

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DEAN P. AYARS,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER
ADOPTING STIPULATION AGREEMENT
91 FDR 020

The parties to this proceeding for the purpose of Wis. Stats. sec. 227.53 are:

Dean P. Ayars
600 Country Club Road
Green Bay, WI 54313

Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The State of Wisconsin, Funeral Directors Examining Board, having considered the Stipulation Agreement annexed hereto, of the parties, in resolution of the captioned matter, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered pursuant to jurisdiction and authority granted to the Board in secs. 445.13, Stats., and RL 2.12, Wis. Adm. Code, that the Stipulation Agreement annexed hereto, filed by Complainant's attorney, shall be and hereby is incorporated, made and ordered the final decision of the State of Wisconsin, Funeral Directors Examining Board.

Let a copy of this order be served on Respondent by Certified Mail.

Dated this 17 day of ^{MARCH} ~~February~~, 1992.



HES:kcb
ATY-1961

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION AGREEMENT
	:	91 FDR 020
DEAN P. AYARS,	:	
RESPONDENT.	:	

Respondent Ayars, his attorney Tom Kubasta, and Complainant's attorney, Henry E. Sanders, having reached agreement for disposition of the above-captioned matter, hereby stipulate and agree as follows:

1. This Stipulation shall be submitted to the Funeral Directors Examining Board (Board), or a Board designee, for approval and disposition of this matter. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by any of the provisions of this Stipulation.

2. Respondent has been advised of his right to a public hearing on each and every allegation in the proceeding, but hereby freely and voluntarily waive his right to a hearing in this matter on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondent further agrees to waive any appeal of the Board's Final Decision and Order.

3. Respondent Dean P. Ayars (Ayars), of 600 Country Club Road, Green Bay, Wisconsin 54313, was at all time material to the complaint, licensed as a funeral director (license #3799), d/b/a Ayars Funeral Home, in Wautoma, Wisconsin, and has been so licensed since about August 15, 1967.

a. Ayars Funeral Home is not currently licensed in Wisconsin, and Respondent is presently employed under Borchard & Moder Funeral Home, Inc., Shiocton, Wisconsin (per letter to the department dated January 8, 1992, Respondent's attorney provided that Respondent is not presently active in the profession).

2. Pursuant to sec. FDE 4.03, Wis. Adm. Code, Continuing Education.

(1) "Every funeral director, as defined in sec. 445.01(5), Stats., shall complete at least 15 hours of approved continuing education programs in each biennial registration period, specified under sec. 445.06, Stats., except as described in sec. FDE 4.05."

(2) "Approved continuing education hours may apply only to the biennial registration period in which the hours are required.

(3) "To obtain credit for completion of the continuing education requirement, a funeral director shall submit certificates of attendance issued by the program provider or other evidence of attendance satisfactory to the Board."

4. On about August 28, 1990, pursuant to statutory authority of sec. 445.06, Stats., program assistant Loretta Beasley (Beasley) undertook continuing education verification-audits of funeral directors for the biennial period of January 1, 1988-December 31, 1989, by submitting a Mandatory Continuing Education Verification form to licensees which were required to be returned to the department within 30 days of the receipt of the form.

5. Receiving no response from Respondent by January 18, 1991, Beasley mailed or caused to have mailed to Respondent, Exhibit "A", letter to Respondent dated January 18, 1991. Respondent was directed to return the Continuing Education Verification form by January 25, 1991.

6. Hearing nothing from Respondent by January 25, 1991, Beasley telephoned Respondent's employer who informed her that Respondent was engaged in the practice of funeral director. Beasley left a message for Respondent to telephone her. Respondent never did.

a. Beasley telephoned Respondent's employer again on about March 15, 1991, and left a message for Respondent to call her. Respondent subsequently returned Beasley's call and indicated that he did not have the required 15 hours of continuing education. Beasley directed the Respondent to submit his statement in writing to the department.

7. On about March 27, 1991, the department received Exhibit "B", letter dated March 22, 1991, from Respondent which indicated:

"This letter is a follow-up the phone (sic) conversation via regarding (sic) continuing education credits for the years 1988 thur 1989. I have to report that I have no credits earned that I can show proff (sic) of during that time period."

8. Pursuant to a review of Exhibit "B1", Respondent's renewal application form for the 1990-1991 biennial period dated December 29, 1989, Respondent falsely certified that he had completed 15 hours of approved continuing education during the biennium immediately preceding this application (1988-1989) for renewal as required by sec. 445.06, Wis. Stats.

9. Respondent Ayars has: by certifying falsely to the department that he had completed the required 15 hours of continuing education during the 1988-1989 biennium, violated sec. 445.06, Stats., Renewal of Licensees; violated sec. 445.105(4), Stats.; violated sec. FDE 3.02(1), (5), Wis. Adm. Code, Unprofessional Conduct; violated laws substantially related to the practice of funeral directing, and . . . falsifying records . . . requested by the Board respectively; and violated sec. 4.03, Wis. Adm. Code, Continuing Education.

10. Based upon the above and in settlement of this matter, Respondent Ayars hereby consents, accepts and agrees to a suspension of his funeral director's license(s) for a period of one (1) year, commencing on the 10th day after the date of the Board's Final Decision and Order adopting the Stipulation Agreement; and furthermore, Respondent's licenses to practice as a funeral director shall thereafter remain suspended until satisfactory proof is submitted to the Board that Respondent has taken and made up for the 15 hours of continuing education required to have been completed by Respondent for the 1988-1989 biennial.

On or before the effective date of the suspension, Respondent Ayars shall surrender to the Board all funeral director licenses previously issued to him. Upon expiration of the suspension and fulfillment of the continuing education requirement ordered by the Board, the licenses shall be returned to him forthwith.

11. Respondent, his attorney, and Complainant's attorney agree that this Stipulation may be incorporated into the Board's Final Decision and Order adopting the Stipulation Agreement.

12. Respondent and his attorney further agree that Complainant's attorney may appear at any deliberative meeting of the Board with respect to the Stipulation, but that appearance is limited solely to responding to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

2/25/92
Date



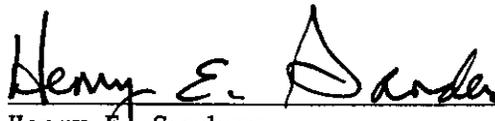
Dean P. Ayars
Respondent

2/27/92
Date



Thomas M. Kubasta
Respondent's Attorney

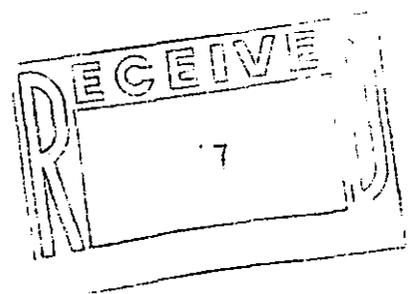
3/2/92
Date



Henry E. Sanders
Complainant's Attorney

HES:kcb
ATY-1962

RECEIVED
31 MAR 27 11:00:56
FBI - WISCONSIN



March 22, 1991

Loretta Beas
Wisconsin Dept. of Regulation and Licensing
Madison, Wisconsin

Dear Loretta,

This letter is to follow up the phone conversation the regarding Continuing Education Credits for the year's 1988 thru 1989. I have to report that I have no credits earned that I can show proff of during that time period.

For the period 1990 thru 1991 I have, to this date, earned 5.5 credits in section #1, 2.25 credits in section #2 and 3.25 credits in section # three for a total of 11 credits.

Sincerely,


Dean Ayars

EXHIBIT "B"



State of Wisconsin
 DEPARTMENT OF REGULATION AND LICENSING
 COMMITTED TO EQUAL OPPORTUNITY IN EMPLOYMENT AND LICENSING

RENEWAL APPLICATION

DUE DATE	AMOUNT
12/31/89	58.00
IF PAYMENT IS RECEIVED AFTER	
12/31/89	ADD \$ 00.00 FOR LATE
IF PAYMENT IS RECEIVED AFTER	
01/29/90	ADD 25.00 FOR LATE

LICENSE NO. 07700037994	TYPE FUNERAL DIRECTOR	SEE REVERSE 5
1ST NOTICE		THE STATEMENTS ON THE REVERSE SIDE OF THIS APPLICATION MUST BE SIGNED BEFORE YOUR APPLICATION WILL BE APPROVED.

PLEASE PRINT ANY CHANGES →

NAME	CITY	STATE	ZIP
------	------	-------	-----

DEAN P AYARS
BOCHARDT & MODER INC
201 RIVER ST
SHIOCTON WI 54170

PLEASE MAKE CHECK PAYABLE WITH NOTICE IN ENCLOSED ENVELOPE TO STATE OF WISCONSIN, DEPARTMENT OF REGULATION AND LICENSING, DRAWING ROOM, MILWAUKEE, WISCONSIN 53293.

DO NOT WRITE BELOW THIS LINE FOR OFFICE USE ONLY

1228 (4-84) CH 440
 I HEREBY CERTIFY THAT I HAVE COMPLETED 15 HOURS OF APPROVED CONTINUING EDUCATION DURING THE BIENNIUM IMMEDIATELY PRECEDING THIS APPLICATION FOR RENEWAL AS REQUIRED BY S. 445.06, WIS. STATS.

010390 0013 0001 001 00005800 07700037994 035 103 0001

Dean Ayars 12/29/89
 (SIGNATURE) (DATE)

I FURTHER CERTIFY THAT I AM CURRENTLY DOING BUSINESS AT Bochardt & Moder INC. Shiocton A WISCONSIN-LICENSED FUNERAL ESTABLISHMENT.

Dean Ayars 12/29/89
 (SIGNATURE) (DATE)

TO AVOID LATE PENALTIES, YOUR RENEWAL APPLICATION AND FEE MUST ACTUALLY BE RECEIVED BY THE DEPARTMENT BEFORE THE DUE DATE. THE DATE OF MAILING AS INDICATED BY A POSTMARK IS NOT EVIDENCE OF RECEIPT.

FULL PAYMENT, INCLUDING ANY PENALTY FEES THAT MAY APPLY, MUST BE RECEIVED BY THE DEPARTMENT BEFORE YOUR LICENSE WILL BE ISSUED. IF YOU DO NOT APPLY FOR RENEWAL BY THE RENEWAL DEADLINE, YOUR LICENSE WILL EXPIRE AND YOU CAN NO LONGER PRACTICE.

10/15/91

Exhibit "B"

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Funeral Directors Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Funeral Directors Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Funeral Directors Examining Board.

The date of mailing of this decision is March 19, 1992 .