

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
DALE R. HOLZHUTER. :
RESPONDENT. : LS0902034FDR
 :

Division of Enforcement Investigative File #: 07 FDR 013

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Dale R. Holzhuter
1358 Highway 51
P.O. Box 96
Stoughton, Wisconsin

Wisconsin Funeral Directors Examining Board
P.O. Box 8935
Madison, WI 53708

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 disposition of this matter, subject to the approval of the Wisconsin Funeral Directors Examining Board (“Board”). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Dale R. Holzhuter, date of birth: 10/03/40, is licensed in the State of Wisconsin as a Funeral Director, having license # 077 3701. This license was first granted to Mr. Holzhuter on 08/10/64.
2. The most recent business address on file for Mr. Holzhuter with the Department of Regulation and Licensing (“Department”) is: 1358 Highway 51, P.O. Box 96, Stoughton, Wisconsin 53589.
3. Mr. Holzhuter is currently employed as a funeral director at Gunderson Funeral Home, Incorporated (#078-2014; granted: 08/18/94). The most recent business address on file for Gunderson Funeral Home, Incorporated is: Highway 51, P.O. Box 96, Stoughton, Wisconsin 53589.

4. At all times relevant to this action, Mr. Holzhuter was and is responsible for compliance with section FD 3 of the Wisconsin Administrative Code.

5. On or about January 7, 2002, a letter was sent to a then-sitting member of the Board alleging that unlicensed activity was taking place at Henke-Clarson Funeral Home, LLC (#078-2299; granted 01/19/01). The letter was signed by a “Virginia B. Nickerman”, who claimed to have sought funeral services for a deceased relative through Henke-Clarson Funeral Home, LLC.

6. The letter in question was referred to the Board’s screening panel. The screening panel determined the letter was an informal consumer complaint and was subsequently opened for investigation.

7. During the investigation, a Department consumer protection investigator contacted Mr. Holzhuter about the above-noted allegations contained in the complaint. Mr. Holzhuter was asked whether or not he had sent a letter to the Department, in which a complaint was made against Henke-Clarson Funeral Home LLC. On or about May 18, 2002, Mr. Holzhuter sent a response letter to the Department in which he denied initiating the complaint against Henke-Clarson Funeral Home, LLC.

8. Based upon the results of the Department’s investigation, a formal disciplinary action was commenced against funeral director, Cassandra M. Clarson (#077-004982; granted: 03/25/92), registered agent for burial agreements, Roger J. Henke (#107-000459), and Henke-Clarson Funeral Home, LLC. The formal complaint and notice of hearing was filed on October 5, 2005.

9. On or about July 5, 2006, the day before a pre-hearing deposition of Mr. Holzhuter’s wife, the Department learned that the initial letter sent to the former Board member had been prepared by the Holzuters and that Ms. Nickerman did not exist. On July, 6, 2006, a pre-hearing deposition was conducted of Mr. Holzhuter’s wife and she verified that a fictitious person had been named in the letter but the allegations of unlicensed activity against Henke-Clarson Funeral Home, LLC were truthful.

10. On July 24, 2006, during the hearing involving disciplinary action against Henke-Clarson Funeral Home, LLC, Mr. Henke and Ms. Clarson, (LS05010051FDR); Mr. Holzhuter testified that he and his wife authored the letter in question. Mr. Holzhuter further testified that he and his wife authored the letter due to their acrimonious feelings toward Mr. Henke and Ms. Clarson and their business practices. Mr. Holzhuter further testified that the allegations of unlicensed activity stated in the letter are true and correct.

11. On July 24, 2006, Mr. Holzhuter further testified that he is willing to accept responsibility for his actions regarding his involvement in the disciplinary action against Ms. Clarson, Mr. Henke, and Henke-Clarson Funeral Home.

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in this matter pursuant to chapter 445 of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to section 227.44(5), Wis. Stats.

2. By submitting false information, in whole or in part, to the Department, Mr. Dale R. Holzhuter has violated Wis. Admin. Code § FD 3.02(9). The submission of false information by Mr. Holzhuter constitutes fraudulent and deceptive practice as well as unprofessional conduct.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that Respondent Dale R. Holzhuter, license number 077-3701, be and hereby is,

SUSPENDED for thirty (30) days, commencing fifteen (15) days from the dating and signing of this Order. During the period of suspension, Respondent Dale R. Holzhuter shall cease and desist from any and all conduct, activity and services of a funeral director as defined in Wis. Stat. § 445.01(5) in the State of Wisconsin during such period of suspension.

IT IS FURTHER ORDERED, that Respondent Dale R. Holzhuter shall pay a forfeiture in the amount of **ONE THOUSAND DOLLARS (\$1,000.00)**.

IT IS FURTHER ORDERED, that Respondent Dale R. Holzhuter shall pay costs in the amount of **FIVE HUNDRED DOLLARS (\$500.00)**.

IT IS FURTHER ORDERED that payments of **FIVE HUNDRED DOLLARS (\$500.00)** shall be made every nine days from the date of this Order until the full **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)** is paid. Payment shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to:

**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**

IT IS FURTHER ORDERED, that in the event that Dale R. Holzhuter fails to timely submit payment of the costs as set forth above or fails to comply with the terms of the Order, Mr. Holzhuter's funeral director's license #077-3701 shall be **REVOKED** without further hearing and without further Order of the Board, and said revocation shall continue until the full amount of said costs has been paid to the Department of Regulation and Licensing and their failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file, **07 FDR 013** be, and hereby is, closed as to Dale R. Holzhuter.

Dated this 3rd day of February, 2009.

FD
WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

By: David Olsen
A member of the Board