



 ORIGINAL

## State of New Hampshire Guardian ad Litem Board

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**In the Matter of: Mary Ann Callanan  
Docket Numbers 2014-C0009 and C0010  
Adjudicatory/Disciplinary Proceeding**

### DECISION AND ORDER

Before the Guardian ad Litem Board is the set of complaints captioned above.

### BACKGROUND INFORMATION

On September 3, 2014, the Guardian ad Litem Board (the Board) received a complaint from Andresa Santana regarding Guardian ad Litem Mary Ann Callanan (Ms. Callanan) Docket # 2014-C0009. On September 19, 2014, the Board reviewed the complaint of Docket #2014-C0009 and voted to ask for a GAL Response. On October 2, 2014, the Board received a motion for deadline extension from Ms. Callanan and an objection to the motion from Ms. Santana.

On September 22, 2014, the Board received a complaint from Nelson Santana regarding Guardian ad Litem Mary Ann Callanan, Docket #2014-C0010.

On October 10, 2014, the Board reviewed the motion for a deadline extension from Ms. Callanan and the objection to the motion from Ms. Santana. The Board voted to extend the deadline for Ms. Callanan until November 19, 2014 for Docket #2014-C0009.

On November 11, 2014 the Board received the GAL Response for Docket #2014-C0009. On November 21, 2014, the Board reviewed the GAL Response for Docket # 2014-C0009.

The Board reviewed the complaint of Docket #2014-C0010 along with the additional material received on November 7, 2014 and voted to ask for a GAL Response. On November 26, 2014, the letter was sent requesting a GAL Response. Due to a snow storm and the Thanksgiving Holiday the letter did not get mailed until December 1, 2014. On December 3, 2014, Ms. Callanan called the Board office regarding Docket # 2014-C0010. She had stated that the package was missing pages and she should not be penalized for the fact that the letter did not get mailed for five days. Board staff sent a new letter dated December 1, 2014 and the missing pages of the complaint. On December 8, 2014, Ms. Callanan called the Board office regarding Docket #2014-C0010. She stated that some of the exhibits had duplicate numbers. It was agreed that Ms. Callanan should put a letter B next to duplicate exhibits 41-43. A letter stating this was mailed that same day.

On January 9, 2015, the GAL response was received for Docket #2014-C0010. On January 16, 2015, the Board reviewed the response of Docket #2014-C0010.

At its meeting on **November 21, 2014**, the Board voted to proceed to a hearing on **Docket # 2014-C0009**. At its meeting on **January 16, 2014**, the Board voted to proceed to a hearing on **Docket # 2014-C0010**. The notice of hearing provided that the following specific issues would be determined at the adjudicatory/disciplinary proceeding:

**Whether Ms. Callanan violated Gal 503.14(a),(b),(c),(d),(e) Duties to Persons Other than Recipients of Service and GAL Communications Regarding Cases**

1/21/15

(a) In dealing with a person or party who is not represented by counsel, a guardian ad litem shall disclose his or her role as a guardian ad litem.

(b) When a guardian ad litem believes that a person who is not represented by counsel misunderstands the guardian ad litem's role in the matter, the guardian ad litem shall make a good faith effort to correct the misunderstanding.

(c) The guardian ad litem may clarify and explain the limits of the guardian ad litem's role to any person.

(d) A guardian ad litem shall, to the extent required by law, maintain the confidentiality of communications that are confidential under federal law or the law of the state of New Hampshire or which are specified as confidential by the appointing court.

(e) A guardian ad litem shall not disclose any information regarding the case which may serve to identify the particular case unless:

(1) The disclosure is allowed pursuant to RSA 490-C:5-b, II, subject to such orders, prohibitions or limitations as may be issued by the board or its presiding officer under RSA 490-C:5-b, IV through VIII; or

(2) The disclosure is:

a. Not otherwise prohibited by these rules, the orders or instructions of the appointing court or state or federal law; and

b. Necessary to fulfill his or her duties in the case.

On January 23, 2015 the Notice of Hearing was mailed via certified return receipt to Ms. Callanan and signed for on January 26, 2015 by M. Callanan. On January 26, 2015, an amended Notice of Hearing was mailed via certified return receipt to Ms. Callanan and signed for on January 30, 2015 by M. Callanan.

On February 13, 2015, an appearance was filed by Attorney Richard Uchida on behalf of Mary Ann Callanan. On February 13, 2015, a motion for a pre-hearing conference and motion for continuance were received and granted. On February 13, 2015 a motion for a stenographer was received. On February 27, 2015 the motion for a stenographer was withdrawn.

The Board appointed Christopher Keating to serve as Presiding Officer and Attorney Dan St. Hilaire to serve as Prosecutor.

A pre-hearing conference was held on February 20, 2015. Present at the conference were Attorney Uchida, for the respondent, Attorney St. Hilaire, for the Prosecution and Presiding Officer Christopher Keating.

Attorney Uchida presented a settlement offer to which Attorney St. Hilaire assented. Attorney St. Hilaire stated that the complainants in this case fully supported the settlement. All parties signed the settlement, including Ms. Callanan. Presiding Officer Chris Keating approved the settlement pending full Board approval.

On February 20, 2015, Presiding Officer Christopher Keating presented the proposed settlement to the Board. The Board voted to approve the settlement.

As presented in the approved settlement, the Board accepts Ms. Callanan's acknowledgement that she violated GAL 503.14(a) & (c), in that the Guardian ad Litem erroneously communicated to a person who was not represented by counsel that the attorney/client privilege protected their communications from disclosure. The Board acknowledges Ms. Callanan's position that she attempted to rectify the misunderstanding that she created. In accepting the Respondent's acknowledgements and the approved settlement as an appropriate disposition of this matter, the Board had made no factual findings beyond those set forth in the approved settlement. However, the Board's acceptance of her acknowledgement that she violated the above-cited rules serves as the basis for the imposition of the sanctions set forth below.

The Board finds that extenuating circumstances do not exist pursuant to Gal 503.16.

THEREFORE IT IS ORDERED pursuant GAL 402.01(a)(8), that Mary Ann Callanan be issued a written reprimand.

IT IS FURTHER ORDERED that Ms. Callanan will complete a two-hour CEU on ethics and professionalism within a year of the date of this order. This CEU will not count towards her CEUs needed for renewal.

IT IS FURTHER ORDERED that respondent Mary Ann Callanan immediately notify any courts in which she currently holds an appointment as guardian ad litem and all parties to all of her cases of the results of this settlement.

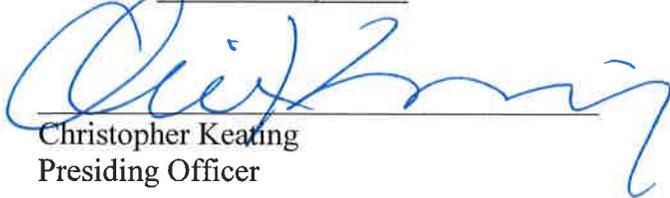
IT IS FURTHER ORDERED that a copy of this order be delivered to the Administrative Office of the Courts, the Administrative Judges of the Superior, Probate, District and Family Division Courts, and the Attorney Discipline Committee.

IT IS FURTHER ORDERED that a fine of \$1,500.00 be imposed with \$1,000 suspended provided that Ms. Callanan fulfills the obligations stated above and does not have any additional disciplinary action with the Board for a period of one year from the date of this order. The payment is due 30 days from the date of this order. Payment of the fine can be made via check made out to the Guardian ad Litem Board and mailed to the address above.

Appeals from orders of the Board may be taken pursuant to RSA 541. See RSA 490-C:8. Within 30 days of the date of this decision, the respondent may appeal by petition for a writ of certiorari to the New Hampshire Supreme Court. See RSA 541:6.

BY ORDER OF THE BOARD

DATE: March 23, 2015



Christopher Keating  
Presiding Officer

cc: Andresa Santana  
32 Hillview Dr Chichester, NH 03258  
Nelson Santana  
32 Hillview Dr Chichester, NH 03258  
Attorney Richard Uchida  
Hinckley Allen 11 South Main ST. Suite 400 Concord, NH 03301-4846  
Attorney Daniel St. Hilaire, Prosecutor,  
43 Hampton St. Concord, NH 03301  
Amanda Godlewski, Assistant Attorney General;  
NH Department of Justice, 33 Capitol Street, Concord, NH 03301  
The Honorable Judge Edwin Kelly  
Circuit Court Administrative Office 45 Chenell Drive Suite 2 Concord, NH 03301  
The Honorable Judge Tina Nadeau  
Superior Court Center 45 Chenell Drive Suite 1 Concord, NH 03301  
Attorney Don Goodnow, Administrative Office of the Courts  
2 Charles Doe Drive, Concord, NH 03301  
Attorney Discipline Office  
NH Supreme Court 4 Chenell Drive Suite 102 Concord, NH 03301



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April 15, 2015

Mary Ann Callanan  
1650 Elm Street, Suite 301  
Manchester, NH 03101

RE: Complaint Docket #2014-C0009 & #2014-C0010

Dear Ms. Callanan:

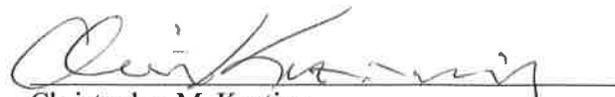
Following a pre-hearing conference on February 20, 2015, the Guardian ad Litem Board, in accordance with the agreed-upon settlement, acknowledges your violation of Guardian ad Litem rules related to "Duties to Persons Other than Recipients of Service" and "Communications Regarding Cases."

You were appointed by the Circuit Court to serve as a guardian ad litem in a domestic-relations matter in June 2013. On the basis of the forthright representations made in your response to the complaints, you acknowledge that while acting as a guardian ad litem you interviewed a step-parent. You improperly told the step-parent that the attorney-client privilege protected your communications from disclosure. Accordingly, you misrepresented yourself to a witness in violation of GAL 503.14(a)&(c).

You attempted to correct the misimpression you created, but your statements led to confusion regarding your role. An in camera report was submitted to the Court, and the report was later withdrawn. The filing of the in camera report led to the recusal of the judge and delays in the domestic relations matter to which you were appointed. The Board acknowledges your efforts to clarify your role and to clarify that no privilege existed with respect to your communications with the person you interviewed. Nevertheless, the disruption caused as a result of your actions unduly delayed the case.

As a result, and in accordance with the settlement agreement, the Board issues this formal reprimand, a copy of which will be placed in your file in the office of the G.A.L. Board's administrative assistant and will be available for public inspection.

BY ORDER OF THE BOARD

  
Christopher M. Keating  
Presiding Officer