## 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 <u>Formal Complaint</u> (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 seg; 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 <u>supra</u>; 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:

MICHIGAN BOARD OF EXAMINERS

IN MORTUARY SCIENCE

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Consent Order and Stipulation

File Numbers: 45-16-328547; 45-16-328548; 45-16-328549

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**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.

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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).

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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]

Consent Order and Stipulation File Numbers: 45-16-328547; 45-16-328548; 45-16-328549 AGREED TO BY:

AGREED TO BY:

Kim Gaedeke, Director

Bureau of Professional Licensing

Department of Licensing and

Regulatory Affairs

Dated:

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

In the Matter of

SPENCER FAMILY FUNERAL HOME

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JAMES L. SPOOR

License Number: 45-01-005374

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File Numbers: 45-16-328547

 JOY E. SPENCER SPOOR
 45-16-328548

 License Number: 45-01-004924
 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.

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- 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, <u>supra</u>, in violation of section 604(h) of the Occupational Code, <u>supra</u>.

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, <u>supra</u>, 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.

Dated: 5/12/2016

Kim Gaedeke, Director () Bureau of Professional Licensing

This is the final page of a <u>Formal Complaint</u> 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.

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