

IN THE MATTER OF * BEFORE THE STATE BOARD
EDWARD D. SAGEL * OF MORTICIANS AND
Respondent * FUNERAL DIRECTORS
LICENSE NUMBER: M00910 * CASE NUMBER: 09-049A

* * * * *

CONSENT ORDER

On December 20, 2010, the State Board of Morticians and Funeral Directors (the "Board") charged **EDWARD D. SAGEL** (the "Respondent"), License Number **M00910**, with violating certain provisions of the Maryland Morticians Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 7-101 et seq. (2009 Repl. Vol. and 2010 Supp.). Specifically, the Board charged the Respondent with violating the following provisions of the Act:

H. O. § 7-316. Denials, reprimands, suspensions, and revocations--Grounds

(a) In general. – Subject to the hearing provisions in § 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:

- (2) Fraudulently or deceptively uses a license;
- (3) Commits fraud or misrepresentation in the practice of mortuary science;
- (26) Commits an act of unprofessional conduct in the practice of mortuary science[.]

FINDINGS OF FACT

1. The Respondent was initially licensed to practice mortuary science in the State of Maryland under license number M00910 on April 10, 1991.¹ The Respondent's license is current and will expire on April 30, 2012.

2. At all times relevant to the statements herein, the Respondent was employed as the supervising mortician at Danzansky-Goldberg Memorial Chapels, Inc. ("DGMC") in Rockville, Maryland. DGMC was once a locally-owned, Jewish funeral home, but was purchased by an affiliate of Service Corporation International ("SCI").²

3. On or about April 17, 2009, the Board received a complaint from an individual (the "complainant") whose family member's remains (the "decedent") had been mishandled while awaiting burial at Arlington National Cemetery.

4. Subsequently, the Board opened an investigation.

5. The complainant alleged that on April 5, 2009, he read an article in The Washington Post (the "Post article") that raised concerns about the mishandling of human remains by National Funeral Home ("NFH") in Arlington, Virginia.³ The article listed DGMC as one of the funeral homes that sent human remains to NFH for storage prior to burial, and stated that many of the deceased were awaiting burial at Arlington National Cemetery.

¹ The Respondent has been disciplined by the Board on two previous occasions. In September 1999, the Respondent, who was then the supervising mortician at DGMC, was charged with multiple violations under the Act stemming from misconduct of other DGMC employees. The case was resolved with a public Consent Order whereby the Respondent was ordered to pay a \$1500.00 fine and successfully complete an ethics course and a Federal Trade Commission course. In September 2004, the Respondent was charged with violating §§ 7-316(a)(5) and (26) of the Act, and various COMAR provisions. These violations stemmed from allegations that for a period of over two years, the Respondent had allowed an apprentice to execute numerous preneed contracts. The Respondent entered into a public Consent Order whereby his license was suspended for a period of one year with all but 30 days stayed. He was also placed on probation, subject to various terms and conditions, for a period of two years.

² SCI is a corporation that owns, directly or indirectly, more than 1600 licensed providers of funeral, cremation and cemetery services in North America.

³ NFH is the Central Care Facility for the District of Columbia, Northern Virginia, and Rockville, Maryland. NFH receives remains from funeral homes in those areas, including DGMC, that are owned by affiliates of Service Corporation International, Inc. for preparation/embalming and storage.

When the article was published, the decedent's body was in the care and custody of the DGMC awaiting burial at Arlington National Cemetery.

6. According to the complainant, the decedent passed away on February 2, 2009. The decedent's daughter contacted DGMC and spoke with Mortician A, a mortician employed at DGMC, regarding funeral arrangements.

7. On or about February 3, 2009, the decedent's remains were transported to DGMC.

8. On or about February 3, 2009, funeral arrangements were made and a Statement of Funeral Goods and Services Selected/Purchase Agreement (the "contract") was completed and signed by Mortician A and the decedent's wife. The contract included \$630 for refrigeration and \$495 for the purchase of a Ziegler container.⁴

9. The decedent's burial at Arlington National Cemetery was scheduled for May 14, 2009; hence refrigeration and a Ziegler container were required for sanitation purposes.

10. According to the complainant, the decedent was Jewish and had expressed a strong desire to not be embalmed and to not have cosmetics applied to his remains in preparation for burial. The decedent's family shared the decedent's wishes with Mortician A at the time that the contract was executed.

11. On or about February 5, 2009, a private, family visitation was held at DGMC. The decedent was dressed in a dark suit with blue stripes, blue short-sleeved dress shirt, red tie, socks, and black dress shoes. A pair of brown slippers was placed inside the casket. The decedent was not wearing a union-all under his clothing.⁵ The decedent was

⁴ A Ziegler container is an air-sealed, metal container that sits inside a casket and houses an un-embalmed body to contain odors and body decomposition.

⁵ A unionall is a plastic, leak-proof mortuary garment worn underneath clothing to protect against leakage of bodily fluids.

dressed and casketed by Mortician B, a mortician employed at DGMC. Also inside the casket was an American flag with family significance. It was folded and tucked under the decedent's bent, right elbow. Mortician A advised the decedent's family that they would have to decide whether they wanted the flag to remain with the decedent because once the Ziegler container was closed, it could not be opened. The decedent's family opted to keep the flag inside the Ziegler container with the decedent's remains.

12. On or about February 6, 2009, a funeral service was held. Prior to the service, the Ziegler container was closed and placed inside the casket. Following the service, Mortician B drove the casket to DGMC, where the casket was placed inside the refrigerator.

13. On or about February 9, 2009, the Respondent made the determination to move the decedent's remains to NFH for long-term storage, despite the availability of storage at DGMC. According to the complainant, the decedent's family was not consulted or informed of this decision.

14. On or about February 9, 2009, Mortician C, a mortician employed at DGMC, signed out the decedent's remains on DGMC's refrigerator log and noted that the remains were being transferred to NFH. SCI Employee A transported the body from DGMC to NFH.

15. The decedent's remains were stored at NFH from on or about February 9, 2009 until April 7, 2009 when the remains were returned to DGMC at the request of the family.

16. According to the complainant, after the Post article came out on April 5, 2009, he called DGMC out of concern for the decedent's remains, and initially received no

response. Also, the decedent's daughter requested documentation accounting for the handling of the decedent's remains. This information was never provided.

17. According to the Respondent after he read the Post article, he immediately went to NFH to check on the decedent's remains, and then reported to the complainant that the decedent "was fine."

18. It was at this time that the complainant learned that the decedent's remains were being stored at NFH.

19. On or about April 6, 2009, the Virginia Board of Funeral Directors and Embalmers (the "Virginia Board") inspected NFH. In the photographs taken during the inspection, a casket is visible in cooler #1 that is similar to the casket holding the decedent's remains. There is no Ziegler container visible in the photographs of cooler #1.

20. On or about April 7, 2009, SCI Employee B witnessed the decedent's casket on the far end of the garage in front of the preparation area door. SCI Employee A had removed it from cooler #1.

21. In an interview with the Board's investigator, SCI Employee B stated that SCI Employee A opened the head end of the decedent's casket, became upset when he saw the condition of the remains, and quickly closed the casket.

22. The decedent's remains were returned to DGMC on April 7, 2009. Mortician A and Mortician B received the remains at DGMC.

23. Mortician D, a mortician employed at DGMC, was present when the decedent's remains were returned to DGMC, and viewed the decedent's remains.

24. Mortician D was interviewed by the Board's investigator.

25. Mortician D stated that he had heard talk of the condition of the decedent's remains, particularly regarding the presence of mold.

26. In the afternoon of April 7, 2009, the complainant arrived unannounced at DGMC to view the decedent's remains.

27. According to Mortician A, he and Mortician D discussed what to do, considering the condition of the decedent's remains. Mortician A refused to assist with any cosmetising and advised against the use of eye caps.

28. During his interview with the Board's investigator, Mortician D admitted to commenting that based on the poor condition of the remains, the decedent's remains could not have been in refrigeration for the entire storage period.

29. According to Mortician D, without asking for permission from the family, he applied heavy cosmetics to the decedent's face. This was directly contrary to the family's wishes. Mortician D also stated that the Ziegler container did not contain any visible powders, and the decedent was dressed in a blue striped suit, white dress shirt, and red tie. No plastics of any kind were present inside the Ziegler container.

30. After Mortician D applied cosmetics to the decedent's remains, the complainant was permitted to view the body.

31. The complainant recalled that the decedent's face and neck had the appearance of being "caked with clay". The complainant stated that the American flag that was in the Ziegler container looked different from the American flag that had been placed inside the decedent's Ziegler in February. The complainant recalled a pleasant odor, like baby powder, and noticed that the decedent was wearing a white dress shirt, rather than the blue dress shirt that the decedent was dressed in for his February visitation. Further,

the complainant stated that the decedent's hands were in very good condition, considering how long he had been deceased.

32. The complainant reported to the Board's investigator that on April 7, 2009, the decedent's widow had received a telephone call from an individual who represented himself as an employee of SCI. The caller stated that the decedent's remains had not been properly cared for and the cosmetics on the decedent's face and neck had been applied to "cover up mold". The Board's investigation revealed that the employee was SCI Employee B.

33. SCI Employee B told the Board's investigator that the decedent's casket was stored in NFH's dressing room. SCI Employee B further stated that she witnessed SCI Employee A open the casket on the morning of April 7, 2009 and become upset over the condition of the remains. SCI Employee B stated that when SCI Employee A opened the top couch of the decedent's casket, the Ziegler container was not inside.

34. In addition, SCI Employee B stated that she routinely entered NFH's refrigeration units, where the decedent's Ziegler container was reportedly stored (bottom rack inside cooler #1), and never saw a Zeigler container labeled with the decedent's name.⁶ SCI Employee B stated that she only witnessed the decedent's Ziegler container in cooler #1 only on the day it was returned to DGMC.

35. On or about April 10, 2009, a meeting was scheduled to be held at the DGMC with the decedent's family. In preparation for that meeting, Mortician C worked on the decedent's remains, reapplying his make-up to make it more professional.

⁶ The decedent's Ziegler container is not present in the photograph of the bottom rack of cooler #1, taken by the Virginia Inspector on April 6, 2009.

36. During her interview with the Board's investigator, Mortician C stated that she had not previously viewed the decedent's remains. Mortician C stated that when she opened the Ziegler, she observed the decedent wearing a blue shirt.⁷ Mortician C stated that there were no powders in the Ziegler, the folded American flag was on the decedent's abdomen and he had one pair of shoes on his feet. The slippers that were inside the Ziegler at the time of the decedent's February memorial service were absent.

37. On April 17, 2009, the Board's investigator visited DGMC to view the decedent's remains. At that time, the following was noted regarding the appearance and condition of the decedent's remains: there was no pillow in the Ziegler; the decedent's head was propped up on a Styrofoam block; some of the make-up had been removed; the decedent's clothing was askew; the decedent was wearing a blue shirt with make-up stains on the collar; the decedent's brown slippers were inside the Ziegler; a small blanket was inside the Ziegler; a sheet soiled with body fluids was inside the Ziegler, off to the side; there was copious amounts of chemical powder around the decedent's remains, which were dressed in a plastic unionall underneath the suit; and the unionall was torn at the decedent's abdomen, with powder visible on the decedent's skin.

38. On or about May 1, 2009, the decedent's family moved the decedent's remains to another funeral home, where the decedent's remains were stored until his May 14, 2009 burial at Arlington National Cemetery.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated H.O. § 7-316(26) Commits an act of unprofessional conduct in

⁷ That the decedent was wearing a blue shirt, after having been viewed in a white shirt several days prior, indicates that someone at DGMC handled the decedent's remains again. It is unclear who changed the decedent's shirt.

the practice of mortuary science. The Board dismisses the charges under H.O. § 7-316(2) Fraudulently or deceptively uses a license and H.O. § 7-316(3) Commits fraud or misrepresentation in the practice of mortuary science;

ORDER

Based on the foregoing Findings and Conclusions of Law, it is this _____ day of _____ 2012, by a majority of the Board:

ORDERED that the Respondent's license to practice mortuary science in the State of Maryland is hereby **SUSPENDED** for a period of **ONE (1) YEAR**, stayed all but **THIRTY (30) DAYS**; and it is further

ORDERED that upon reinstatement of the Respondent's license to practice mortuary science, he shall be placed on **PROBATION** for a period of **EIGHTEEN (18) MONTHS**, subject to the following terms and conditions:

1. Within six (6) months of the effective date of this Consent Order, the Respondent shall pay a fine in the amount of **\$1,000.00** to the Board by certified check, payable to the "Maryland Board of Morticians and Funeral Directors," 4201 Patterson Avenue, Baltimore, Maryland 21215,

2. Within six (6) months of the effective date of the Consent Order, the Respondent shall successfully complete a Board-approved course in business ethics and provide written documentation of the same to the Board;

3. Within six (6) months of the effective date of the Consent Order, the Respondent shall successfully complete a Board-approved course in cultural diversity practices and provide written documentation of the same to the Board;

4. Within seven (7) days of the date of this Consent Order the Respondent shall engage, at his own expense, Michael Kruger, as a standard of practice mentor, focusing on, but not limited to, the following topics: Jewish cultural and religious practices, authorizations, notifications to families, and storage of human remains. The Respondent shall provide Mr. Kruger with a copy of this Consent Order prior to the initial mentoring session, and the Board may release to Mr. Kruger any portion of the investigative file as is deemed necessary by the Board and/or Mr. Kruger, provided that a copy of the investigative file is also released to the Respondent. The number of mentoring sessions is subject to Mr. Kruger's discretion. The mentoring services are subject to the following terms and conditions:

- a. Mentoring sessions shall be held monthly for a period of one (1) year;
- b. Mentoring sessions shall take place on-site at DGMC or Sol Levinson & Bros., Inc., subject to Mr. Kruger's schedule and discretion;
- c. Mr. Kruger shall provide the Board with a written report at the conclusion of the each mentoring session. A negative report from Mr. Kruger may result in a violation of this Consent Order and further sanctions at the Board's discretion, after notice and opportunity for hearing;
- d. To the extent that he has the authority to do so, the Respondent shall abide by any and all recommendations made by Mr. Kruger. Failure to cooperate with Mr. Kruger and failure to abide by Mr. Kruger's recommendations shall be deemed a violation of the Order; and

e. Any and all costs stemming from the mentor relationship between the Respondent and Mr. Kruger shall be the responsibility of the Respondent.

ORDERED that after the **EIGHTEEN (18) MONTH** probationary period, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee. The Board, or designated Board committee, will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions, including the expiration of the entire eighteen (18) month probationary period, and there are no pending complaints against the Respondent; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of Probation and this Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose any sanction which the Board may have imposed in this case, including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said allegations of violation of the terms and condition of this Consent Order shall be proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall practice according to the Maryland Morticians and Funeral Directors Act and in accordance with all applicable laws, statutes and regulations; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** as defined in Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol. and 2010 Supp.).

7/19/12
Date



Dr. Hari P. Close, President
State Board of Morticians and Funeral Directors

CONSENT

I, Edward Sagel, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions for the purposes of this proceeding only. Although I neither admit nor deny the Findings of Fact, I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law for the purposes of this proceeding only.

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 counsel, to confront witnesses, to give testimony, to call witnesses on our own behalf, and to all other substantive and procedural protections as provided by law, for the purposes of this proceeding only. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I waive my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and

terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

6/26/12
Date

[Signature]
Edward Sagel, Respondent

Reviewed and approved by:
[Signature]
Steven Freeman, Esq.
Attorney for the Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF MONTGOMERY :

I HEREBY CERTIFY that on this 26 day of JUNE, 2012, before me, a Notary Public of the foregoing State personally appeared Edward Sagel and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

[Signature]
Notary Public

My Commission Expires: _____ **LENARD KENT**
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires October 28, 2012

