

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

JAMES R. POWELL,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

0006059

Division of Legal Services and Compliance Case No. 17 FDR 031

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

James R. Powell
11111 W. Janesville Road
Hales Corners, WI 53130

Wisconsin Funeral Directors Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent James R. Powell (DOB 12/17/1980) is licensed by the State of Wisconsin as a Funeral Director, having license number 5876-77, first issued on April 4, 2012, and current through December 14, 2019. Respondent's most recent address on file with the Department of Safety and Professional Services (Department) is 11111 W. Janesville Road, Hales Corners, Wisconsin 53130.

2. In 2016, the Department initiated an audit of licensed funeral director continuing education (C.E.) for the 2013-2015 biennial registration period (December 15, 2013 to December 14, 2015).

3. Pursuant to the Department's audit, Respondent was found to be noncompliant with the C.E. requirements for licensed funeral directors in the 2013-2015 biennial registration period, as Respondent only provided evidence for seven hours of C.E. during that time period. Of the C.E. submitted, two hours were in grief counseling or communication, one hour was in professional conduct, business ethics, or legal aspects specifically related to practice in the profession, two hours were in business management concepts relating specifically to delivery of services to a customer, and two hours were in technical or practical aspects of the profession. Respondent failed to take at least three hours of coursework in each of the four required categories.

4. Respondent certified at renewal that he had completed and had evidence of completion of the C.E. requirements for the 2013-2015 biennial registration period.

5. In resolution of this matter, Respondent 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 violated Wis. Stat. § 445.06 and Wis. Admin. Code § FD 4.03(1) by failing to complete at least fifteen hours of approved continuing education within the 2013-2015 biennial registration period.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § FD 4.03(4m) by failing to complete at least three hours in each of the subject areas specified in Wis. Admin. Code § FD 4.04(1)(a) 1. to 4.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § FD 4.03(3) by failing to submit certificates of attendance or other evidence of attendance issued by the C.E. program providers.

5. As a result of the above violations, Respondent James R. Powell is subject to discipline pursuant to Wis. Stat. § 445.13(1).

ORDER

1. The attached Stipulation is accepted.

2. Respondent James R. Powell is REPRIMANDED.

3. The Funeral Director license issued to James R. Powell (number 5876-77) is LIMITED as follows:

- a. Within 90 days of the date of this Order, Respondent shall successfully complete eight hours of approved C.E. in accordance with Wis. Admin. Code § FD 4.03 and shall include:
 - i. One hour of the C.E. completed shall pertain to the subject area defined in Wis. Admin. Code § FD 4.04(1)(a)1.
 - ii. Two hours of the C.E. completed shall pertain to the subject area defined in Wis. Admin. Code § FD 4.04(1)(a)2.
 - iii. One hour of the C.E. completed shall pertain to the subject area defined in Wis. Admin. Code § FD 4.04(1)(a)3.
 - iv. One hour of the C.E. completed shall pertain to the subject area defined in Wis. Admin. Code § FD 4.04(1)(a)4.
- b. Respondent shall submit proof of successful completion of the ordered C.E. in the form of verification from the institution providing the C.E. to the Department Monitor at the address stated below.
- c. The C.E. completed pursuant to this Order may not be used to satisfy any other Funeral Director C.E. requirements with the Board.

4. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$126.00.

5. Proof of successful completion of the ordered C.E. and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit this information online via DSPS' Monitoring Case Management System at <https://app.wi.gov/DSPSMonitoring>.

6. In the event Respondent violates any term of this Order, Respondent's license (number 5876-77), or Respondent's right to renew his license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN FUNERAL DIRECTORS EXAMINING BOARD

by: Maureen A. Ferrell
A Member of the Board

2-19-19
Date

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES R. POWELL,
RESPONDENT.

STIPULATION

0006059

Division of Legal Services and Compliance Case No. 17 FDR 031

Respondent James R. Powell and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

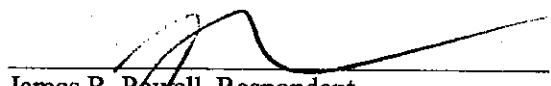
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:
 - the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
 - the right to confront and cross-examine the witnesses against Respondent;
 - the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
 - the right to testify on Respondent's own behalf;
 - 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before 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 Legal Services and Compliance for further proceedings. In the event that the 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 Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

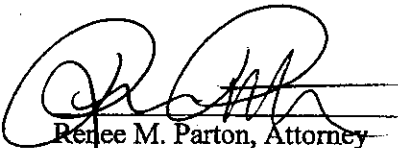
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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


James R. Powell, Respondent
11111 W. Janesville Road
Hales Corners, WI 53130
License no. 5876-77

Date

1/25/2019


Renee M. Parton, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

Date

2/1/2019