

IN THE MATTER OF

SAINT NICHOLAS DAUGHERTY

License Number M00942

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BEFORE THE MARYLAND

STATE BOARD OF

MORTICIANS AND

FUNERAL DIRECTORS

CONSENT ORDER OF SUSPENSION/PROBATION

The Maryland State Board of Morticians and Funeral Directors (the “Board”) received two complaints regarding the mortuary science practice of Saint Nicholas Daugherty (the “Respondent”) and his employing funeral establishment. The Board conducted an investigation. Based upon the complaint as well as the Board’s subsequent investigation, on March 9, 2016, the Board met with the Respondent in an attempt to settle the matter prior to the issuance of formal charges. As a result of that meeting, the Respondent and the Board agreed to the following Consent Order.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant, the Respondent was licensed to practice mortuary science in the State of Maryland, license number M00942.
2. On or before May 28, 2015, the Respondent was the supervising mortician and owner of a funeral establishment (the “Establishment”) in Pasadena, Maryland.
3. On or before May 28, 2015, the Respondent closed the Establishment without notifying the Board. Further, the Respondent failed to notify the holders of pre-need contracts with the Establishment that the Establishment was closing.
4. On or about May 28, 2015, the Board received a complaint from Person A, stating

that, on March 10, 2010, she and the Respondent executed a pre-need trust funeral contract for the amount of \$1,055.00. In addition, Person A stated that she saw a sign on the Establishment showing the property for sale. Person A subsequently attempted to call the Establishment, but never received a response. Person A attached the pre-need trust contract to her complaint.

5. On or about January 19, 2016, Person B and Person C submitted information regarding their pre-need arrangement contracts with the Respondent to the Board. Specifically, Person B submitted to the Board an undated preneed contract for \$2,900.00, signed by both the Respondent and Person B. Person C submitted to the Board an undated preneed contract for \$2,900.00, signed by both the Respondent and Person C. Both contracts were submitted along with two personal cancelled checks, dated June 10, 2013 and cashed on June 20, 2013, each for the amount of \$2,900.00.

6. During the investigation, the Respondent disclosed to the Board that he did not set the pre-need trust accounts up for Persons A, B, and C in accordance with Md. Code Ann., Health Occ. ("H.O.") § 7-405(d), which requires that sellers, such as the Respondent, deposit preneed funds in an account established in the name of the buyer and that those pre-need funds are not an asset of the funeral establishment.

7. Further, a seller, such as the Respondent, may not withdraw from a pre-need account any money received from a buyer, unless the services and merchandise have been provided as agreed in the contract. *See* H.O. § 7-405(e)(2).

8. In this case, the Respondent admitted to co-mingling pre-need funds with his business operating account and that the funds for Persons A, B, and C were most likely spent for

the benefit of the Establishment.

9. The Respondent's failure to abide by the statutory requirements regarding pre-need contracts is unconscionable and has left at least three consumers in need of their pre-need funds. As such, the Board finds that the Respondent's conduct was unprofessional within the meaning of H.O. § 7-316(a)(26).

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that the Respondent violated Md. Code Ann., Health Occ. § 7-316(a)(26) ("Commits an act of unprofessional conduct in the practice of mortuary science").

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that, within **FIVE (5) DAYS** from the effective date of this Order, the Respondent shall notify **all** Establishment pre-need contract buyers, **in writing**, that the Establishment is closed and that the buyers are entitled to transfer their pre-need accounts, including accrued interest, to any other licensed funeral establishment or request a full refund, if permissible by law. Failure to properly notify all of the Establishment's pre-need contract buyers in writing within five (5) days shall be considered unprofessional conduct and a violation of this Order; and it is further

ORDERED that, within **FIVE (5) DAYS** from the effective date of this Order, the Respondent shall, in accordance with Md. Code Ann., Health Occ. § 7-405, establish three (3) trust accounts at a federally insured banking institution or federally insured savings and loan association

in the names of Person A, Person B, and Person C. Within five (5) days from the effective date of this Order, the Respondent shall deposit \$1055.00, plus accrued interest, into the account of Person A; \$2900.00, plus accrued interest, into the account of Person B; and \$2900.00, plus accrued interest, into the account of Person C. The Respondent shall provide the Board with copies of any necessary paperwork as proof of compliance. Failure to establish the accounts as set forth above or failure to properly fund the accounts as set forth above shall be considered unprofessional conduct and a violation of this Order; and it is further

ORDERED that, upon the effective date of this Order, the license of the Respondent to practice mortuary science in the State of Maryland shall be **SUSPENDED** for a period of **NINETY (90) CALENDAR DAYS**; and it is further

ORDERED that, upon the completion of the Respondent's suspension, the license of the Respondent to practice mortuary science in the State of Maryland is placed on **PROBATION** for a minimum of **FIVE (5) YEARS** subject to the following terms and conditions:

1. The Respondent's status as a mortician be listed in the Board's computer records and website as being on "**Probation.**"
2. **In addition** to the continuing education units required by Section 7-314 of the Health Occupations Article and the Code of Maryland Regulations 10.29.05 *et seq.*, the Respondent shall complete a course approved in advance in MARYLAND PRE-NEED LAWS AND REGULATIONS. The Respondent's failure to submit to the Board satisfactory evidence of the completion of the aforementioned course within **SIX (6) MONTHS** from the effective date of this Order shall constitute a violation of

probation and a violation of this Order.

3. Pursuant to Md. Code Ann., Health Occ. § 7-310(e)(4), the Respondent may not act as a supervising mortician for a funeral establishment in the State of Maryland during the pendency of this probation.
4. The Respondent shall pay to the Board a monetary fine of **THREE THOUSAND DOLLARS AND ZERO CENTS (\$3000.00)** in full by money order or cashier's check made payable to the Board and delivered personally or by certified mail to the Board. Failure to pay this monetary fine in full to the Board within **ONE (1) YEAR** of the effective date of this Order shall constitute a violation of probation and a violation of this Order.
5. The Respondent shall comply with the Maryland Morticians and Funeral Directors Act and the Board's regulations. Any violation of the Maryland Morticians and Funeral Directors Act or the Board's regulations shall constitute a violation of probation and a violation of this Order; and it is further

ORDERED that the Respondent shall notify the Board of any change in his address and telephone number within **TWO (2) DAYS** of that change. Failure to notify the Board of any change in his address or his telephone number within **TWO (2) DAYS** shall be considered unprofessional conduct and a violation of this Order; and it is further

ORDERED that the Respondent is responsible for any costs incurred in the compliance with the terms and conditions of this Order; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this probation


and/or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to the material fact(s), or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board may have imposed in this case under Md. Code Ann., Health Occ. § 7-316 including a reprimand, additional probation, additional suspension, revocation, and/or monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that no earlier than **FIVE (5) YEARS AND NINETY (90) DAYS** after the effective date of this Consent Order, the Board will consider a petition for termination of the Respondent's probationary status, provided that the Respondent has been compliant with the probationary terms of this Consent Order; and it is further

ORDERED that there shall be no early termination of the five (5) year probationary period. As such, the Board will not consider any requests from the Respondent to terminate probation any earlier than five (5) year and ninety (90) days from the effective date of this Order; and it is further

ORDERED that this document is a **PUBLIC DOCUMENT** under Md. Code Ann., General Provisions § 4-333(b).

3/16/16
Date

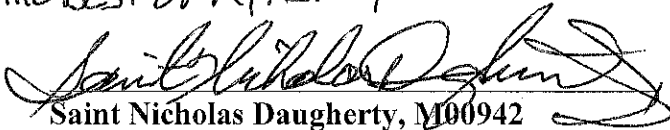


Victor C. March, Sr., President
Maryland State Board of Morticians and Funeral Directors

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby accept and submit to the foregoing Consent Order and its conditions. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

I sign this Consent Order after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order. *TO THE BEST OF MY ABILITY*

 M00942
Saint Nicholas Daugherty, M00942