

IN THE MATTER OF

BENNIE SMITH FUNERAL HOME
HURLOCK MARYLAND

License Number E00285

* 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, Hurlock 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 E000285.
2. At all times relevant, the Respondent has been and continues to be owned 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 have offered and agreed to provide services or merchandise to families at the Respondent funeral home.
4. The Board's ongoing investigation, including sworn eye witness testimony, further revealed

that over the years Vance Bolden, Jr. 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 perform embalming.

ORDER

ORDERED that the Respondent's establishment license shall be **SUSPENDED** for a period of five (5) days beginning on August 18, 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 prior to 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 date¹ 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 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 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 conduct random inspections and audits beyond the period of probation; 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 against Bennie Smith and the Bennie Smith Funeral Homes located in Maryland as well as complaints alleging wrong doing, known or unknown, except where 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. State Gov't Code Ann. §§ 10-611 et seq. (2009).

7/19/12
Acceptance Date


Hari Close
President

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

CONSENT

I, Bennie Smith ,license number M 00537 by signing this Consent on behalf of the Bennie Smith Funeral Home, Hurlock Maryland establishment number E00285, 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 MARYLAND

CITY/COUNTY OF Caroline

I HEREBY CERTIFY that on this 17th day of July, 2012, before me, a Notary Public of the State of Maryland and the City/County aforesaid, personally appeared Bennie Smith on behalf of the Bennie Smith Funeral Home, Hurlock 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

Therese W. Gates

My Commission Expires

June 30, 2017