

IN THE MATTER OF

Michael Marzullo

License No. M00407

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BEFORE THE MARYLAND

BOARD OF MORTICIANS AND

FUNERAL DIRECTORS

PRE-CHARGE CONSENT ORDER

On or about April 21, 2020, the Board of Morticians and Funeral Directors (“the Board”) received a complaint alleging that Michael Marzullo (“the Respondent”) had employed the services of an unlicensed individual to perform clerical work in Marzullo Funeral Chapel, P.A., a licensed funeral establishment, and to solicit funeral business for the establishment. An investigation by the Board revealed that the Respondent had made an arrangement with the unlicensed individual whereby the unlicensed individual would solicit funeral clients for Marzullo Funeral Chapel in return for a percentage of the proceeds from those funerals. The investigation also revealed that the unlicensed individual was practicing mortuary science within Marzullo Funeral Chapel, with the Respondent’s knowledge.

The Respondent participated in a pre-charge case resolution conference with representatives from the Board on March 4, 2021. On March 10, 2021, the Board voted to offer two Pre-Charge Consent Orders to the Respondent (one each for the Respondent’s mortician’s license and the Marzullo Funeral Chapel’s establishment license) in lieu of issuing charges for violations of the Maryland Morticians and Funeral Directors Act (the “Act”), Md. Code Annotated, Health Occupations Article (“Health Occ.”), § 7-101 *et seq.*

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As a result of that offer, the Respondent and the Board agreed to the following Consent Order with respect to the Respondent's Mortician License.

FINDINGS OF FACT

The Board finds that:

1. The Respondent was originally licensed to practice mortuary science in the State of Maryland on May 1, 1971.
2. On February 27, 2020, the Respondent gave an interview to an investigator from the Board, in which the Respondent stated that an unlicensed individual had been practicing mortuary science while working in the Respondent's establishment in late 2019.
3. Further investigation revealed that the Respondent had hired the unlicensed individual to perform clerical work for his funeral establishment.
4. During the course of the unlicensed individual's employment, the individual practiced mortuary science within the Respondent's establishment. The Respondent invoiced the unlicensed individual for the use of the Respondent's storage and transportation facilities.
5. The Respondent and the unlicensed individual formed an agreement during her employment, whereby the unlicensed individual would solicit funeral business for the Respondent's establishment. The unlicensed individual was to bring consumers to the Respondent's establishment so that the Respondent could contract to provide funeral

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services. In return, the unlicensed individual was to receive a portion of the proceeds from the contract.

6. The investigation did not reveal that this arrangement resulted in any contracts for the Respondent. The Respondent terminated the unlicensed individual's employment on or about December 31, 2019.
7. The invoices from the Respondent's funeral establishment to the unlicensed individual for her use of the funeral establishment's facilities, were dated December 13, 2019.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that the Respondent violated the following provisions of Health Occ., § 7-316(a):

Subject to the hearing provisions of § 7-319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

- ...
(5) aids or abets an unauthorized person in the practice of mortuary science
...
- (8) employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any other person to obtain business, either in general or for a licensee or funeral establishment
- (9) directly or indirectly pays or offers to pay to obtain mortuary science business.

The Board finds that aiding and abetting unlicensed practice falls within category B(5) of the Board's sanctioning guidelines. See COMAR 10.29.01.10.B (5), The range of potential regulatory sanctions for a violation of B(5) is an active suspension of 90 days up to a revocation of the license and a \$5,000.00 fine. *Id.*

ORDER

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

ORDERED that the Respondent's license to practice mortuary science in the State of Maryland is hereby **SUSPENDED** for a period of **THIRTY (30) DAYS** from the effective date of this Order. It is further

ORDERED that the Respondent's license to practice mortuary science in the State of Maryland is hereby placed on **PROBATION** for a minimum of **ONE (1) YEAR** from the effective date of this Order, subject to the following conditions:

1. The Board's website shall list the status of the Respondent's license to practice mortuary science in Maryland as on probation.
2. The Respondent shall pay a fine of **THREE THOUSAND DOLLARS (\$3000)** in full by money order or cashier check made payable to the Board, within **THIRTY (30) DAYS** of the effective date of this Order.
3. The Respondent shall ensure that Marzullo Funeral Chapel, P.A complies with all terms of the Consent Order pertaining to said establishment license, executed simultaneously with this Order.
4. The Respondent is responsible for the cost of compliance with the terms and conditions set forth in this order; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this probation or this Consent Order, the Board, in its discretion, after notice and an opportunity for

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an evidentiary hearing before the Board, if there is a genuine dispute as to material fact, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board is statutorily authorized to impose in this case under § 7-316 of the Act, including a reprimand, additional probation, suspension, or revocation, said violation being proven by a preponderance of the evidence; and be it further

ORDERED that no earlier than **ONE (1) YEAR** from the effective date of this Consent Order, the Board may consider a petition for termination of the Respondent's probationary status, provided that the he has been satisfactorily compliant with the probationary terms of this Consent Order; and it is further

ORDERED that the Respondent shall comply with the Maryland Morticians and Funeral Directors Act, Health Occ., § 7-101 *et seq.*, and all federal and State laws and regulations governing the practice of funeral services and cremation in Maryland; and it is further

ORDERED that this is a Final Decision and Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Maryland Code Annotated, General Provisions Article § 4-101 *et seq.*

03/16/2021
Date



Mark Bailey, Ed.D., Chair
Maryland Board of Morticians and Funeral Directors

Michael Marzullo
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CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact and accept and submit to the foregoing Consent Order and its conditions. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent order. 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.

4/13/21
Date

Michael P. Marzullo
Michael Marzullo, License Number M00407

Michael Marzullo
Mortician License No. M00407

NOTARIZATION

STATE: Maryland

CITY/COUNTY: Baltimore County

I HEREBY CERTIFY that on this 12th day of April, 2021, before me, a Notary Public of the State and City/County aforesaid, personally appeared **Michael Marzullo** and made oath in due form of law that the foregoing was the voluntary act and deed of **Michael Marzullo**.

AS WITNESSETH my hand and Notarial Seal.

SEAL

Frank A. Lotman

Notary Public FRANK A. LOTMAN

My Commission Expires: 9/2/2021