

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD**

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**IN RE DISCIPLINARY PROCEEDINGS** :  
**AGAINST** :  
 :  
**DONALD P. WENZEL,** : **FINAL DECISION AND ORDER**  
 : **AS TO DONALD P. WENZEL**  
 : **LS0811113FDR**  
 :  
**RESPONDENT.** :

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Division of Enforcement Case No. 06 FDR 004

The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

Donald P. Wenzel  
c/o Church & Chapel Funeral Service  
15250 West National Avenue  
New Berlin, WI 53151

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

**PROCEDURAL HISTORY**

The parties in this matter agree to the terms and conditions of the attached Stipulation as an Interim Order in this matter, subject to the approval of the Funeral Directors Examining Board. The Board has reviewed the Stipulation agreement annexed to this Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

## FINDINGS OF FACT

1. Respondent Donald P. Wenzel (“Wenzel”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 15250 West National Avenue, New Berlin, WI 53151, and whose date of birth is March 23, 1953, is licensed as a funeral director (#77-4525). The license was first granted on June 26, 1980, and will expire on December 14, 2009.

2. On August 9, 2006, Mr. Wenzel pled guilty to, and was convicted of, one count of theft in a business setting, contrary to Wis. Stat. § 943.20 (1) (b), a misdemeanor. Specifically, Mr. Wenzel was found to have misappropriated funds from a church where he was employed as a pastor. Mr. Wenzel was ordered to pay restitution in the amount of \$7,142.90. *State v. Wenzel, Milwaukee County Case No. 2006CM2175.*

3. The duties of a funeral director frequently involve receiving funds from clients.

4. Mr. Wenzel did not contact the Department to inform the Department of the conviction. Mr. Wenzel was contacted by the Department regarding the conviction in 2007. Mr. Wenzel provided a copy of the judgment of conviction to the Department on August 6, 2007, nearly one year after the judgment of conviction was entered.

5. Per Wis. Admin. Code § RL 3.02, a number of acts or omissions are considered to be unprofessional conduct, including, “(1) Violating or aiding and abetting a violation or any state or federal law substantially related to the practice of funeral directing...”

6. Per Wis. Admin. Code § RL 4.09 (2), “A holder of any... credential... who is convicted of a... misdemeanor in this state or elsewhere shall notify the department in writing of the date, place and nature of the conviction or finding within 48 hours after the entry of the judgment of conviction. Notice shall include a copy of the judgment of conviction...”

7. Per Wis. Stat. § 445.13 (1), “... the examining board may... limit, suspend or revoke a license of a funeral director... for any violation of... this chapter...”

## CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 445.13.

2. The Wisconsin Funeral Directors Examining Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).

3. By failing to notify the Department of his conviction of a misdemeanor crime within 48 hours of the entry of the judgment of conviction, Mr. Wenzel violated Wis. Admin. Code § RL 4.09 (2), thereby subjecting himself to discipline per Wis. Admin. Code § RL 3.02 and Wis. Stat. § 445.13.

4. By committing theft in a business setting, Mr. Wenzel has violated a state law that is substantially related to the profession of a licensed funeral director, because licensed funeral directors frequently handle funds received from clients, and by his conviction he has demonstrated that he is capable of stealing funds in a business setting.

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of **Donald P. Wenzel** (#77-4525) shall be, and hereby is, **SUSPENDED** for a period of **SIX MONTHS**, to begin 30 days after the date of signing of this Order. All indicia of licensure shall be surrendered to the Department Monitor within thirty (30) days of the date of signing of this Order, and shall be retained during the term of the suspension. During the term of this suspension Mr. Wenzel shall not enter any funeral establishment for the purpose of performing any work, and may not otherwise work as a licensed funeral director. The suspension is hereby **STAYED** so long as Mr. Wenzel continues to make all restitution payments required by the Judgment of Conviction in *State v. Wenzel, Milwaukee County Case No. 2006CM2175* in a timely manner. Upon presentation of proof to the Department Monitor of successful completion of the restitution payments the suspension shall be **REDUCED** to a period of thirty (30) days, to begin immediately upon presentation of proof. In the event that Mr. Wenzel is not timely in his restitution payments, he shall so inform the Department Monitor within 48 hours. The six month suspension shall then begin immediately. Failure to inform the Department Monitor of completion of restitution or untimely payment of restitution within 48 hours shall subject Mr. Wenzel to further discipline, and the discipline sought shall be revocation.

IT IS FURTHER ORDERED that:

2. The license of **Donald P. Wenzel** is further **LIMITED** to prohibit him from receiving funds from any client until such time as Mr. Wenzel shall have demonstrated rehabilitation to the satisfaction of the Board, acting in its sole discretion. The limitation shall be permanent.

3. **Donald P. Wenzel** shall pay costs in this matter in the amount of \$500 within one year of the date of signing of this Order.

4. All indicia of licensure and other submissions required by this Order shall be mailed, delivered or otherwise transmitted to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 261-7904, Fax (608) 266-2264

5. Case number 06 FDR 004 shall be closed as to Donald P. Wenzel.

6. Violation of any of the terms of this Order shall be construed as unprofessional conduct and may cause the Board impose additional conditions and limitations or other additional discipline.

7. This Order is effective on the date of its signing.

FUNERAL DIRECTORS EXAMINING BOARD

By: Connie Ryan  
A Member of the Board

11/11/08  
Date

**STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD**

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**IN RE DISCIPLINARY PROCEEDINGS** :  
**AGAINST** :  
 :  
**DONALD P. WENZEL,** : **STIPULATION AS TO**  
 : **DONALD P. WENZEL**  
 : **LS \_\_\_\_\_**  
 :  
**RESPONDENT.** :

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Division of Enforcement Case No. 06 FDR 004

It is hereby stipulated and agreed, by and between Donald P. Wenzel, Respondent; Mark D. Richards, attorney for Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a pending investigation against Respondent's licensure by the Division of Enforcement (06 FDR 004). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving that there is probable cause to believe that continuing to allow Respondent to practice poses a threat to the health, safety or welfare of the public; the right to confront and cross-examine any witnesses against him; the right to call witnesses on his behalf; the right to testify himself; the right to seek review of any order of summary suspension and to present briefs or oral arguments to the officials who could remove the summary suspension; the right to have a formal complaint issued against him within 10 days of the issuance of the summary suspension; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Funeral Directors Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Funeral Directors Examining Board ever assigned as an advisor in this investigation may appear before the Board, without the presence of Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any person may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Interim Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's interim order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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**DONALD P. WENZEL**, Respondent  
c/o Church & Chapel Funeral Service  
15250 West National Avenue  
New Berlin, WI 53151

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Date

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**MARK A. HERMAN**  
Attorney, Division of Enforcement  
1400 East Washington Avenue  
Madison, WI 53708-8935

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Date