

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
DARRELL DICKINSON, GARY M.	:	
SEBRANEK, BRIAN DICKINSON,	:	AS TO
DICKINSON FAMILY FUNERAL	:	GARY M. SEBRANEK
HOME, and DICKINSON FUNERAL	:	
HOME and SLETTEN-McKEE-	:	
HANSON FUNERAL HOME	:	
	:	
RESPONDENTS.	:	LS0811112FDR
	:	

Division of Enforcement Case No. 08 FDR 007

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

Gary M. Sebranek
Sletten McKee Hanson Funeral Home
1425 Jackson Street
La Crosse, WI 54601

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 an Interim Order in this matter, subject to the approval of the Funeral Directors Examining Board. The Board has reviewed the Stipulation agreement annexed to this Interim Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Gary M. Sebranek (Sebranek), whose last known address of record with the Department of Regulation and Licensing (Department) is 1425 Jackson Street, La Crosse, WI 54601, and whose date of birth is February 24, 1950, is licensed as a funeral director (#77-4275). The license was first granted on June 30, 1977, and will expire on December 14, 2009.

2. On August 29, 2008, Mr. Sebranek pled guilty to one count of Public Assistance Fraud, with improper benefits in the amount of \$1,000 - \$2,000, contrary to Wis. Stat. § 49.95(1)(c), which is a Misdemeanor U offense. Mr. Sebranek was not sentenced to jail or prison, but was ordered to pay \$20.00 in court costs, and was ordered to either perform 20 hours of community service or pay a fine in the amount of \$262.00.

3. A review of the Criminal Complaint shows that Mr. Sebranek, while employed by Dickinson Family Funeral Home, did transmit documents to the Wisconsin Department of Health and Family Services (DHFS). The documents transmitted falsely represented the costs of funeral and cemetery services. Mr. Sebranek made these false representations in order to qualify customers for payments through the Wisconsin Funeral and Cemetery Aids Program (WFCAP), which provides burial funds for indigent persons.

4. Mr. Sebranek's conduct was a fraud upon DHFS, and enabled Dickinson Family Funeral Home to sell additional goods and services beyond the limits allowed by WFCAP. Mr. Sebranek has no ownership interest in Dickinson Family Funeral Home. There is no evidence that Mr. Sebranek personally benefited from his fraudulent conduct.

5. Per Wis. Admin. Code § RL 3.02, a number of acts or omissions are considered to be unprofessional conduct, including, "(1) Violating or aiding and abetting a violation or any state or federal law substantially related to the practice of funeral directing..."

6. Per Wis. Stat. § 445.13 (1), "... the examining board may... limit, suspend or revoke a license of a funeral director... or a permit... of a funeral establishment, and reprimand a funeral director... for any violation of... this chapter..."

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 his conduct, as set forth above in paragraphs 2-4 of the Findings of Fact, Mr. Sebranek has violated a state law substantially related to the practice of funeral directing, contrary to Wis. Admin. Code § RL 3.02(1), thereby subjecting himself to discipline under 445.13(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of **Gary M. Sebranek** (#77-4275) shall be, and hereby is, **SUSPENDED** for a period of sixty (60) days.

IT IS FURTHER ORDERED that:

2. **Gary M. Sebranek** shall pay the costs of this disciplinary matter, in the amount of five hundred dollars (\$500.00), within six (6) months of the date of signing of this Order.

3. All payments required by this Order shall be mailed, delivered or otherwise transmitted to:

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

4. Case number 08 FDR 007 is closed as to Respondent Gary M. Sebranek only.

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. 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 fails to timely submit any payment as set forth above Respondent's license (#77-4275) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. 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 THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
DARRELL DICKINSON, GARY M.	:	
SEBRANEK, BRIAN DICKINSON,	:	AS TO
DICKINSON FAMILY FUNERAL	:	GARY M. SEBRANEK
HOME, DICKINSON FUNERAL	:	
HOME and SLETTEN-McKEE-	:	
HANSON FUNERAL HOME,	:	
	:	
RESPONDENTS.	:	LS _____
	:	

Division of Enforcement Case No. 08 FDR 007

It is hereby stipulated and agreed, by and between Gary M. Sebranek, Respondent; Marcus J. Berghahn, Attorney for 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 Respondent's licensure by the Division of Enforcement (08 FDR 007). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving that there is probable cause to believe that continuing to allow Respondent to practice poses a threat to the health, safety or welfare of the public; the right to confront and cross-examine any witnesses against him; the right to call witnesses on his behalf; the right to testify himself; the right to seek review of any order of summary suspension and to present briefs or oral arguments to the officials who could remove the summary suspension; the right to have a formal complaint issued against him within 10 days of the issuance of the summary suspension; and all other applicable rights afforded to him 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. Respondent has been provided with the opportunity to obtain legal counsel prior to signing this Stipulation.
4. Respondent agrees 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. Respondent waives 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 Respondent or his 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 Interim Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's interim order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

GARY M. SEBRANEK, Respondent
Sletten McKee Hanson Funeral Home
1425 Jackson Street
La Crosse, WI 54601

Date

MARCUS J. BERGHAHN
Attorney for Respondent
Hurley, Burish & Stanton, S.C.
33 East Main Street, Suite 400
Madison, WI 53701-1528

Date

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

Date