

costs, when the recommendation is for suspension or decertification of the certified professional guardian or agency.

2. STATEMENT OF FACTS

2.1 In 2010, all Certified Professional Guardians were required to report continuing education credits for 2010 no later than January 31, 2011. Reminders regarding the continuing education reporting requirements were sent out by email on October 20, 2010, November 18, 2010, December 1, 2010, January 5, 2011, February 10, 2011, and April 20, 2011. If the guardian failed to file the declaration reporting credits by January 31, 2011 or had not earned the twelve required credits prior to December 31, 2010, the guardian was required to pay a special service fee of \$50 and had until April 30, 2011 to come into compliance without further sanctions. If a Certified Professional Guardian was not in compliance by April 30, 2011, a notification letter was sent out by certified mail, return receipt requested, informing the guardian that the guardian had ten days to petition the Education Committee of the Board and show the undue hardship, infirmity, administrative error, or other good cause for extending the time or waiving compliance with the continuing education requirements. The Education Committee could approve the petition or enter into an agreement with the guardian as to time and other requirements for achieving compliance.

2.2 On or about May 4, 2011, the Board sent a letter to Mr. Rose by certified mail, return receipt requested notifying him that he was not in compliance with continuing education regulations that required him to earn twelve continuing education credits prior to December 31, 2010. Records indicated that Mr. Rose was missing .5 Ethics credits. The letter advised Mr. Rose that he could petition the Education Committee of the Board and show the undue hardship, infirmity, administrative error, or other good cause for extending the time or waiving compliance with the continuing education requirements.

2.3 Mr. Rose petitioned the Education Committee explaining how a busy work schedule had kept him from earning the .5 credits. He also explained that he may plan on going on inactive status in 2011. Mr. Rose attended a continuing education class on May 18, 2011 and was awarded one Ethics credit.

2.4 The Education Committee considered Mr. Rose's past compliance with continuing education compliance, and other required filings by guardians to the Board. In 2010, Mr. Rose had to pay a late fee for needing to take a class in 2010 to obtain credits for 2009. In 2009, Mr. Rose had to pay a late fee for submitting his declaration on March 30, 2009 and filed his E&O insurance declaration on March 30, 2009 instead of by January 31, 2009. The Committee considered his explanation for why he did not obtain and report credits prior to April 30, 2011 and determined that an Agreement Regarding Discipline would be appropriate and referred this matter to the Standards of Practice Committee for resolution.

3. VIOLATIONS

3.1 Based on the facts set forth in paragraphs 2.2-2.4, Mr. Rose's conduct constitutes grounds for discipline pursuant to Education Regulation 208 and 211, which provide in pertinent part:

208.1 Compliance Report. Within 30 days from the end of the preceding reporting period, each Guardian shall submit an affidavit to the Committee, at the AOC, setting forth all information required by the Affidavit Reporting CEUs concerning such Guardian's completion of approved continuing education during the preceding reporting period. Such affidavit shall also contain a report of "carryover" credits, if any, as delineated in Regulation 202. (Amended 3/8/10).

208.2 Supplemental Report. If an active Guardian has not completed the minimum education requirement for the preceding reporting period, or complied with Regulation 208.1, compliance may still be accomplished by:

208.2.1 Submitting by April 30, the affidavit called for by Regulation 208.1, the Affidavit Reporting CEUs, setting forth therein the extent of the active Guardian's compliance with the minimum education requirement.

208.2.2 Paying at the time of filing such supplemental affidavit a special \$50 service fee.

208.3 An active Guardian who fails to comply with the provisions of this regulation shall be subject to the procedures and provisions of Regulation 211.

211.1 An active Guardian who has not complied with the educational or reporting requirements of GR 23 and these regulations by April 30 of each year, may be decertified by the Board.

211.2 To effect such decertification, the Committee shall send to the non-complying Guardian by certified mail, directed to the Guardian's last known address as maintained on the records of the Administrative Office of the Courts, a written notice of non-compliance. The notice shall advise such active Guardian of the pendency of decertification unless within 10 calendar days of receipt of such notice such active Guardian completes and returns to the Committee a petition, to which supportive affidavit(s) showing undue hardship, infirmity, administrative error, or other good cause may be attached for extension of time for, or waiver of, compliance with

the requirements of GR 23 and these regulations, or for a ruling by the Committee of substantial compliance with the requirements.

211.3 If such petition is not filed, such lack of action shall be deemed acquiescence by the active Guardian in the finding of non-compliance. The Committee shall report such fact to the Board with the Committee's recommendations for decertification. The Board shall decertify the Guardian.

211.4 If such petition is filed, the Committee may, at its discretion, approve the same without hearing or may enter into an agreement on terms with such active Guardian as to time and other requirements for achieving compliance with GR 23 and these regulations.

3.2 Based on the facts and violations set forth above, Mr. Rose'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:

503.1 Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.

503.3 Failure to perform any duty one is obligated to perform as 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. Pattern of conduct, substantial experience as a guardian

4.2 Mitigating Factors. Absence of dishonesty or selfish motive, lack of harm, timely efforts to correct the situation

5. PRIOR RECORD OF DISCIPLINE

Mr. Rose has no prior record of discipline with the Board.

6. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Mr. Rose 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.

Reimbursement. Based on the type of violation, an appropriate disciplinary sanction is reimbursement of the costs of this disciplinary proceeding. Mr. Rose is required to reimburse the Board one hundred dollars (\$100.00) for the costs of this disciplinary proceeding.

Probation. Mr. Rose shall be on probation for a period of two years from the date of this Agreement. The terms of his probation require that he file all Board required declarations on time, including, but not limited to, the annual disclosure/declaration, errors & omissions insurance declaration, continuing education declaration.

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 the late filing of any required declarations for a two year period from the date of this Agreement, including continuing education, Errors and Omissions Insurance, and annual disclosures. Late filing is defined as any filing beyond the original due date: for continuing education, late filing would be filing a declaration after January 31; for Errors and Omissions Insurance and annual disclosures, late filing would be filing the declaration or disclosure after August 1.

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 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 Mr. Rose 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. Rose'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

Mr. Rose 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. Rose 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. Rose 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:



Richard Rose, CPG #5615

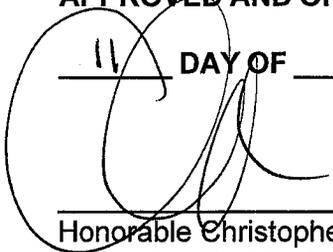
9/21/11



Date

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS

11 DAY OF August, 2011.

A large, stylized handwritten signature in black ink, appearing to read 'C Wickham', is written over a horizontal line. The signature is enclosed within a large, hand-drawn circle.

Honorable Christopher Wickham
Chair, Certified Professional Guardian Board