3 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.

8. NOTICE

This Agreement shall be retained by the AOC in Respondents' disciplinary files. 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

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.

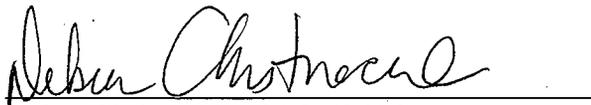
13. PRESENTATION OF AGREEMENT TO THE BOARD

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:


James Christnacht, CPG #5168
Individually and as the President of Comprehensive Guardianship Services, Inc.

12-9-11
Date


Debra Christnacht, CPG #9616
Individually and as one of the designated CPGs of Comprehensive Guardianship Services, Inc.

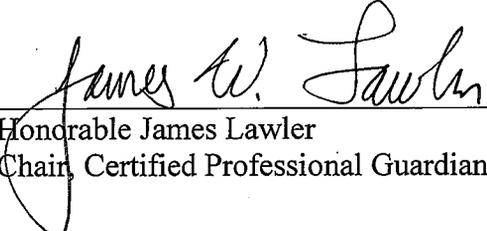
12-9-11
Date

Date

Attorney for
WSBA # _____

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

9 day of January, 2012



Honorable James Lawler
Chair, Certified Professional Guardian Board