

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
EDNA C. BEASON BANKS : LS0305135FDR
d/b/a BANKS FUNERAL HOME :
RESPONDENT. :

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

Edna C. Beason Banks
Banks Funeral Home
3621 West Villard Avenue
Milwaukee, WI 53209

Division of Business Licensure and Regulation
Funeral Directors Examining Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO 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 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 13th day of May, 2003.

Roy Pfeffer
Member of the Funeral Directors Examining Board

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY		:	
PROCEEDINGS AGAINST		:	
		:	STIPULATION
EDNA C. BEASON BANKS,	:		
d/b/a BANKS FUNERAL HOME,	:		02 FDR 014
RESPONDENT,	:		
	:		

Edna C. Beason Banks (Respondent), and Complainant’s attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matter, stipulate and agree as follows:

- 1. Respondent Banks of 3621 West Villard Street, Milwaukee, WI 53209, is and was at all time material to the complaint, licensed as a funeral director, and has been so licensed under the provisions of Chapter 445, Wis. Stats., since July 16, 1973.
 - a. Respondent is owner and Funeral Director in charge of Banks Funeral Home in Milwaukee, and is responsible for the operation of the establishment.
- 2. This Stipulation, dispositive of investigative complaint #02 FDR 014 shall be submitted to the Funeral Directors Examining Board (Board) for approval and disposition of the matter. 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.
- 3. Respondent has been advised of her rights to a public hearing on each and every allegation of the complaint, but hereby freely and voluntarily waive her right to a hearing in this matter on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

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

4. On or about June 15, 2002, John Burgbacher, Dodge County Coroner, (Complainant) received a telephone call from Teri Enters, VA Hospital Morgue Technician, Madison, Wisconsin, indicating that Ronald Sellers and Steve Ward had come to the VA morgue on behalf of Respondent to make the removal of S. H.'s remains.

5. Upon arrival to the Morgue, Sellers and Ward presented to Enters, a pre-signed copy of a Notice of Removal Form to obtain release of S. H.'s remains. Respondent's signature was on the Notice of Removal Form, but Enters did not believe the body could be released to Sellers or Ward since they were not licensed funeral directors or apprentices.

6. Complainant conducted an inquiry regarding Sellers and Ward's identities, and whether authorization could be granted to allow them to make the removal. Complainant did approve of the release of S. H.'s remains to Sellers and Ward and subsequently notified the Department about the incident.

7. Respondent indicated that Sellers and Ward were her employees who work at Banks Funeral Home. Respondent indicated that at the time of the incident, she believed she could delegate the task of making the removal to her employees.

8. Respondent admitted to pre-signing the Notice of Removal and to delegating the task of making a removal to non-licensed personnel.

9. Based upon the above-enumerated facts, Respondent has violated Secs. 445.12(5) Wis. Stats., Prohibited practices. Any licensed funeral director who knowingly permits any person not licensed as a funeral director to ... remove any dead human body from any home, hospital or institution for preparation, or who permits any person under his or her supervision or associated with him or her to violate the provisions of this chapter, shall be guilty of violating the provisions of this chapter and subject to the provisions therein; Violated Sec. FD 2.03(2), Wis. Adm. Code, Operation of a funeral establishment. Even though persons other than licensed funeral directors may own a funeral establishment: (2) Any other dealings on behalf of the establishment, including the conducting of funeral services, shall be performed only by or under the supervision of licensed funeral directors, and Secs. FD 3.02(1),(9), Wis. Adm. Code, Unprofessional Conduct. Any occurrence of the following shall constitute unprofessional conduct by a licensed funeral director, registered apprentice funeral director or owner of a funeral establishment: (1) Violating or aiding and abetting a violation of any state or federal law substantially related to the practice of funeral directing, (9) Engaging in misleading or deceptive conduct in the conduct of the business or the profession.

10. Based upon the above and in settlement of these matters, Respondents hereby consents, accepts and agrees to be Reprimanded, and shall pay the amount of \$250.00 as part assessment of costs in resolving the matters.

a. This Decision is effective ten (10) days following adoption of the Final Decision and Order adopting the stipulation agreement by the Board.

11. The \$250.00 part assessment of costs shall be payable by cashier's check or money order, made payable to the Department of Regulation and Licensing, and shall be paid no later than thirty (30) days after the effective date of the Board Order and submitted to:

Marlene Meyer, Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

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

13. Respondent and Complainant's attorney Sanders agree that this Stipulation Agreement may be incorporated into the Boards Final Decision and Order adopting the Stipulation Agreement.

14. Respondent further agree that Complainant's attorney Sanders and the Case Advisor assigned to the complaint, may appear at any closed deliberative meeting of the Board with respect to the Stipulation, but those appearances will be limited solely to clarification, justification, and to statements in support of the Stipulation and for no other purpose.

Edna C. Beason Banks	12-5-02
Respondent	Date

Banks Funeral Home	12-5-02
Respondent	Date

Henry Sanders	12-10-02
Complainant's Attorney	Date