

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
JUAN R. BARQUET, :
RESPONDENT : 96 FDR 023

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

Juan R. Barquet
301 East Stuart
Oak Creek, WI 53220

Funeral Directors Examining Board
1400 East Washington Avenue
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 parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Juan R. Barquet (D.O.B. 03/01/56) is duly licensed in the state of Wisconsin as a Funeral Director (license #4986). This license was first granted on April 24, 1992.
2. Mr. Barquet's latest address on file with the Department of Regulation and Licensing is 5355 W. Forest Home Avenue, Milwaukee, WI 53220. Mr. Barquet's residence address is 301 East Stuart, Oak Creek, WI 53220.

3. On or about July 5, 1996, Mr. Barquet was found guilty based upon pleas of no contest to one count of violation of sec. 940.225(3), Stats. (Third degree Sexual Assault) and one count of violation of 943.30(1), Stats. (Threats with intent thereby to extort money). True and correct copies of the criminal complaint and judgment of conviction in this matter are attached to this Complaint as Exhibit A. Exhibit A is incorporated by reference into this Complaint.

4. In resolution of this matter, Mr. Barquet consents to the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction over this matter, pursuant to sec. 447.07(3), Wis. Stats.

2. The Wisconsin Funeral Directors Examining Board is authorized to enter into the attached stipulation, pursuant to sec. 227.44(5), Wis. Stats.

3. By the conduct described in paragraph 3, above, Juan R. Barquet is subject to disciplinary action against his license to practice as a funeral director in the state of Wisconsin, pursuant to sec. 445.13(1), Wis. Stats., and Wis. Admin. Code §FD 3.02(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. The license of Juan R. Barquet (license #1175) to practice as a Funeral director in the State of Wisconsin is **SUSPENDED** for a period of not less than one (1) year. This period of suspension shall be calculated to commence upon the date of Mr. Barquet's date of initial incarceration on July 3, 1996.

2. Mr. Barquet may petition the Board for a stay of the suspension of his licensure at any time following July 3, 1997. In conjunction with a petition by Mr. Barquet, the Board shall require:

a. Current and full documentation acceptable to the Board from the state Department of Corrections attesting to his compliance with the terms and conditions of respondent's conviction, including, but not limited to: reports reflecting the results of his AODA evaluation; reports on his counseling evaluations and treatment; payment of costs; and payment of restitution.

b. A current assessment from a mental health care practitioner acceptable to the board regarding the need for continued treatment and/or counseling. The assessor shall have experience in treatment of sexual offenders, and the Board shall utilize input from the Division of Enforcement's Mental Health & Inappropriate Sexual Activities unit [MHISA] in determining its approval of a proposed provider.

c. The name of the funeral establishment that will employ respondent, together with a statement from the employer that it agrees to comply with the terms and conditions of this Order.

d. In the exercise of its discretion, the Board may in addition require a personal appearance by Mr. Barquet to answer questions in conjunction with his petition.

Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of secs. 227.01(3) and 227.42, Wis. Stats.

3. Upon its completion of review of a petition under this Order, the Board may in its discretion issue a stay of suspension *conditioned upon the following limitations, terms and conditions:*

a. Respondent shall maintain successful participation in any program of treatment or counseling recommended as a result of the assessment(s) performed in compliance with paragraph 2(b), above.

b. Respondent shall maintain complete compliance with all terms and conditions imposed upon him as a result of his conviction, including compliance with all terms of probation and/or parole imposed upon him, and make arrangements with his probation/parole officer (or other responsible Division of Corrections personnel) to notify the Department Monitor *immediately* of any violation of terms applicable to Respondent.

c. Respondent shall provide the Board with current releases complying with state and federal laws, authorizing release and access to his records with the Division of Corrections including release and access to his probation and parole records.

d. Respondent shall practice as a funeral director in Wisconsin only under the supervision of another licensed funeral director in good standing with the Board. Prior to commencement of employment in the practice of funeral direction, Respondent shall submit and obtain approval by the Board of a plan of supervision for his practice. Any plan of supervision submitted under this order shall be submitted to the Department Monitor. The supervising funeral director shall provide periodic random in-person assessments and evaluations of respondent and shall record in writing a specific description of the supervisory activities undertaken for the respondent.

e. Respondent shall refrain from employment where he is solely responsible for trust funds or other assets, and shall work in such settings only where he has a system of supervision acceptable to the Board.

f. Respondent shall arrange for quarterly reports from supervising employer reporting the terms and conditions of his employment and evaluating his work performance. These reports shall be submitted to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement. An employer shall report *immediately* to the Department Monitor any violation or suspected violation of the Board's Final Decision and Order; and

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g. Respondent shall engage a certified public accountant or other independent contractor acceptable to the board for the preparation and submission of quarterly financial statements to the Department Monitor. These statements shall in a form acceptable to the Board and shall include complete and comprehensive income and expenditure records for respondent and his immediate family.

4. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor
Department of Regulation Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-7139

5. At any time following full and successful completion of his term of probation, Respondent may petition the Board to revise or eliminate any of the above conditions. The Funeral Directors Examining Board may in its discretion require that Mr. Barquet personally appear before the Board in conjunction with a petition under this paragraph to answer any questions the Board may have concerning his rehabilitation. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

SUMMARY SUSPENSION

Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license; the Board in its discretion may in the alternative impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

This Order shall become effective on the date of its signing.

FUNERAL DIRECTORS EXAMINING BOARD

By


A Member of the Board

Date

5/20/97

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
JUAN R. BARQUET,	:	96 FDR 023
RESPONDENT	:	

It is hereby stipulated between Juan R. Barquet, by his attorney and personally on his own behalf; and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Mr. Barquet's licensure by the Division of Enforcement (96 FDR 023). Mr. Barquet consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Barquet understands that by the signing of 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 those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Mr. Barquet is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Mr. Barquet agrees to the adoption of the attached Final Decision and Order by the Funeral Directors Examining 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 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. Attached to this Stipulation is the current licensure card of Juan R. Barquet. If the Board accepts the Stipulation, Mr. Barquet's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the license of Mr. Barquet shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Funeral Directors Examining Board assigned as an advisor in this investigation may appear before the Funeral Directors Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The Division of Enforcement joins Mr. Barquet in recommending the Funeral Directors Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Juan R. Barquet
Juan R. Barquet,

3/14/97
Date

Edward Gahn Hunt
E. J. Hunt
Attorney for Mr. Barquet

3/14/97
Date

Steven M. Gloe
Steven M. Gloe, Attorney
Division of Enforcement

4.1.97
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Juan R. Barquet,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)

COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On May 21, 1997, I served the Final Decision and Order dated May 20, 1997, LS9701061FDR, upon the Respondent Juan R. Barquet's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 201 374 248.

E. J. Hunt, Attorney
316 N. Milwaukee Street, Suite 317
Milwaukee WI 53202

Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 21st day of May, 1997.

Warren P. Hunter
Notary Public, State of Wisconsin
My commission is permanent.

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.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

May 21, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)