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STATE OF WISCONSIN

BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

ALLEN B BUCHANAN, BUCHANAN
FUNERAL HOME, NEILLSVILLE, WI
RESPONDENTS

FINAL DECISION AND ORDER

LS0205141FDR

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

Allen B. Buchanan
5253 2nd Avenue
Pittsville, WI 54466

Buchanan Funeral Home
1031 East Division Street
Neillsville, WI 54456

Division of Business Licensure & Regulation
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 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 that pursuant to jurisdiction and authority granted to the Board, that the Stipulation Agreement annexed-hereto, filed by Complainant's attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Funeral Directors Examining Board.

Let a copy of this Order be served on Respondent by certified mail.

Dated this 14th day of May, 2002.

STATE OF WISCONSIN

BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

ALLEN B BUCHANAN, BUCHANAN

STIPULATION

FUNERAL HOME, NEILLSVILLE, WI

RESPONDENT

97 FDR 034; 99 FDR 017

Respondents Allen B. Buchanan (Buchanan), Buchanan Funeral Home (Establishment), Neillsville, Wisconsin, their Attorney Thomas W. Harnisch, and complainant's Attorney, Henry E. Sanders, Division of Enforcement, having reached agreements for disposition of the captioned-matters, stipulate and agree as follows:

1. Respondent Buchanan of 5253 2nd Avenue, Pittsville, Wisconsin 54466 (#77-4853), was at all time material to the complaints, licensed as a funeral director and had been so licensed under the provisions of ch. 445, Wis. Stats., since September 11, 1974; and was owner/operator and d/b/a Buchanan Funeral Home, Pittsville, Wisconsin.

2. Respondent Buchanan Funeral Home (Establishment), 1031 E. Division Street, Neillsville, Wisconsin (#78-2164), was initially licensed as a funeral establishment on December 16, 1997.

a. This Stipulation is dispositive of Investigative Complaint #s 97 FDR 034, and 99 FDR 017.

3. This Stipulation shall be submitted to the Funeral Directors Examining Board (Board) for approval and disposition of the matters. If the terms of the Stipulation are not acceptable to the Board, then the parties shall not be bound by any of the provisions of the Stipulation.

4. Respondents have advised of their rights to Public Hearings on each and every allegation of the complaints, but hereby freely and voluntarily waive their rights to hearings in these matters on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondents further agrees to waive any appeals of the Board's Final Decision and Order adopting the Stipulation Agreement.

97 FDR 034

5. In late 1996, Respondent Buchanan commenced building Respondent's Neillsville Funeral Establishment, and ran various newspapers and related ads continuously informing consumers of the progress of the project.

6. On about June 1, 1997, Respondent Buchanan held an "Open House" of the establishment even though it had not been inspected, nor granted a funeral establishment permit to operate the establishment as a funeral establishment.

7. Thereafter, until about December 16, 1997, when the establishment became licensed/granted a permit by the Department, Respondent Buchanan held out the establishment to the Public as being used in the care and preparation for burial or transportation of dead human bodies or for holding or conducting funeral services; conducted, maintained, managed or operated the funeral establishment without first being granted a permit; and advertised in telephone listing or other publications and in other media whatsoever.

99 FDR 017

8. By Final Decision and Order dated January 9, 2001, against Ronald D. & Kristin Cuddie, Case #99 FDR 017 (LS0101091FDR), by the Wisconsin Funeral Directors Examining Board, Exhibit "A" attached hereto, per paragraph

8 of the Order it was determined in pertinent part that:

"An investigation into the allegations determined variously that after Ronald Cuddie left the employment of Rinka Funeral Homes on about February 28, 1999, he commenced working for Buchanan Funeral Home, Pittsville, Wisconsin without notifying the Department and/or without registering same with the Department; that notwithstanding that Kristin Cuddie was registered as being licensed with Maurina Funeral Home, (3/23/98), Abbottsford, Wisconsin, commencing in about April 1999 to September 1999, Kristin Cuddie, with the specific knowledge and/or assistance of Ronald Cuddie, and Allen Buchanan, did make funeral arrangements, did embalmings, other care and preparation, including sheltering of deceased individuals at Buchanan Funeral Homes, Neillsville, Wisconsin, while not being registered with the Department as an operator or employee of the operator of Buchanan Funeral Home, and/or of Allen Buchanan; advertised and held herself out as a funeral director under the same"

9. It was concluded at Paragraph 9 of the Order, Exhibit "A" supra that:

"Accordingly, based upon the above enumerated facts and/or occurrences, Respondents Kristin and Ronald Cuddie have variously (not inclusively) violated, aided or abetted violations of sec. 445.06, Stats., renewal of licensees, sec. 445.09, Wis. Stats., display of licenses, secs. 445.105(1), (5), (1) funeral establishment permit, (5) free-lance funeral directing; sec. 445.11, Stats., register; change of address; sec. 445.12(3), Stats., solicitation; violated sec. FD 2.05(1), Wis. Adm. Code, Business telephone listings and advertising: secs. FD 3.02(1)-(2), (6), (9), (12), Wis. Adm. Code."

10. Regarding complaint #97 FDR 034, based upon the above enumerated facts and or occurrences, Respondent Buchanan has violated secs. 445.105(1)-(2), Wis. Stats., (1) No person shall conduct, maintain, manage or operate a funeral establishment unless a permit for each such establishment has been issued by the Examining Board and is conspicuously displayed in such establishment. In case of funeral services held in any private residence, church or lodge hall, no permit shall be required, (2), No permit to operate a funeral establishment shall be issued by the Board unless each such funeral establishment has in charge, full time therein, a licensed funeral director; violated sec. 445.09, Wis. Stats., display of licenses, and sec. FD 2.05(1), Wis. Adm. Code, advertised and held out the establishment as being a licensed-fully operating funeral establishment.

11. Respondent funeral establishment is subject to disciplinary action pursuant to sec. 445.105(4), Wis. Statute.

12. Regarding Complaint #99 FDR 017, based upon the enumerated facts and or occurrences regarding the Cuddies, and Respondent Buchanan, which were adopted by the Board in its Final Decision and Order, Exhibit "A" supra, Respondent Buchanan is deemed to have violated sec. FD 3.02(1), Wis. Adm. Code, violated, or aided and abetted the violations of the Cuddies, as are found in paragraph 9, of Exhibit "A", supra.

13. Based upon the above and in settlement of these matters, Respondent Buchanan Funeral Establishment, Neillsville, Wisconsin is reprimanded; that Respondent Buchanan is suspended for seven (7) calendar days, commencing on June 1, - through June 7, 2002; and shall pay the amount of \$500.00 part assessment of costs, to be paid within 30 days of the effective date of the Board's Order adopting the Stipulation Agreement.

14. The assessment of costs shall be payable by cashier's check or money order made payable to the Department of Regulation and Licensing (identified as costs) and submitted to the Attention of the Department's Monitor:

Marlene Meyer

Monitor

P.O. Box 8935

Madison, WI 53708-8935

15. On or before the effective date of the Board's ordered suspension, Respondent Buchanan shall submit all funeral directors permits and or licenses previously issued to him to the Department's monitor, supra.

16. During the period of ordered suspension, Respondent Buchanan shall not be on the premises of any funeral establishment owned/operated by him (neither Pittsville or Neillsville establishment), and shall not participate directly or indirectly in the business of funeral directing as defined in sec. 445.01(5), Wis. Stats.; nor funeral arrangements and services as defined in secs. FD 2.02(1)-(2), Wis. Adm. Code.

17. If Respondent shall fail to pay the assessment of costs as ordered, or fails to obtain a written extension from the Board to pay same, then he shall be considered to be in violation of the Board's Order, and may be subjected to further discipline.

18. Respondents further agree that Complainant's Attorney Sanders, and the case advisor assigned to the complaints, may appear at any closed-deliberative meeting of the Board with respect to the Stipulation, but

those appearances shall be limited solely to clarification, justification and to statements in support of the Stipulation and for no other purpose.

Allen B. Buchanan,	5-10-02
Respondent	Date
Buchanan Funeral Home, Neillsville, WI	5-10-02
Respondent	Date
Thomas W. Harnisch,	5-12-02
Respondent's Attorney	Date
Henry E. Sanders,	5-13-02
Complainant's Attorney	Date