

IN THE MATTER OF
KEVIN PARKER
License Number M00978

*
*
*
*
*
*

BEFORE THE MARYLAND
STATE BOARD OF
MORTICIANS AND
FUNERAL DIRECTORS

CONSENT ORDER OF STAYED SUSPENSION AND PROBATION

On or about December 22, 2015, the Maryland State Board of Morticians and Funeral Directors (the “Board”) conducted a routine inspection of a funeral establishment in Baltimore, Maryland. Based upon the findings of that inspection, the Board initiated an investigation. As a result of that investigation, on April 13, 2016, the Board met with Kevin Parker (the “Respondent”) in an attempt to settle the matter prior to the issuance of formal charges. Subsequently, 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 M00978, and was the supervising mortician of a funeral establishment in Baltimore, Maryland (the “Establishment”).

2. On or about December 22, 2015, the Board conducted a routine inspection of the Establishment. During that inspection, the inspector audited several pre-need contract files. Based upon files audited, the Board inspector noted:

- Person PS’s preneed file did not have a signed contract or any other signed document.

- Person VH's preneed file did not have a signed contract or any other signed document. Bank statements provided to the Board indicated that that Person VH paid the Respondent \$500 on October 30, 2014, but that those funds were not deposited until January 2, 2015.
- Person LC and Person DC's preneed file contained a printed account history indicating that deposits were made into a comingled account. There was no contract for goods and services in the file.

3. At that time of the inspection, the Respondent did produce information relating to a single business banking account with an approximate balance of \$12,000.00 in the name of the Establishment.

4. On or about December 31, 2015, the Respondent provided the Board with bank statements for January 2015 through December 2015. The statements indicated that the Respondent had maintained one business account for the entirety of the Establishment's general operating funds as well as pre-need funds. For the purposes of those pre-need funds, the business account was not broken down into sub-accounts by customer number and social security number.

5. As a result of the Board's inspection, the Respondent attempted to establish separate accounts for each pre-need holder, however the records provided to the Board indicated that those accounts were established in the name of the Establishment and were only "FBO" (for the benefit of) the pre-need contract purchaser.

6. Maryland law requires that a pre-need escrow or trust account be "[e]stablished using the name, address, and Social Security number of the buyer." Md. Code Ann., Health Occ. §

7-405(d)(3)(ii). In addition, pre-need escrow or trust accounts are not assets of any licensee or establishment. *See* Md. Code Ann., Health Occ. § 7-405(d)(3)(i). In this case, based upon the pre-need records inspected, most, if not all, of the Establishment's pre-need funds were maintained in a single account in the name of the Establishment and they were not established in the name or social security number of the buyer in violation of Maryland law. Further, even after the Respondent attempted to bring his bank accounts into compliance, the result still did not meet the standards set forth in Md. Code Ann., Health Occ. § 7-405.

7. Maryland law also requires that funds received pursuant to a pre-need contract are to be deposited into an interest bearing trust or escrow account within 10 days. *See* Md. Code Ann., Health Occ. § 7-405(d)(1). On at least one occasion, the Respondent deposited pre-need funds approximately 2 months after initially receiving them.

8. Furthermore, as the supervising mortician, the Respondent is held responsible for "all activities performed on behalf of the funeral establishment with [his] knowledge." Md. Code Ann., Health Occ. § 7-310(e)(5)(i). Thus, the Board finds that the Respondent is responsible for the Establishment's failure to comply with Maryland law regarding pre-need funds, specifically the failure to maintain separate accounts, established in buyer's name and social security number, for each pre-need holder and the failure to deposit pre-need funds within 10 days.

CONCLUSIONS OF LAW

Based upon 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").

3. Within **FIFTEEN (15) DAYS** from the effective date of this Order, the Respondent shall provide the Board with documentation that his Establishment's pre-need forms are in compliance with the requirements set forth in Md. Code Ann., Health Occ. § 7-405. Failure to submit the requisite documentation within **FIFTEEN (15) DAYS** from the effective date of this Order shall constitute unprofessional conduct and a violation of probation.
4. **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 **TWO** Board-approved courses in (1) **MARYLAND PRE-NEED LAW** and (2) **ETHICS IN MORTUARY SCIENCE**. The Respondent's failure to submit to the Board satisfactory evidence of the completion of the aforementioned courses within **SIX (6) MONTHS** from the effective date of this Order shall constitute unprofessional conduct and a violation of probation.
5. Pursuant to Md. Code Ann., Health Occ. § 7-310(e)(4), the Respondent may not act as a supervising mortician for an establishment during the pendency of this probation.
6. The Respondent shall pay to the Board a monetary fine of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2500.00)** 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 **SIX (6) MONTHS** of the effective date of this Order shall constitute unprofessional conduct and a violation of probation.

7. 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 unprofessional conduct and a violation of probation; and it is further

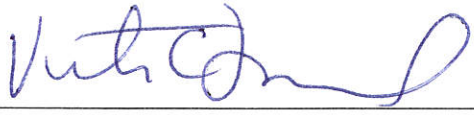
ORDERED that if the Respondent violates any of the terms and conditions of this probation and/or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to the material fact(s), or an opportunity for 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, lifting of the stay of suspension, 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 **TWO (2) YEARS** after the effective date of this Consent Order, the Board may 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 **TWO (2) YEAR** probationary period. As such, the Board will not consider any requests from the Respondent to terminate probation any earlier than **TWO (2) YEARS** 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).

5/11/16
Date

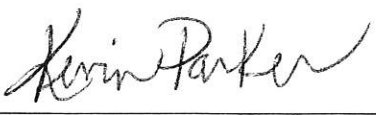


Victor C. March, Sr., President
Maryland State Board of Morticians and Funeral Directors

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.



KEVIN PARKER, M00978