

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF EXAMINERS IN MORTUARY SCIENCE

In the Matter of

SPENCER FAMILY FUNERAL HOME
License Number: 45-02-003434

File Numbers: 45-16-328547

and

JAMES L. SPOOR
License Number: 45-01-005374

45-16-328548

and

JOY E. SPENCER SPOOR
License Number: 45-01-004924

45-16-328549

CONSENT ORDER

A Formal Complaint (Complaint) was executed on May 12, 2016, charging Spencer Family Funeral Home, James Spoor, and Joy E. Spencer Spoor (Respondents) with violating the Occupational Code, 1980 PA 299, as amended; MCL 339.101 et seq; and

Respondents have admitted that the facts alleged in the Complaint are true and constitute a violation of sections 1806(7) and 604(h) of the Occupational Code supra; and

The Michigan Board of Examiners in Mortuary Science (Board) has reviewed the Order and agrees that the public interest is best served by resolution of the outstanding Complaint; therefore,

IT IS FOUND that the facts alleged in the Complaint are true and constitute a violation of sections 1806(7) and 604(h) of the Occupational Code, supra.

Accordingly,

IT IS ORDERED that for the cited violations, Respondents are FINED \$1,000.00 (joint and several), pursuant to section 602(e) of the Occupational Code, supra, to be paid to the State of Michigan within 60 days of the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the Department of Licensing and Regulatory Affairs, Legal Affairs Division, Sanction Monitoring, P.O. Box 30189, Lansing, MI 48909. The fine shall be paid by bank cashier check (check) or money order, made payable to the State of Michigan, and the check or money order shall clearly display file numbers 45-16-328547, 45-16-328548, and 45-16-328549.

IT IS FURTHER ORDERED that failure to comply with the terms of this Order shall result in the SUSPENSION of all licenses or registrations held by Respondents under Article 18 of the Occupational Code, and in the denial of any license or registration renewal, until Respondents are in compliance with all terms of this Order.

IT IS FURTHER ORDERED that this Order shall be effective 30 days from the date signed by the Board, as set forth below.

Dated: 12/20/16

MICHIGAN BOARD OF EXAMINERS
IN MORTUARY SCIENCE

By: [Signature]
Chairperson, Board

STIPULATION

1. The Consent Order and Stipulation was negotiated with the consultation of Rodney Wakeman, Chairperson, Board of Examiners in Mortuary Science.

2. The Respondents received their respective licenses effective on the following dates: Spencer Family Funeral Home on October 22, 1999; James Spoor on September 14, 1973 (expiration: October 31, 2017; designated as manager); and Joy E. Spencer Spoor on November 7, 1985 (expiration: October 31, 2017; designated as owner). At the time of execution of this Consent Order and Stipulation, there is no record of prior disciplinary action against Respondents' respective licenses.

3. Section 1806(7) of the Occupational Code supra, states: "A change in the ownership or location of the funeral establishment automatically cancels its license. A licensee shall immediately report a change in ownership or location to the department."

4. On February 3, 2016, the Department received a complaint filed by the purchaser/new owner of the property that contained the Spencer Family Funeral Home building, stating that the Respondents no longer owned the property and that the license of Spencer Family Funeral Home was still "active."

5. The Department conducted a complaint investigation that concluded that the Department had not received notice of the change in ownership from the Respondents, and a Formal Complaint was executed on May 12, 2016. At this time the property is not being operated as a funeral home by the new owner and a funeral home license has not been applied for that location/address.

6. On July 27, 2016, Respondents' attorney submitted a letter to the Bureau, dated July 27, 2016, entitled, "Notice of Change in Ownership," which provided the following information regarding the change in ownership of the funeral home. The change in ownership of the property and funeral home resulted from a Chapter 7 Bankruptcy filing by James Spoor and Joy Spencer Spoor (husband and wife), wherein the Bankruptcy Court sold the property. An executed "Trustee's Deed" is dated January 15, 2016, and a "Trustee's Bill of Sale As-Is Without Warranty," is dated January 26, 2016. The Respondents vacated the property in March 2016.

7. Respondents agree that the facts alleged in the Complaint are true and constitute a violation of section 1806(7) of the Occupational Code, supra, as Respondents did not immediately report a change in ownership or location to the Department. Section 1806(7) does not provide for a penalty prescribed in section 602 (such as a fine) and therefore an associated violation of section 604(h) was also alleged and admitted to (violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed), and a violation of section 604(h) constitutes grounds for the assessment of penalties listed in section 602 of the Occupational Code, supra.

8. The prosecution of the Formal Complaint was previously scheduled for an administrative hearing and pursuant to Respondents' agreement to settle the Formal Complaint and to enter into this Consent Order and Stipulation, the Department's request for hearing submitted to the Michigan Administrative Hearing System (MAHS) was withdrawn without prejudice and the hearing was cancelled (Docket Nos. 16-018499; 16-018598; 16-018600).

9. Respondents understand and intend that by signing this Stipulation Respondents are waiving the right, pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq., to require the Department of Licensing and Regulatory Affairs (Department) to prove the charges set forth in the Complaint by presentation of evidence and legal authority, and Respondents are waiving the right to appear with an attorney and present such witnesses as Respondents may desire to present a defense to the charges.

10. Respondents and the Department further agree that this matter is a public record required to be published and made available to the public pursuant to section 11(1)(a) of the Michigan Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231 et seq.

11. This Order is approved as to form and substance by Respondents and the Department and may be entered as the final order of the Board in this matter.

12. The proposed Consent Order and Stipulation is conditioned upon acceptance by the Board, Respondents, and the Department, and the parties expressly reserve the right to further proceedings should the Order be rejected.

[signatures on next page]

AGREED TO BY:

Kim Gaedeke
Kim Gaedeke, Director
Bureau of Professional Licensing
Department of Licensing and
Regulatory Affairs

Dated: 10/07/2016

AGREED TO BY:

James Spoor
James Spoor

Dated: Oct 3, 2016

Joy E. Spenser Spoor
Joy E. Spenser Spoor

Dated: Oct. 3, 2016

Approved as to form:

Daniel L. Kraft
Daniel L. Kraft, Attorney (P32382)

Dated: Oct. 3, 2016

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45-16-328548
45-16-328549

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Spencer Family Funeral Home, James Spoor, and Joy E. Spencer Spoor (Respondents) as follows:

1. The Michigan Board of Mortuary Science (Board) is an administrative agency established by the Occupational Code, 1980 PA 299, as amended; MCL 339.101 et seq. Pursuant to section 602 of the Occupational Code, supra, the Board is empowered to penalize persons for violations of the Occupational Code.

2. Spencer Family Funeral Home is licensed as a mortuary science establishment. James Spoor and Joy E. Spencer Spoor are licensed to practice mortuary science in the state of Michigan.

3. On November 23, 2015, a bankruptcy judge ordered the sale of Respondent's funeral establishment.

4. Respondents failed to immediately report the change in ownership of Respondents' funeral establishment.

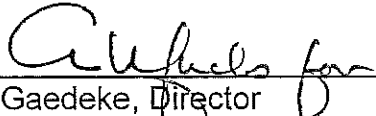
COUNT I

Respondents' conduct, as described above, evidences a failure to immediately report a change in ownership of the funeral establishment to the Department, contrary to section 339.1806(7) of the Occupational Code, supra, in violation of section 604(h) of the Occupational Code, supra.

Complainant requests that this Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the licenses. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Occupational Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

Pursuant to section 508 of the Occupational Code, supra, Respondent has 15 days from the date of receipt of this Complaint to notify Complainant of Respondent's

decision to either negotiate a settlement of this matter, to demonstrate compliance with the Occupational Code, or to request an administrative hearing. Written notification of Respondent's selection shall be submitted to Complainant, Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondent fails to submit written notification within 15 days, this matter shall proceed to an administrative hearing.



Kim Gaedeke, Director
Bureau of Professional Licensing

Dated: 5/12/2016

This is the final page of a Formal Complaint in the matter of Spencer Family Funeral Home, File Number 45-16-328547, James Spoor, File Number 45-16-328548, and Joy E. Spencer Spoor, File Number 45-16-328549 before the Michigan Board of Mortuary Science, consisting of three pages, this page included.

LFM