

IN THE MATTER OF

BENNIE SMITH FUNERAL HOME
POCOMOKE MARYLAND

License Number E00321

* BEFORE THE MARYLAND
* STATE BOARD OF MORTICIANS
* AND FUNERAL DIRECTORS

* Case Numbers: 9-015, 10-023,
11-010, 11-037, 11-041, 12-010

*

PRE-CHARGE CONSENT ORDER

PROCEDURAL BACKGROUND

The Maryland State Board of Morticians and Funeral Directors (the "Board") and the Bennie Smith Funeral Home, Pocomoke Maryland (the "Respondent") have agreed, in lieu of the Board's filing formal charges, to enter into to this Pre-Charge Consent Order (the "Order"). The Respondent waives its right to a hearing and agrees to be sanctioned by the Board. This Order is based upon the Board's belief that the Respondent violated provisions of the Maryland Morticians and Funeral Directors Act ("the Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 7-101 et seq. (2009 Repl. Vol.).

FINDINGS OF FACT

1. At all times relevant, the Respondent was and is a Maryland licensed funeral establishment license number E00321.
2. At all times relevant, the Respondent has been and continues to be owed by Bennie Smith a Maryland licensed mortician, license number M00537.
3. The Board's investigation, including sworn eye witness testimony, revealed that over the years unlicensed persons, including Michael Kellum, Willie Savage and Sissy Holmes among

others have offered and agreed to provide services or merchandise to families at the Respondent funeral home.

4. As recently as on or about July 2011, it is alleged that families entering into pre-need arrangements at the Respondent funeral home have been converting their private life insurance policies to Bennie Smith ownership to cover funeral expenses.

5. The Board's ongoing investigation, including witness testimony, further revealed that over the years unlicensed individuals, including Vance Bolden, Jr. and Keith Brown, performed embalming at the Respondent funeral home.

CONCLUSIONS OF LAW

The Respondent is subject to sanctions pursuant to H.O. § 7-316(b). Based on the foregoing Findings of Fact, the Board finds that the Respondent violated H.O. §§ 7-316(a)(5) by aiding and abetting unlicensed individuals to offer and agree to provide funeral goods and services; and by taking ownership of private life insurance policies under pre-need contracts, itself a violation of H.O. § 7-405(f)(3)(i)(1).

ORDER

ORDERED that the Respondent's establishment license shall be **SUSPENDED** for a period of five (5) days beginning on August 11, 2012; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of nine (9) months to commence on the date the establishment license is reinstated. The Respondent may not petition the Board for termination of probation before the conclusion of the probationary period. It shall be within the Board's discretion to grant such a petition; and it is further

ORDERED that the Respondent shall post a conspicuously placed notice at the entrance of the Respondent funeral home alerting the public to the fact that the funeral home will be closed for a

period of five (5) days. The notice shall contain a telephone number for the public to call for information; and it is further

ORDERED that the Respondent shall within thirty (30) days from the effective date ¹ of this Order submit, for Board approval, the name of a Maryland licensed mortician to serve as the Supervising Mortician for the Respondent funeral home; and it is further

ORDERED that beginning with the effective date of this Order and continuing through the period of probation, the Board May conduct random inspections and audits of the Respondent funeral establishment. It shall be within the Board's discretion to continue random inspections and audits beyond the period of probation; and it is further

ORDERED that prior to seeking termination of probation, the Respondent shall document to the Board that it has provided pro bono funeral goods and services in the amount of three thousand dollars (\$3000.00). The Respondent shall document compliance by providing the Board with the original contracts for each transaction; and it is further

ORDERED that the Respondent shall comply with all statutes and regulations governing funeral establishments in the State of Maryland; and it is further

ORDERED that any violation of the terms and conditions of this Order shall be grounds for violation of the Act; and it is further

ORDERED that this Consent Order resolves all open complaints to date against Bennie Smith and the Bennie Smith Funeral Homes located in Maryland as well as complaints alleging wrong doing, known or unknown, except where the complaints, after initial review, lead to Board authorized investigations involving theft or fraud; and it is further

ORDERED that this Pre- Charge Consent Order is a PUBLIC DOCUMENT as defined in Md.

¹ The effective date is the date the Board accepts the Order.

State Gov't Code Ann. §§ 10-611 et seq. (2009).

7/19/12
Acceptance Date


Hari Close
President

CONSENT

I, Bennie Smithy, license number M00537, by signing this Consent on behalf of the Bennie Smith Funeral Home, Pocomoke Maryland, establishment number E00321, agree to be bound by the terms and conditions of the foregoing Pre-Charge Consent Order as resolution to this matter. We waive any rights we may have had to contest the Findings of Fact and Conclusions of Law.

We acknowledge the validity and enforceability of this Pre-Charge Consent Order as if it were made after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on our behalf, and to all other substantive and procedural protections to which we are entitled by law. We also recognize that we are waiving our right to appeal any adverse ruling of the Board that might have followed any such hearing and am also waiving any other legal remedies we may have regarding resolution of this matter.

I have had the opportunity to review this Pre-Charge Consent Order with an attorney of my choice and sign it voluntarily, understanding its terms, meaning and effect.

7-17-12
Date


Bennie Smith

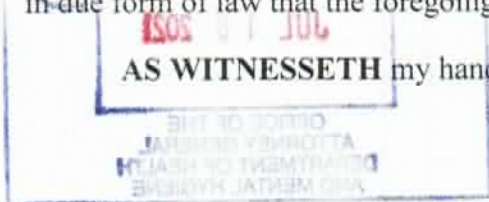
NOTARY


STATE OF DELAWARE

CITY/COUNTY OF Kent

I HEREBY CERTIFY that on this 17 day of July, 2012, before me, a Notary Public of the State of Delaware and the City/County aforesaid, personally appeared Bennie Smith on behalf of the Bennie Smith Funeral Home Pocomoke Maryland and made oath in due form of law that the foregoing Consent was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.




Notary Public

My Commission Expires: 12-1-12

