

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **FINAL DECISION AND ORDER**
PERRY J. JACOBS and TAMMY S. :
BARROWS, : **LS0808051FDR**
 :
RESPONDENTS. :

Division of Enforcement Case No. 07 FDR 012

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

Perry J. Jacobs
c/o Jacobs-Lundholm Funeral Home
417 Central Avenue
P.O. Box 148
Florence, WI 54121

Tammy S. Barrows
c/o Tondin-Ross & Freeman Funeral Home
1117 Carpenter Avenue
Iron Mountain, MI 49801

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

PROCEDURAL HISTORY

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. 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 Perry J. Jacobs (“Jacobs”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is c/o Jacobs-Lundholm Funeral Home, 417 Central Avenue, P.O. Box 148, Florence, WI 54121, and whose date of birth is March 9, 1967, is licensed as a funeral director (#77-4867). The license was first granted on November 30, 1989, and will expire on December 14, 2009.
2. Respondent Tammy S. Barrows (“Barrows”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is c/o Tondin-Ross & Freeman Funeral Home, 1117 Carpenter Avenue, Iron Mountain, WI 49801, and whose date of birth is February 19, 1966, is licensed as a funeral director (#77-4822). The license was first granted on December 15, 1988, and will expire on December 14, 2009.
3. In 1988, Olive Hess entered into a burial agreement funded by trust within the meaning of Wis. Stat. § 445.125, which was captioned as an, “Irrevocable Funeral Trust Agreement.” Ms. Hess was both the depositor and the potential decedent of the agreement. The beneficiary of the agreement was Tondin-Lundholm Funeral Home of Florence, WI.
4. Subsequently, the Florence, WI location of the Tondin-Lundholm Funeral Home was sold to Perry J. Jacobs, which was sold and became known as the Jacobs-Lundholm Funeral Home. The Jacobs-Lundholm Funeral Home became the beneficiary of the Olive Hess Trust as part of the sale. A second location of the Tondin-Lundholm Funeral Home continued to operate in Iron Mountain, MI, is presently operated as the Tondin-Ross Funeral Home.
5. Following the death of Ms. Hess in 2007, some of her family members contacted the Tondin-Ross Funeral Home. Ms. Barrows, a funeral director with the Tondin-Ross Funeral Home, assisted the family of Olive Hess in contracting services with Tondin-Ross Funeral Home, and in filing a notice of change of beneficiary with the Jacobs-Lundholm Funeral Home.
6. After receiving the request to transfer the funds, Mr. Jacobs contacted the daughter of Ms. Hess, Ms. Judith Schnabel. Other contacts between Mr. Jacobs and Ms. Schnabel followed. Mr. Jacobs made several offers in an attempt to accommodate the family, including offering to conduct the funeral at his funeral home for the amount of funds in the trust. At one point discussions reached the point of making Ms. Schnabel and another family member uncomfortable during the grieving process. At another point Mr. Jacobs suggested that he could conduct the funeral in Florence. When the family stated that the published funeral announcement listed Iron Mountain as the location of the funeral, Mr. Jacobs suggested placing a notice on the door of the Iron Mountain funeral home redirecting those wishing to attend the services to the Florence location.
7. Per Wis. Admin. Code § FD 3.01 (3), funeral directors and holders of funeral establishment permits are prohibited from, “Giving misleading or deceptive information to family or persons involved in the grieving process.”
8. Per Wis. Admin. Code § FD 3.01 (10), funeral directors and holders of funeral establishment permits are prohibited from, “Failing to demonstrate respect for... the feelings of individuals involved in the grieving process.”
9. Per Wis. Admin. Code § 3.01, Chapter FD 3 of the Wisconsin Administrative Code was “adopted (under)... 445.03, Stats., to interpret and contribute to the implementation of s. 445.13, Stats., relating to the grounds for discipline...”
10. Per Wis. Stat. § 445.13 (1), “the examining board may... limit, suspend or revoke the license of a funeral director... or a permit of an operator of a funeral establishment and reprimand a funeral director... or operator of a funeral establishment for any violation of... any rule of the examining board... (or) for unprofessional conduct...”

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. By advising the family of Ms. Hess that the beneficiary of the trust could be changed and assisting them in drafting and sending notice of same to the Jacobs-Lundholm Funeral Home, as set forth above in paragraph 5 of the Findings

of Fact, when Respondent **Tammy S. Barrows** knew or should have known that there was no longer a legal right to do so, **Tammy S. Barrows** committed one or more violations of Wis. Admin. Code § 3.01 (3), thereby subjecting herself to discipline per Wis. Stat. § 443.13 (1).

4. By complaining to the family about the loss of trust funds, and other statements as set forth above in paragraph 6 of the Findings of Fact, Respondent **Perry J. Jacobs** committed one or more violations of Wis. Admin. Code § 3.01 (10), thereby subjecting himself to discipline per Wis. Stat. § 443.13 (1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licenses of **Perry J. Jacobs** (#77-4867) and **Tammy S. Barrows** (#77-4822) shall be, and hereby are, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **Perry J. Jacobs** and **Tammy S. Barrows**, shall each pay 50% of costs of this investigations and proceedings in the amount of FOUR HUNDRED AND FIFTY DOLLARS (\$450.00) each, within sixty (60) days of the date of signing of this Order.

3. Payment of costs and other payments required by this Order shall be mailed, delivered or otherwise transmitted

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

4. Case number 06 FDR 004 is hereby closed as to Respondent Jacobs-Lundholm Funeral Home.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well and may result in a summary suspension of Respondents' licenses. The Funeral Directors Examining Board in its discretion may alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that either Respondent fails to timely submit any payments set forth above, the license of the Respondent in non-comp (#77-4867 and #77-4822) SHALL BE SUSPENDED, without further notice or hearing, until the Respondent has complied with terms of this Order.

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

FUNERAL DIRECTORS EXAMINING BOARD

By: David Olsen
A Member of the Board

8/5/08
Date

**STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD**

IN RE DISCIPLINARY PROCEEDINGS :
AGAINST :
 : **STIPULATION**
PERRY J. JACOBS and TAMMY S. :
BARROWS, : **LS** _____
 :
RESPONDENTS. :

Division of Enforcement Case No. 07 FDR 012

It is hereby stipulated and agreed, by and between Perry J. Jacobs, Respondent; Tammy S. Barrows, Respondent; 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 pending investigation against Respondents' licensures by the Division of Enforcement (07 FDR 012). Respondents consent to the resolution of this investigation by stipulation and 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 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 provided with the opportunity to obtain 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 (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 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, without the presence of Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any person 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.

PERRY J. JACOBS, Respondent
c/o Jacobs-Lundholm Funeral Home
417 Central Avenue
P.O. Box 148
Florence, WI 54121

Date

TAMMY S. BARROWS, Respondent
c/o Tondin-Ross & Freeman Funeral Home
1117 Carpenter Avenue
Iron Mountain, MI 49801

Date

MARK A. HERMAN
Attorney, Division of Enforcement
1400 East Washington Avenue
Madison, WI 53708-8935

Date