

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 :
: **FINAL DECISION AND ORDER**
RALPH R. HAAS and KASUBOWSKI & :
HAAS FUNERAL HOME : **LS0508082FDR**
:
RESPONDENTS. :

Division of Enforcement Case Nos. 02 FDR 032, 02 FDR 034 & 02 FDR 038

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

Ralph R. Haas
c/o Kasuboski & Haas Funeral Home
1435 Douglas Ave.
Racine, WI 53404

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 Ralph R. Haas ("Haas"), whose last known address of record with the Department of Regulation and Licensing ("Department") is 1435 Douglas Avenue, Racine, Wisconsin, 53404, and whose date of birth is August 20, 1946, is a licensed funeral director (#77-3982). He was first granted the license on April 30, 1973, pursuant to Wis. Stat. ch. 458, and has held it at all times material to this complaint. The license is current through December 14, 2007.

2. Respondent Kasuboski & Haas Funeral Home (K&H), whose last known address of record with the Department is 1435 Douglas Avenue, Racine, Wisconsin, 53404, is a licensed funeral establishment (#78-2005). The license was first granted on June 7, 1994 under the name of Kasuboski, Austin & Haas. Mr. Haas is the current owner and funeral director in charge of K&H.

Count I

3. On or about June 21, 2002, Respondents received a letter signed by Ms. Della Story informing them that Ms. Story wished to change the beneficiary of her irrevocable funeral trust from the K&H to Alternative Funeral and Cremation Services.

4. On or about June 21, 2002, Ms. Story asserts that she spoke with Mr. Haas regarding this same issue by telephone. Immediately thereafter Mr. Haas called Ms. Story, asked why she wanted to transfer the trust.

5. On or about November 18, 2002, the Department sent a letter requesting information from the Respondent regarding this matter. Respondent signed a statement facilitating the change of beneficiary designation on November 26, 2002.

6. Wis. Stat. § 445.125(1) and Wis. Admin. Code § FD 3.02(15) govern irrevocable funeral trusts. The latter provides, in relevant part, that it is unprofessional conduct for a funeral director to, "Fail to transfer control over ... trust funds pursuant to the depositor's written request..." Wis. Admin. Code § FD 3.02(15) further provides that, "A funeral director may not impede the inter vivos designation of a different beneficiary by withholding delivery of a passbook or other

indicia of control over funds, or by other behavior.”

7. Wis. Stat. § 445.13(1) provides that a licensee may be disciplined for, “violation of... any rule... of the examining board, for unprofessional conduct...”

Count II

6. On or about July 16, 2002, Respondents received a letter signed by Mr. Vernell Kirby, legal guardian for depositor Luzerenzy Kirby, informing him that Mr. Kirby wished to change the beneficiary of the irrevocable funeral trust from the K&H to Alternative Funeral and Cremation Services.

7. On or about July 16, 2002, Mr. Kirby asserts he spoke with Mr. Haas regarding this same issue by telephone. During the course of the conversation Mr. Haas became belligerent, and asked if Mr. Kirby’s decision was motivated by the fact that Mr. Haas is white.

8. On or about November 18, 2002, the Department sent a letter requesting information from the Respondent regarding this matter. Respondent signed a statement facilitating the change of beneficiary designation on November 26, 2002.

MITIGATING FACTOR

9. Prior to the events described herein, Clyde O. Austin disassociated himself from Kasuboski, Austin & Haas Funeral Home, and formed Alternative Funeral and Cremation Services. Respondents engaged in disputes via civil litigation with Clyde O. Austin and Alternative Funeral and Cremation Services. However, the Department has not found evidence sufficient to support a claim that Clyde O. Austin or Alternative Funeral and Cremation Services violated any provision of the Wisconsin Statutes or Administrative Code.

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 § 227.44(5), Stats.

3. Respondent, Ralph R. Haas, by his conduct as set forth above in paragraphs 2-8 of the Findings of Fact has impeded the transfer of trust funds and failed to demonstrate respect for the feelings of persons involved in the grieving process, contrary to Wis. Admin. Code §§ FD 3.02(10), (15), thereby subjecting himself to discipline per Wis. Stat. § 445.13(1).

4. Due to the violations of Wisconsin Administrative code by Respondent Ralph R. Haas, Respondent Kasuboski & Haas is subject to discipline per Wis. Stat. § 45.105(4).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Ralph R. Haas, is REPRIMANDED and LIMITED as follows: for a period of thirty (30) days Respondent shall not enter onto the premises of Kasuboski & Haas Funeral Home, or have any contact with any customer of K&H.

2. Respondent Ralph R. Haas shall pay to the Department of Regulation and Licensing partial costs of this proceeding in the amount of \$1800.00, pursuant to § 440.22(2), Stats. Respondent shall make four equal payments of \$450.00, with the first payment due ninety (90) days from the date of signing of this Order, and subsequent payments due in ninety (90) day intervals thereafter.

3. 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 Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 261-7904

4. Violation of any of the terms of this Order shall be considered conduct imperiling the public health, safety and welfare and may result in the immediate suspension of Respondents' licenses. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent Ralph R. Haas fails to timely submit any payment of the partial costs as set forth above, or fails to comply with the limitation of his activities as set forth above, the license of Respondent Ralph R. Haas (#77-3982) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

FUNERAL DIRECTORS EXAMINING BOARD

By: J. C. Frazier
A Member of the Board

2/7/06
Date

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
RALPH R. HAAS and KASUBOWSKI &	:	
HAAS FUNERAL HOME	:	LS _____ FDR
	:	
RESPONDENTS.	:	

Division of Enforcement Case Nos. 02 FDR 032, 02 FDR 034 & 02 FDR 038

It is hereby stipulated and agreed, by and between Ralph R. Haas, Respondent, on his own behalf and on behalf of Respondent Kasuboski & Haas Funeral Home; Attorney Mark A. Brault, attorney for Respondents; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation resolves a formal complaint relating to Ralph R. Haas and Kasuboski & Haas Funeral Home (Respondents), by the Division of Enforcement (02 FDR 032, 02 FDR 034 and 02 FDR 038). Respondents consent to the resolution of this formal complaint via stipulation, and without further litigating this matter.
2. Respondents deny the allegations of the Complaint, but admit that there is evidence from which the Funeral Directors Examining Board can make the Findings of Fact and reach the Conclusions of Law contained in the attached Final Decision and Order. Respondents understand that by signing this Stipulation they voluntarily and knowingly waives their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondents have been obtained legal counsel prior to signing this Stipulation.
4. Respondents agree to the adoption of the attached Final Decision and Order by the Funeral Directors Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that any member of the Funeral Directors Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their attorney, for purposes of speaking in support of this agreement (or against this agreement) and answering questions that any member of the Board may have in connection with the Board’s deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order. An attorney or other agent for any party may appear before the Board in opposition to the stipulation at a regularly scheduled meeting where the consideration of the stipulation is a valid part of the agenda.
7. Respondents are informed that should the Board adopt this Stipulation, the Board’s final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement specifically reserves the right to recommend that the Board not adopt this Stipulation and issue the attached Final Decision and Order.

RALPH R. HAAS, Respondent
On his own behalf and on behalf of
Respondent Kasuboski & Haas
Funeral Home

Date

MARK A. BRAULT
Respondents' Attorney
De Mark, Kolbe & Brodek SC
6216 Washington Avenue
PO Box 089005
Racine, WI 53408-5009

Date

MARK A. HERMAN
Complaint's Attorney
Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
PO Box 8935
Madison, WI 53708-8935

Date

[Reprimand, Limitation, Partial Costs.]