

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EDMUND R. FENNIG,

RESPONDENT.

FINAL DECISION AND ORDER

90 FDR 020

LS980727/FDR

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

Edmund R. Fennig
2830 South Delaware Avenue
Milwaukee, Wisconsin 53207

Wisconsin 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 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. Respondent, Edmund R. Fennig, is and was at all times relevant to the facts set forth herein a funeral director licensed in the State of Wisconsin pursuant to license #3850, originally granted on October 3, 1968.
2. Fennig Funeral Home was originally granted a license as a funeral home, #1591, on April 14, 1978. Fennig Funeral Home ceased operations in August, 1996.
3. In approximately 1988 and 1989, the Respondent engaged in certain activities related to the sale of PNS, Inc., pre-need insurance to fund funeral arrangements in violation of applicable administrative rules and statutes.
4. Any violations of the applicable administrative rules and statutes by the Respondent or by Fennig Funeral Home were unintentional.

5. The Respondent and Fenning Funeral Home ceased their involvement in activities related to the sale of such pre-need insurance in 1989.

CONCLUSIONS OF LAW

6. The Funeral Directors Examining Board has jurisdiction to act in this matter pursuant to §445.13(1) and §445.105(4), Wis. Stats., and is authorized to enter into the attached Stipulation pursuant to §227.44(5), Wis. Stats.

7. The activities described in paragraph 3, above, violated provisions of Chapter 445, Wis. Stats. and Chapter FDE 3, Wis. Adm. Code.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that this disciplinary proceeding shall be and hereby is resolved.

IT IS FURTHER ORDERED, that no discipline is imposed against the Respondent as a result of this proceeding. The accepted principles of professional discipline do not require the imposition of discipline against the Respondent in the present case. The Respondent's violations were unintentional and the activity in question ceased in 1989.

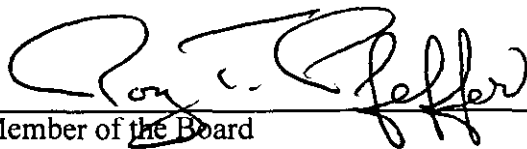
IT IS FURTHER ORDERED, that respondents shall pay COSTS in this matter in the TOTAL amount of \$250.00, within 30 days of the date of this order.

Dated this 27th day of July, 1998.

WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

By: _____

A Member of the Board



STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EDMUND R FENNIG,
RESPONDENT.

STIPULATION
90 FDR 020

It is hereby stipulated between the above Respondent and Michael J. Berndt, attorney for the Division of Enforcement of the Department of Regulation and Licensing, as follows:

1. In resolution of these proceedings, the Respondent consents 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.

2. The Respondent has read the attached *Final Decision and Order* and understands it. The Respondent understands that by signing this stipulation he consents to the attached *Final Decision and Order* being the complete resolution of all claims arising out of case 90 FDR 020 between the Respondent, the Division of Enforcement of the Department of Regulation and Licensing and the Funeral Directors Examining Board.

3. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed *Final Decision and Order*, 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.

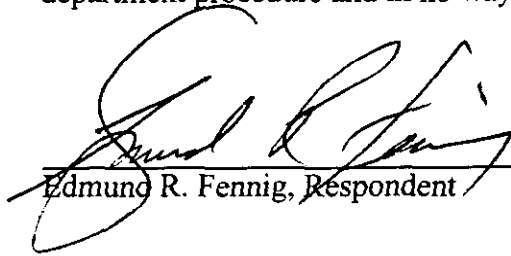
4. The parties agree that an attorney for the Division of Enforcement may appear before the Board, in open or closed session, without the presence of the Respondent, for the purposes of speaking in support of this agreement and answering questions that the members of the Board and its staff may have in connection with their deliberations on the case.

5. The Board Advisors in this matter may participate freely in any deliberations of the Board regarding acceptance of this Stipulation and the proposed *Final Decision and Order*, may relate to the Board any knowledge and views of the case acquired during the investigation, and may vote on the ultimate acceptance or rejection by the Board of this agreement.

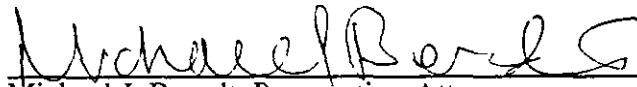
6. There have been no complaints alleging that any Fenning Funeral Home customer had a pre-need insurance plan from PNS, Inc., that was not honored.

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

8. Respondent is informed that should the Board adopt this stipulation, the board's Final Decision and Order is a public record and will be published in the monthly *Report of Decisions* issued by the department. A summary of the order will be published in the *Wisconsin Regulatory Digest* issued semiannually by the Board. This is standard department procedure and in no way specially directed at Respondents.


Edmund R. Fennig, Respondent

7/17/98
Date


Michael J. Berndt, Prosecuting Attorney
Division of Enforcement

7/3/98
Date

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

In the Matter of Disciplinary Proceedings Against

Edmund R. Fennig,

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 July 31, 1998, I served the Final Decision and Order dated July 27, 1998, LS9807271FDR, upon the Respondent Edmund R. Fennig by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent 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 Z 233 819 654.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Edmund R. Fennig
2830 S. Delaware Avenue
Milwaukee WI 53207



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me
this 30 day of August, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: EDMUND R FENNIG

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 7/31/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

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

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

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 53708-8935