

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	
AMY DUCHARME [(F/K/A) AMY HEIMANN];	:	
CHURCH AND CHAPEL FUNERAL SERVICES	:	
(#78-1944 and 78-2345); TED LARSEN; LARSEN	:	LS0310311FDR
BROTHERS NEW BERLIN FUNERAL HOME (78-2019);	:	
THOMAS B. HOLTZ; MICHELLE CHURCH WAGNER;	:	
LYNN ZAIS; AND T.G. PERSINGER	:	
RESPONDENTS.	:	

FINDINGS AND ORDER

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

Amy M. Ducharme (f/k/a Amy M. Heimann)
Church & Chapel Funeral Services, Inc.
15250 West National Avenue
New Berlin, Wisconsin 53151
License No. 4816-077

Church & Chapel Funeral Services, Inc.
15250 West National Avenue
New Berlin, Wisconsin 53151
License No. 2353-078

Ted Larsen
Church & Chapel Funeral Services, Inc.
15250 West National Avenue
New Berlin, Wisconsin 53151
Unlicensed

Larsen Brothers New Berlin Funeral Home
15250 West National Avenue
New Berlin, Wisconsin 53151
License No. 2019-078

Thomas P. Holtz
Church & Chapel Funeral Services, Inc.
15250 West National Avenue
New Berlin, Wisconsin 53151
License No. 3081-077

Michelle Church Wagner
Church & Chapel Funeral Services, Inc.
15250 West National Avenue
New Berlin, Wisconsin 53151
License No. 4905-077

Lynn M. Zais
1556 South 63rd Street
West Allis, Wisconsin 53214
License No. 5151-077

T.G. Persinger
Church & Chapel Funeral Services, Inc.
15250 West National Avenue
New Berlin, Wisconsin 53151
License No. 4186-077

Funeral Directors Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of the matter, subject to the approval of the Funeral Directors Examining Board ("Board"). The Board has reviewed the Stipulation attached to these Findings and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

Count I (Ted Larsen; Church & Chapel Funeral Services, Inc.)

1. Between July 15, 1999 and July 22, 1999, the United States Department of Labor, Occupational Safety and Health Administration ("OSHA"), conducted an inspection of the premises of Church & Chapel Funeral Services, Inc. ("Church & Chapel"). The inspection led to a citation being issued by OSHA to Church & Chapel for failing to adequately monitor its employees for exposure to formaldehyde, among other things.
2. Church & Chapel admitted to the violations, paid a penalty of \$4,620, and certified that all violations had been corrected.
3. Ted Larsen was one of the owners of Church & Chapel at the time of the OSHA inspection.
4. FD 3.02(1), Wis. Admin. Code, provides that it is "unprofessional conduct by a licensed funeral director, registered apprentice funeral director or owner of a funeral establishment" to violate "any state or federal law substantially related to the practice of funeral directing."

Count II: (Amy M. Ducharme, f/k/a Amy M. Heimann)

5. On one or more occasions between 1993 and 1996, Amy M. Ducharme, f/k/a Amy M. Heimann ("Ducharme"), failed to ensure that apprentices employed by Church & Chapel were adequately supervised while they were performing embalming or otherwise preparing dead human bodies for burial or transportation.
6. Ducharme was the funeral director in charge of record for Church & Chapel during this period of time.

7. FD 2.06(1), Wis. Admin. Code, provides that licensed apprentices may engage in "embalming and other preparing of dead human bodies for burial or transportation" "only when under the personal supervision of a licensed funeral director."

8. FD 2.02(3), Wis. Admin. Code, defines "personal supervision" as "immediate availability to continually coordinate, direct and inspect at first hand the practice of another."

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in these matters pursuant to § 458.26, Wis. Stats.

2. The Wisconsin Funeral Directors Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.45(5), Wis. Stats.

3. Church & Chapel, by and through acts of omission or commission by Ted Larsen, violated 29 C.F.R. § 1910.1048, and thereby violated FD 3.02(1), Wis. Admin. Code, in connection with the 1999 OSHA inspection, thereby subjecting Larsen and Church & Chapel to discipline under § 445.13(1), Wis. Stats.

4. Ducharme committed one or more violations of FD 2.06(1), Wis. Admin. Code, in connection with her supervision of licensed apprentices from 1993 to 1996, and thereby violated FD 3.02(1), Wis. Admin. Code, thereby subjecting her to discipline under § 445.13(1), Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Church & Chapel is reprimanded for the conduct of its owner and licensed funeral director as set forth above. Additionally, Church & Chapel shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing partial costs of this proceeding in the amount of \$7,000, pursuant to § 440.22(2), Wis. Stats. No other party to this matter shall be liable for any costs except as provided for in this paragraph.

2. All payments required by this order shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, Wisconsin 53708-8935

3. The license of Amy M. Ducharme, f/k/a Amy M. Heimann, is suspended for a period of six months from the date of this order. Additionally, Ducharme may not be employed in any position with any funeral establishment which requires her to supervise apprentices until she has completed at least 10 hours of continuing education relating to ethics or apprentices in addition to her normal continuing education requirements. All 10 hours shall be earned outside of any continuing education courses she takes at Church & Chapel, and a written statement verifying attendance and successful completion shall be obtained from the instructor.

4. Violation of any term or condition of this order may constitute grounds for revocation of any Respondent's license as a funeral director or funeral establishment in Wisconsin.

Dated this 20th day of July, 2004.

Rick Unbehaun
Funeral Directors Examining Board