

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	:	
	:	
ELAINE R. FOSSUM	:	FINAL DECISION AND ORDER
RESPONDENT	:	LS0505172FDR

Division of Enforcement Case No. 04 FDR 014, 019

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

Elaine R. Fossum
1628 Commercial Street #260
Bangor, WI 54614

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 these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter(s), subject to the approval of the Funeral Directors Examining Board (Board). The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Elaine R. Fossum (“Respondent”), whose date of birth is August 3, 1932, whose last known address of record with the Department of Regulation and Licensing (“Department”) is 1628 Commercial Street #260, Bangor, WI 54614, holds a license as a Funeral Director (“excluding embalming”) (#75-2405). Respondent was granted the license on July 12, 1955, pursuant to Wis. Stat. ch. 445, and has held it at all times material to this complaint. The license is current through December 31, 2005.
2. Respondent utilizes an answering service to receive all in-coming telephone calls.

04 FDR 014

3. On or about January 29, 2004, Bluffland Guardians and Conservators, Inc., was appointed as guardian of the person and of the estate of O.B. Bluffland Ascertained that O.B. had a funeral trust account with Respondent, and contacted Respondent by telephone on more than one occasion in order to determine the amount of funds in O.B.'s funeral trust account.

4. On or about March 25, 2004, following the death and funeral of O.B., Respondent verbally informed Bluffland the amount of the remaining balance. At that time Bluffland requested that the information regarding the remaining balance in O.B.'s funeral trust account be placed in writing. Despite repeated phone calls and letters, Respondent did not place the information regarding O.B.'s funeral trust account in writing until some time after September 22, 2004.

04 FDR 019

5. In 2000 Respondent handled the funeral of G.M., but failed to have the date of death inscribed on the head stone.

6. D.F., the attorney for the estate of G.M., contacted the Respondent several times by telephone and once in writing on October 13, 2004, to complain that the date of death had not been incirbed on the head stone. In his letter D.F. stated that if Respondent did not reply to him within 30 days that he would contact the Department of Regulation and Licensing. Respondent did not reply to D.F. until December 2, 2004, when she called and left a voice mail message.

6. Sometime between December 5, 2004, and January 5, 2005, Respondent contacted Wieser Monument to have the date of death inscribed on the head stone.

7. Per Wis. Admin. Code § FD 3.02 it is unprofessional conduct for any licensee or owner of a licensed funeral establishment to:

(6) provide or perform "the services of funeral directing... in a manner which falls below minimal standards established by statute, rule or practice in the profession."

AGGRAVATING FACTOR

1. Respondent has previously been disciplined twice for unprofessional conduct. *See* LS 0009191 FDR (September 19, 2000). Most recently, Respondent's license was suspended for a period of three weeks for unprofessional conduct that consisted of repeated failures to communicate with a family of a decedent and the provider of floral services to the decedent's funeral. LS 0502081FDR (February 8, 2005).

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 445.13.
2. The Wisconsin Funeral Directors Examining Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).
3. Respondent Elaine R. Fossum by her conduct as described in paragraphs 3-6 above, did commit two violations of Wis. Admin. Code § FD 3.02(6).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of ELAINE R. FOSSUM to practice as a Funeral Director in the State of Wisconsin is hereby LIMITED. Specifically, Elaine R. Fossum may only practice under the supervision of Michael Schieber, who is a licensed funeral director is good standing. Mr. Schieber shall assume full responsibility for the practice of Elaine R. Fossum. Further, Mr. Schieber shall be listed with the Department of Regulation and Licensing as the Funeral Director in Charge of any and all Funeral Homes in which Elaine R. Fossum has an ownership interest. If Mr. Schieber is unwilling to supervise Elaine R. Fossum per the terms and conditions of this order then he shall so inform the Department Monitor at the address below immediately, in writing. Mr. Schieber shall include in his letter a statement of any and all reasons why he is unwilling to supervise Elaine R. Fossum. If Mr. Schieber at any time informs the Department Monitor that he is unwilling to supervise Ms. Fossum then Ms. Fossum shall not practice under her license as a Funeral Director (“excluding embalming”) (#75-2405) until and unless the Board modifies this Order by naming another licensed funeral director to act as her supervisor.
2. Respondent shall, within one hundred and twenty (120) days of the date of this Order, pay to the Department of Regulation and Licensing partial costs of this proceeding in the amount of \$400.00, pursuant to Wis. Stat. § 440.22(2).
3. All payments required by this Order, and request for modification of the limitation shall be mailed, faxed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

4. This Order shall be effective on the date of its signing.

By: Rick D. Unbehaum
A Member of the Board

May 17, 2005
Date