

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS,
CORPORATIONS, SECURITIES &
COMMERCIAL LICENSING BUREAU

Complainant,

v

BARKER-LEIK FUNERAL HOME
DONALD H. LEIK, OWNER
Mortuary Science Establishment
License No. 45-02-002611

Complaint No. 339066

and

DONALD H. LEIK
Mortuary Science
License No. 45-01-005086

Complaint No. 339067

Respondents.
_____ /

NOTICE AND ORDER TO CEASE AND DESIST

Based on an investigation conducted under sections 502, 503, and 504 of the Michigan Occupational Code, (Occupational Code), MCL 339.502 to 339.504, the Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau (Department), determined that Respondents violated the Occupational Code and issued a Formal Complaint against Respondents detailing these violations.

Section 506 of the Occupational Code, MCL 339.506, authorizes the Department to issue orders as follows:

- (1) After an investigation has been conducted, the director may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

- (2) A person ordered to cease and desist shall be entitled to a hearing before the Department if a written request for a hearing is filed within thirty (30) days after the effective date of the order.
- (3) Upon a violation of a cease and desist order issued under this act, the Department of the Attorney General may apply in the circuit court of this state to restrain and enjoin, temporarily or permanently, or both, a person from further violating a cease and desist order.

ACCORDINGLY, YOU ARE ORDERED TO CEASE AND DESIST from violating the Occupational Code as alleged in the Formal Complaint.

Any future violations of the Occupational Code may lead to civil, criminal, or administrative sanctions.

Under § 506(2) of the Occupational Code, MCL 339.506(2), you are entitled to a hearing to consider this Cease and Desist Order if you file a written request with the Department within thirty (30) days after the mailing date of this Order. Otherwise, your right to a hearing to consider this Cease and Desist Order will be forfeited. Your right to request a formal administrative hearing to answer the charges set forth in the Formal Complaint in this matter will not be forfeited for failure to request a hearing on this Cease and Desist Order.

This Order is effective on its mailing and hand delivery date.

MICHIGAN DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS
Orlene Hawks, Director

BY Benjamin Parker
Benjamin Parker, Interim Director
Licensing Division
Corporations, Securities & Commercial Licensing
Bureau

Dated: Feb 26, 2020

Responsive Pleadings Should Be Filed With:

Department of Licensing and Regulatory Affairs
Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

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FORMAL COMPLAINT

The Department of Licensing and Regulatory Affairs, Corporations, Securities & Commercial Licensing Bureau (Department), Complainant, under the Occupational Code (Occupational Code), MCL 339.101 *et seq.*, and its associated administrative rules, alleges as follows:

FACTUAL ALLEGATIONS

1. Barker-Leik Funeral Home, Donald H. Leik, Owner (Barker-Leik), has, at some times relevant to this Complaint, been licensed as a mortuary science establishment, under Article 18 of the Occupational Code, MCL 339.1801 to 339.1812. Attached as Exhibit 1 is a certificate of Barker- Leik's license status under the Occupational Code.

2. Barker-Leik has not been registered under the Prepaid Funeral and Cemetery Sales Act, MCL 328.211 *et seq.* (Prepaid Act), since September 1996. Attached as Exhibit 2 is a certification of Barker-Leik's registration status under the Prepaid Act.

3. Donald H. Leik (Leik), has, at all times relevant to this Complaint, been licensed as a mortuary science practitioner and is the designated manager of Barker-Leik under Article 18 of the Occupational Code.

4. On its 2017 Mortuary Science Establishment License renewal application, Barker-Leik checked "yes" when asked to certify that it was either currently registered with the Department under the Prepaid Act or had a contract with an entity registered under the Prepaid Act under which that registrant sold, provided, or agreed to sell or provide merchandise, funeral services, or cemetery services under a prepaid contract on its behalf. Attached as Exhibit 3 is a copy of Barker-Leik's Application.

5. On August 22, 2019, the Department informed Barker-Leik of its registration status under the Prepaid Act and sent notice to Barker-Leik informing it that it may be in violation of the Prepaid Act and subject to penalties under the Prepaid Act and Occupational Code. A copy of the August 22, 2019 notice is attached as Exhibit 4.

6. On October 31, 2019, Barker-Leik's mortuary science establishment license expired due to non-renewal.

7. To date, Barker-Leik has not submitted an application to reinstate its mortuary science establishment license.

8. According to Barker-Leik's website, barkerleik.com, it performed at least 14 funeral services between October 31, 2019 and February, 2020. Printouts from Barker-Leik's website listing these services are attached as Exhibit 5.

9. Section 601(1) of the Occupational Code, MCL 339.601(1), provides as follows:

“[a] person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license or registration issued by the department for the occupation.”

10. Section 604 of the Occupational Code, MCL 339.604, provides the following, in relevant parts:

A person who violates 1 or more of the following shall be subject to the penalties prescribed in section 602:

(a) Practices fraud or deceit in obtaining a license or registration.

* * *

(h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

* * *

(l) Aids or abets another person in the unlicensed practice of an occupation.

11. Section 1806 of the Occupational Code, MCL 339.1806, provides the following in relevant part:

(3) A person may only engage in the practice of mortuary science at a fixed location. A person shall not open or maintain a place for practice, or hold itself out as engaging in the practice of mortuary science, without an establishment license issued by the department.

...

12. Section 1810 of the Occupational Code, MCL 339.1810 provides the following in relevant parts:

(1) A person shall be subject to the penalties of Article 6 if the person commits one of the following:

* * *

(d) Aiding or abetting an unlicensed person to engage in the practice of funeral directing or embalming.

LEGAL ALLEGATIONS AGAINST BARKER-LEIK
COMPLAINT NO. 339066

13. Barker-Leik engaged in the practice of mortuary science without possessing an active mortuary science establishment license issued by the Department, contrary to MCL 339.1806(3), in violation of MCL 339.601(1) and MCL 339.604(h).

14. By representing to the Department on its 2017 renewal application that it either maintained a current registration under the Prepaid Act or had a contract with an entity registered under the Prepaid Act under which that registrant sold, provided, or agreed to sell or provide merchandise, funeral services, or cemetery services under a prepaid contract on its behalf when it did not, Barker-Leik practiced fraud or deceit in obtaining a license or registration, in violation of MCL 339.604(a).

LEGAL ALLEGATIONS AGAINST LEIK
COMPLAINT NO. 339067

15. As Barker-Leik's designated manager, Leik, is responsible for the operation and management of Barker-Leik, including ensuring its compliance with all applicable laws under the Occupational Code, MCL 339.1809 and Mich Admin Code, R 339.18937.

16. As Barker-Leik's designated manager, Leik, is responsible for Barker-Leik's conduct of practicing fraud or deceit in obtaining a license or registration, in violation of MCL 339.604(a).

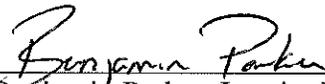
17. Leik is responsible for Barker-Leik's conduct of engaging in the practice of mortuary science without possessing an active mortuary science establishment license issued by the Department, contrary to MCL 339.1806(3), in violation of MCL 339.601(1) and MCL 339.604(h).

18. Leik aided or abetted Barker-Leik in the unlicensed practice of mortuary science, contrary to MCL 339.1810(1)(d), and in violation of MCL 339.604(h) & (l).

Based on the above conduct, Respondent Barker-Leik acted contrary to contrary to MCL 339.601(1), MCL 339.604(a) & (h), and MCL 339.1806(3), and Respondent Leik acted contrary to MCL 339.601(1), MCL 339.604(a), (h), & (l), MCL 339.1806(3), and MCL 339.1810(1)(d) constituting grounds for the assessment of a penalty, as defined in MCL 339.602. The Department is commencing proceedings under the Administrative Procedures Act of 1969, MCL 24.201 to 24.328, and the Occupational Code to determine whether disciplinary action should be taken by the Department for the reasons set forth above.

MICHIGAN DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS

BY



Benjamin Parker, Interim Director

Licensing Division

Corporations, Securities & Commercial Licensing
Bureau

Date Signed: Feb 26, 2020

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