

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

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<b>IN RE DISCIPLINARY PROCEEDINGS</b>	:	
<b>AGAINST</b>	:	
	:	<b>FINAL DECISION AND ORDER</b>
<b>NEW PITTS MORTUARY, LLC, and</b>	:	
<b>SHERRY M. HOLMAN</b>	:	<b>LS0811111FDR</b>
	:	
<b>RESPONDENTS.</b>	:	

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Division of Enforcement Case No.s 04 FDR 018 and 06 FDR 016

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

New Pitts Mortuary, LLC  
2031 West Capitol Drive  
Milwaukee, WI 53206

Sherry M. Holman  
c/o New Pitts Mortuary, LLC  
2031 West Capitol Drive  
Milwaukee, WI 53206

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 New Pitts Mortuary, LLC (“NPM”), whose last know address of record with the Department of Regulation and Licensing (“Department”) is 2031 West Capitol Drive, Milwaukee, WI 53206, is licensed as a funeral home (#78-2206). The license was first granted on November 6, 1998. The license will expire on May 31, 2009.

2. Respondent Sherry M. Holman (“Holman”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 2031 West Capitol Drive, Milwaukee, WI 53206, and whose date of birth is September 30, 1954, is licensed as a funeral director (#77-4972). The license was first granted on February 21, 1992, and will expire on December 15, 2009. Ms. Holman has been the funeral director in charge of Respondent NPM since April 11, 2005.

3. Mary Thomas Smith (“Smith”), whose last known address of record with the Department of Regulation and Licensing (“Department”) is 2031 West Capitol Drive, Milwaukee, WI 53206, and whose date of birth is December 10, 1938, was licensed as a funeral director (#77-5125). The license was first granted on February 3, 1995, and expired on January 1, 2006. Ms. Smith was the funeral director in charge of Respondent NPM from May 12, 2004, to April 11, 2005.

4. On August 10, 2004, L.M. received a burial assistance voucher from Milwaukee County for the burial of her ex-husband, D.M. L.M. contracted with another funeral home for burial of the body. When the other funeral home went to retrieve the body from the Medical Examiner's office they found that NPM had already retrieved the body. Neither L.M. nor any other authorized person entered into an agreement for funeral services with NPM.

5. NPM initially refused to release the body of D.M., demanding a payment of \$600 for transportation and embalming services. Eventually, NPM released the body for the sum of \$200.

6. Statements obtained from the Milwaukee County Medical Examiner's Office indicate that this was not an isolated incident.

7. On October 13, 2006, a homicide occurred in Milwaukee. A.P. was one of the victims. Michele Pitts arrived at the home of A.P.'s mother, before other family members were able to inform A.P.'s mother of the death of A.P. A.P.'s mother then asked who had possession of the body, and it was found that NPM had already taken possession. The body was then transferred to another funeral home.

8. 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... this chapter... (or) for unprofessional conduct..."

9. Per Wis. Admin. Code § FD 3.02, "Any occurrence of the following shall constitute unprofessional conduct by a licensed funeral director... or owner of a funeral establishment: ... (10) Failing to demonstrate respect for... the feeling of individuals involved in the healing process... (12) Engaging in solicitation. A funeral director may not initiate any... personal or telephone contact for the purpose of obtaining professional employment with persons known to be in need of such services..."

### 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 providing services without proper authorization, refusing to release a body until arrangement for payment for unauthorized services, and by engaging in solicitation, Respondents **New Pitts Mortuary** (#78-2206), and **Shelly M. Holman** (#77-4972), have committed one or more violations of Wis. Admin. Code § FD 3.02, thereby subjecting themselves to discipline per Wis. Stat. §§ 445.13(1).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The licenses of Respondents **New Pitts Mortuary** (#78-2206), and **Sherry M. Holman** (#77-4972) shall be hereby are, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. **Sherry M. Holman** shall pay the costs of this investigation in the amount of ONE THOUSAND SIX HUNDRED DOLLARS (\$1,600.00) within one (1) year of the date of signing of this Order. In the event of non-payment, Respondents Sherry M. Holman and New Pitts Mortuary shall be held jointly and severally liable for the payment of costs.

3. **New Pitts Mortuary** shall pay forfeitures in the amount of ONE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$1,750.00) within one (1) year of the date of signing of this Order.

4. 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

5. Case number 04 FDR 018 is hereby closed as to Mary Thomas Smith under prosecutorial discretion code P5, to all other respondents formally.

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being and may result in a summary suspension of Respondents' licenses. The Funeral Directors Examining Board in its discretion may alternatively impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondents fail to timely submit any payments set forth above, Respondents' licenses (#77-4972 and #78-2206) SHALL BE SUSPENDED, without further notice or hearing, until Respondents have complied with the terms of this Order.

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

FUNERAL DIRECTORS EXAMINING BOARD

By: Connie Ryan  
A Member of the Board

11/11/08  
Date

STATE OF WISCONSIN  
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN RE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
NEW PITTS MORTUARY, LLC, and	:	
SHERRY M. HOLMAN	:	LS _____
	:	
RESPONDENTS.	:	

Division of Enforcement Case No.s 04 FDR 018 and 06 FDR 016

It is hereby stipulated and agreed, by and between Sherry M. Holman, on her own behalf and on behalf of New Pitts Mortuary, Respondents; James Toran, 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 pending investigation against Respondents’ licensures by the Division of Enforcement (04 FDR 018 and 06 FDR 016). Respondents consent to the resolution of these investigations 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.

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**SHERRY M. HOLMAN**, on her  
own behalf and on behalf of Respondent  
**New Pitts Mortuary, LLC**  
2031 West Capitol Drive  
Milwaukee, WI 53206

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Date

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**JAMES EDGAR TORAN**  
Attorney for Respondents  
Law Offices of James Toran  
230 West Wells St. #600  
Milwaukee, WI 53203-1828

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Date

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

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Date