

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## **Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions**

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### **Please read this agreement prior to viewing the Decision:**

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
JOHN B. KLEMMER,	:	LS03051311FDR
D/B/A HERITAGE NEW BERLIN	:	
FUNERAL HOME,	:	
RESPONDENT.	:	

## FINDINGS OF FACT

1. Respondent John B. Klemmer (Klemmer), d/b/a Heritage New Berlin Funeral Home of 16880 W. National Avenue, New Berlin, WI 53151, is and was at all time material to the complaint licensed as a funeral director (78 3391), and had been so licensed under the provisions of ch. 458, Wis. Stats., since July 12, 1955, and was the designated funeral director in charge of Heritage New Berlin Funeral Home.

2. On September 16, 2002, an investigator of the Department went to Heritage New Berlin Funeral Home, New Berlin, Wisconsin, to conduct an inspection of the subject funeral home pursuant to a funeral establishment application, which requires new funeral establishments to obtain and be issued a permit prior to the establishment being used and held out to the public as being used in the care and preparation for burial or transportation of dead human bodies or for holding or conducting of funeral services. "Funeral Establishment" does not include a building or part of a building that is erected under s. 157.11(1) for holding or conducting funeral services if dead human bodies are not cared for or prepared for burial or transportation in the building.

3. The subject establishment inspection was scheduled in advance of the investigator's arrival. Upon the investigator's arrival at the establishment he was directed to the preparation room by the maintenance man, at which time the maintenance man indicated that there was a body in the preparation room, which was on the preparation table, awaiting cremation by him.

4. The subject funeral establishment contained an on premise crematory, "Cremation Specialist," which was a separate company from Heritage Funeral Home, which also used the subject funeral establishment. The crematory and preparation room are accessed from separate doors from inside of the garage.

5. It was determined that there was a body in the crematory at that point, that after that body was fully cremated, the body in the preparation room would then be cremated.

6. John I. Klemmer, son of Respondent, and one of Heritage New Berlin Funeral Home's partner or corporate officers, indicated in pertinent part that, there were a total of four cremations done by Cremation Specialists prior to the establishment receiving its permit, and that two (2) of the cremations took place days earlier as part of their initial startup and training by a technician from Matthews Cremation Group, the company that the retort was purchased from; that both of those bodies had been delivered to Cremation Specialist in cremation containers from two of their other funeral homes and were kept overnight in the room where the retort is located; that while doing the first cremation as part of their initial training, the other body awaiting to be cremated may have been pushed into the preparation room for a short period of time.

7. John T. Klemmer indicated further and in pertinent part that; on the date of the inspection, Cremation Specialist was doing two cremations that day, that the two bodies were brought to the crematory earlier that day from their other facilities, one in a cremation container and the other in a cremation casket; that while the first cremation of the body in the casket was being done, an electrician came to change a ground wire on the retort – who was not scheduled to work that day – and asked that the body waiting in the retort room to be cremated, be moved because he was not comfortable having the body in the retort room while he worked there; that the body was placed in the preparation room while the electrician did the work, and that it is apparent that the body was not taken out of the embalming room upon the electrician finishing his work.

8. During the time of the inspection, the investigator conversed telephonically with John T. Klemmer and indicated to Klemmer that it appeared that the funeral home was already operating as a funeral establishment because they were using the preparation room and doing cremation out of it, and expressed surprise that the funeral establishment was operating without first being inspected, and or granted a permit. John T. Klemmer responded, "I just did it anyway."

#### CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in this matter pursuant to

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

3. Respondent John B. Klemmer has, as designated funeral director in charge of Heritage New Berlin Funeral Home, violated secs. FD 3.02(1),(6), (10), Wis. Adm. Code. Unprofessional conduct. (1) violating or aiding or abetting a violation of any state or federal law substantially related to the practice of funeral directing, by violating, aiding or abetting the violation of sec. HFS 135.05(1)(f), Wis. Adm. Code, Preparation and funeral. (f) no one other than the licensed funeral director and registered apprentice funeral director shall be allowed in the embalming room during the embalming except at the request of or with the permission of the immediate family of the deceased. Apart from these exceptions, the preparation of human corpses for final disposition shall be entirely private. (Emphasis added); FD 3.02(6) providing and performing the services of funeral directing or embalming in a manner which falls below minimal standards established by statute, rule or practice in the profession, and (10) failing to demonstrate respect for the sanctity of human remains or for the feelings of individuals involved in the grieving process by utilizing the prep room for storing bodies for cremation, for using and operating the crematory prior to being inspected and granted an establishment permit; and for having a deceased body in the presence of an electrician, in preparation for cremation.

4. Respondent John B. Klemmer has, by operating out of the establishment and by storing bodies in the preparation room for final disposition by cremation, violated, aided or abetted the violation of sec. 445.105(1), Wis. Stats, Funeral establishment permits. (1) no person shall conduct, maintain, manage or operate a funeral establishment unless a permit for such establishment has been issued by the Examining Board and is conspicuously displayed in such funeral establishment. In case of funeral services held in any private residence, church or lodge hall, no permit shall be required.

#### ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Respondent John B. Klemmer is suspended for a period of 30 days, commencing on April 1, 2003, through April 30, 2003, or commencing effectively the first (1<sup>st</sup>) day of the following month, following adoption of the Final Decision and Order by the Board; and shall pay the amount of \$2,000.00 part assessment of costs to be paid within 30 days of the effective date of the Board's Order adopting the Final Decision and Order.

2. On or before the effective date of the Board's Ordered Suspension, Respondent Klemmer shall submit all funeral directors/permits/licenses previously issued to him to the Department's monitor.

Marlene Meyer

Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708 8935

3. The part assessment of costs shall be payable by cashier's check or money order made payable to the Dept. of Regulation and Licensing (identified as "costs" along with case #), and submitted to the Department's monitor, supra.

4. During the period of ordered suspension, Respondent shall not be on the premises of any "Heritage Funeral Homes," or any funeral establishments owned/operated by him or Heritage Funeral Homes, in any professional capacity; and he 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.

- a. Respondent shall be allowed to be only on the premises of Heritage Funeral Homes, Tebo Peppey Klemmer & Scheuerell, 6615 W. Oklahoma Avenue, Milwaukee, Wisconsin, to be allowed access to his woodwork shop, and personal office to engage in non funeral related activities.

FUNERAL DIRECTORS EXAMINING BOARD

By: Roy Pfeffer

5-13-03

On behalf of the Board

Date