

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
MARION L. GRAVES and :
JOHNSON & GOOLSBY FUNERAL :
HOME : LS0605163FDR
 :
RESPONDENTS. :

Division of Enforcement Case No. 03 FDR 023

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

Marion L. Graves
c/o Johnson & Goolsby Funeral Home
3514 North Port Washington Road
Milwaukee, WI 53212

Johnson & Goolsby Funeral Home
3514 North Port Washington Road
Milwaukee, WI 53212

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 Marion L. Graves (a.k.a. Marion Graves-Johnson; “Graves”), whose date of birth is August 6, 1938, whose last known address of record with the Department of Regulation and Licensing (“Department”) is 3514 North Port Washington Road, Milwaukee, WI 53212, holds a license as a Funeral Director (#77-4206). Graves was first granted the license on December 1, 1975, pursuant to Wis. Stat. ch. 445, and has held it at all times material to this complaint. The license is current through December 14, 2007.
2. Respondent Johnson & Goolsby Funeral Home (a.k.a. Johnson-Goolsby Funeral Service; “JGFH”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 3514 North Port Washington Road, holds a license as a Funeral Establishment (#78-1662). JGFH was first granted the license on June 4, 1980, pursuant to Wis. Stat. ch. 445, and has held it at all times material to this complaint. The license is current through May 31, 2007. JGFH is partly owned and operated by Graves.
3. On March 29, 1997, T.P. visited JGFH her aunt’s (H.C., to pre-arrange H.C.’s funeral. T.P. met with Graves to select merchandise and services. On April 18, 1997, Graves issued a receipt to T.P., reflecting that Graves had received \$2,800.00 from T.P.; the receipt contained no other information relevant to this matter. On April 25, 1997, T.P. signed an authorization form for JGFH to perform the removal of H.C.’s body and to take charge of the funeral arrangements, including embalming the remains.
4. H.C. passed away on October 15, 2003. After H.C.’s death, T.P. appeared at the JGFH, expecting that all funeral expenses had been paid for. Graves denied knowledge that JGFH had received the funds, and denied that JGFH had deposited the funds. Eventually, Graves determined that she had received the funds, and that JGFH had deposited the funds.
5. Graves still denies that there was a pre-paid funeral services agreement between T.P. and JGFH, which,

assuming Graves is correct, means that the funds received should have been treated as trust funds governed by Wis. Stat. § 445.125(1)(b).

6. Following Graves' determination that the funds had been received and deposited, JGFH provided services and/or had other funeral homes provide services for the final disposition of H.C.'s remains. However, H.C.'s certificate of death was not received by the local registrar until December 23, 2003, even though the medical certification had been obtained on October 21, 2003, and even though Graves apparently signed the document on October 23, 2003.

7. Per Wis. Admin. Code § FD 3.02, a licensee or owner of a licensed funeral establishment engages in unprofessional conduct by:

- (1) Violating... any state or federal law substantially related to the practice of funeral directing.
- (11) Failing to provide to the depositor, within 15 working days of receipt of a payment, written confirmation of receipt and deposit of payment made pursuant to a funeral trust agreement... Such written agreement shall include the name of the bank, savings bank, trust company, savings and loan association or credit union, the account number, the date of deposit, and a copy of the deposit slip or other documentary evidence of a payment deposited.

8. Per Wis. Stat. § 69.18(1)(bm), "The person filing the certificate of death... shall present or mail the certificate, within 24 hours after being notified of the death, to the physician, coroner or medical examiner responsible for completing and signing the medical certification. Within 2 days after receipt of the medical certification, the person filing the death certificate shall mail or present the certificate of death in... (t)he registration district of the place of death if the death occurred in this state.

9. Per Wis. Stat. § 445.105(4), "Violations of this chapter or any rules or regulations of the examining board committed by any person, or an officer, agent or employee with the knowledge or consent of any person operating such funeral establishments shall be considered sufficient cause for reprimand or for limitation, suspension or revocation of such funeral establishment permit."

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 Graves by her conduct as described in paragraphs 3-5 above, failed to provide T.P. with a written confirmation of receipt and deposit of trust funds, as required by Wis. Admin. Code § FD 3.02(11), thereby subjecting herself to discipline.

4. Respondent Graves by her conduct as described in paragraph 6 above, failed to timely process H.C.'s certificate of death, contrary to Wis. Stat. § 69.18(1)(bm).

5. Respondent JGFH is subject to discipline due to the actions of Respondent Graves, per Wis. Stat. 445.105(4).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The licenses of Respondents MARION L. GRAVES and JOHNSON & GOOLSBY FUNERAL HOME to practice as a Funeral Director and Funeral Establishment, respectively, in the State of Wisconsin are hereby REPRIMANDED

2. Respondents shall, within one hundred and twenty (120) days of the date of signing of this Order, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$675.00, pursuant to Wis. Stat. § 440.22(2). Respondents shall be held jointly and severally liable for the costs ordered in this paragraph.

3. Respondent Graves shall, within thirty days of the date of signing of this Order, pay to the Department of Regulation and Licensing a fine in the amount of \$250.00.

4. All payments required by this Order 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) 261-7904

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

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

5/16/06
Date

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
MARION L. GRAVES and	:	
JOHNSON & GOOLSBY FUNERAL	:	
HOME	:	LS _____
	:	
RESPONDENTS.	:	

Division of Enforcement Case No. 03 FDR 023

- It is hereby stipulated and agreed, by and between Marion L. Graves, Respondent; Earl C. Goolsby, on behalf of Johnson & Goolsby Funeral Home, Respondent; and Mark A. Herman, attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:
1. This Stipulation is entered into as a result of a pending investigation of Respondents' licensures by the Division of Enforcement (Case No. 03 FDR 023). Respondents consent to the resolution of this investigation by stipulation without the issuance of a formal complaint.
 2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive 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, and the Wisconsin Administrative Code.
 3. Respondents have been provided with an opportunity to obtain the advice of 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 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 consideration of this attempted resolution.
 6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and 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 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.
 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 joins Respondents in recommending the Board adopt this Stipulation and issue

the attached Final Decision and Order.

MARION L. GRAVES, Respondent

c/o Johnson-Goolsby Funeral Home
3514 North Port Washington Road
Milwaukee, WI 53212

Date

**EARL C. GOOLSBY, on behalf of
JOHNSON & GOOLSBY FUNERAL
HOME, Respondent**

3514 North Port Washington Road
Milwaukee, WI 53212

Date

MARK A. HERMAN

Attorney, Division of Enforcement
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708 8935

Date

[Costs, reprimand, and fine.]