

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

DONALD H. SMITH,
RESPONDENT.

:
:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0001911**
:

Division of Enforcement Case No. 12 FDR 006

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Donald H. Smith
615 Wilson Ave.
Menomonie, WI 54751

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

Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Donald H. Smith (dob 02/03/1956) is licensed in the State of Wisconsin as a Funeral Director, having license number 77-5124, first issued on 02/02/1995 and current through 12/14/2013. Respondent Smith's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 615 Wilson Ave., Menomonie, WI 54751.

2. On or about March 2, 2011, the Department received a complaint alleging, in part, that cremations were being performed by Stokes & Mundt Funeral Chapel & Crematory (Stokes & Mundt) without the required prior written authorization. Division of Enforcement case number 12 FDR 006 was subsequently opened for investigation.

3. The Department's investigation revealed that in January 2008, an employee of Stokes & Mundt cremated the human remains of a decedent without obtaining a completed authorization form prior to the cremation.

4. On occasion, cremations were performed at Stokes & Mundt with only verbal authorization to do so.

5. In January 2008, Respondent Smith was the funeral director working with the decedent's family and he failed to obtain a completed authorization form prior to the cremation taking place.

6. Following the incident at issue, Stokes & Mundt implemented an internal policy requiring employees to obtain written authorization forms prior to the performance of all cremations.

7. In resolution of this matter, Respondent Smith consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Funeral Directors Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 445.13, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Smith engaged in unprofessional conduct pursuant to Wis. Admin. Code § FD 3.02(1) by violating Wis. Stat. § 440.78(1)(a), which is a state law substantially related to the practice of funeral directing. The cremation of human remains is substantially related to the practice of funeral directing which includes the disposal of dead human bodies.

3. As a result of the above violations, Respondent Smith is subject to discipline pursuant to Wis. Stat. § 445.13(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:


1. The attached Stipulation is hereby accepted.

2. The Funeral Director license of Donald H. Smith (license number 77-5124) is hereby SUSPENDED for a period of 14 calendar days beginning September 4, 2012.

3. 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.

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

WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

by: 
A Member of the Board

7/10/12
Date