CERTIFIED PROFESSIONAL GUARDIAN

Charge D' Affaires Guardian Associates, Inc., CPGA No. 5129 And Sheila Brashear CPG No. 4729 Respondent.	)	**CPGB No. 2012-001** **AGREEMENT REGARDING DISCIPLINE AND STIPULATED FINDINGS** ***Disciplinary Regulation 514***

Charge D' Affaires Guardian Associates, Inc, CPGA No. 5129 professional guardian agency, and Sheila Brashear, CPG No. 4729 a Professional Guardians 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. Charge D' Affaires Guardian Associates, Inc., 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 official record of Charge D' Affaires Guardian Associates, Inc., certified professional guardian agency, Ms. Shelia Brashear, the professional guardian and will be a public record and subject to public access.

1. JURISDICTION

1.1 At all times relevant herein, Charge D' Affaires Guardian Associates, Inc., was a certified professional guardian Agency (CPGA) pursuant to General Rule (GR) 23.

1.2 At all times relevant herein, Ms. Sheila Brashear was a Certified Professional Guardian (CPG) pursuant to General Rule (GR) 23, CPG No. 4729, and one of the designated guardians for Charge D' Affaires Guardian Associates, Inc. Ms. Sheila Brashear was provisionally certified September of 2000.

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 January 1, 2012, the Board opened a grievance, CPGB No. 2012-001, based on a complaint from Van Patten Adult Family Home (AFH) regarding late and incorrect payments.

2.2 During its investigation the Board determined that payments were to be submitted by the 5th of every month. Payments were consistently at least 2-3 weeks late every month for the five Incapacitated Persons (IP) residing at the Van Patten AFH, for whom Ms. Sheila Brashear provided professional services.

3. VIOLATIONS OF THE STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraph 2.1.and 2.2 Ms. Brashear's conduct constitutes

grounds for discipline pursuant to Standard of Practice 409.1 and 409.4, which provides in pertinent part:

SOP 409.1 The guardian shall assure competent management of the property and income of the estate. In the discharge of this duty, the guardian shall exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence and avoid any self- interest. The management of the estate shall be documented by means of accurate and complete records of all transactions.

SOP 409.4 The guardian shall manage the estate with the primary goal of providing for the needs of the incapacitated person.

3.2 Based on the facts and violations set forth above, Ms. Sheila Brashear'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.

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. Ms. Brashear has prior disciplinary actions by the Board and substantial experience as a guardian.

4.2 Mitigating Factors. None

5. PRIOR RECORD OF DISCIPLINE

Ms. Brashear has a prior record of discipline with the Board CPGB No. 2003-009 and CPGB No. 2004-013.

6. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Charge D' Affaires Associate, Inc. and Ms. Sheila Brashear, 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 Reprimand: The Board herby imposes a Letter of Reprimand on the Respondent. This Agreement constitutes the Letter of Reprimand and shall be placed in the Board's disciplinary files for the Respondents.

Probation: The certifications of Charge D' Affaires Guardian Associates, Inc. and Ms. Shelia Brasher shall be on probation for a period of not less than six months, and until the Board releases them from the conditions of this ARD, to ensure compliance with the ARD and with the duties, standards and requirements for a professional guardian. (DR 515.3) Charge D' Affaires Guardian Associates, Inc. and Ms. Sheila Brashear will pay an agreed upon a 3rd party auditor to report on the timeliness of payments. After the six month period, the audit report will be presented to the Board for review and approval.

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 Charge D' Affaires Guardian Associates, Inc. and Ms. Sheila Brashear, but any additional existing acts may be proven in any subsequent disciplinary proceedings.

8. NOTICE

This Agreement shall be retained by the AOC in the Respondent'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

The Respondent acknowledges that they have 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

The Respondent understands that this Agreement is not binding unless and until it is approved and signed by the Board. If the Board rejects this Agreement, the Respondents waive 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 Brashear 9-26-12

Date 9-26-12

Individually and as Designated CPG of Charge d'affaires Guardian Assoc, Inc.

_____ _____
Date

Attorney for
WSBA #_____

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS

10 **DAY OF** December, **2012.**

James W. Lawler

The Honorable James Lawler, Judge
Certified Professional Guardian Board, Chair