

IN THE MATTER OF

ROGER J. MASON

LICENSE NUMBER: M04269⁰⁰⁹⁶³

Respondent

* BEFORE THE
* BOARD OF MORTICIANS
* AND FUNERAL DIRECTORS
* CASE NUMBER: 11-008

* * * * *

ORDER FOR SUMMARY SUSPENSION

The Maryland Board of Morticians and Funeral Directors (the "Board") hereby **SUMMARILY SUSPENDS** the license of **ROGER J. MASON** (the "Respondent"), License Number M04269⁰⁰⁹⁶³ (D.O.B. 06/08/1947), to practice mortuary science in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. ("S.G.") § 10-226(c) (2009 Repl. Vol. and 2010 Supp.) concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on the information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

1. The Respondent was initially licensed to practice mortuary science in the State of Maryland under license number M04269⁰⁰⁹⁶³ on December 9, 1992. The Respondent's license is current and will expire on April 30, 2012.

¹ The statements regarding the Respondent's conduct are only intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a completed description of the evidence, either documentary or testimonial, to be offered against the Respondent in this matter.

2. The Respondent is a licensed funeral director in the District of Columbia (license number: DFD908). The Respondent's license is active and will expire on December 31, 2011. The Respondent also holds a District of Columbia establishment license and operates his business out of Hunt Funeral Home in Washington, D.C.²

3. The Respondent previously held a Maryland restricted establishment license (license number: E00427) for Roger J. Mason Funeral Service, which was restricted to operate out of Chambers Funeral Home & Crematorium ("Chambers") in Riverdale, Maryland.

4. On May 18, 2010, the Respondent turned in his restricted establishment license when Chambers' establishment license was summarily suspended. The Respondent chose not to operate his establishment out of any other licensed establishment in Maryland. The Respondent's restricted establishment license was no longer active after May 18, 2010.

5. At all times relevant to the statements herein, the Respondent was a mortician employed by Lee Funeral Home, Inc. ("Lee"), a funeral establishment located at 6633 Old Alexandria Ferry Road, Clinton, Maryland 20735.

I. Pre-Need Issue

6. On or about December 22, 2010, the Board received a complaint regarding the Respondent's practice of mortuary science. Specifically, the complainant alleged that she had entrusted pre-need monies for her parents' funerals and was having difficulty obtaining that money from the Respondent.

² The District of Columbia Board of Funeral Directors (the "D.C. Board") could not provide the Board with the Respondent's restricted establishment license number because its database is not up-to-date. The D.C. Board did, however, confirm that the Respondent has an active restricted establishment license in that jurisdiction.

7. Subsequently, the Board initiated an investigation.

8. The Board's investigation revealed that on March 8, 2008, the complainant signed two separate pre-need contracts with the Respondent. One pre-need contract was for her mother ("Decedent A") and the other was for her father ("Decedent B").³ Each pre-need contract totaled \$5,990. The complainant paid the Respondent, in full, a total of \$11,980.

9. Both pre-need contracts were written on contract forms belonging to Lee. The Respondent had crossed out Lee's name and address at the top of the contract, and handwrote "Roger Mason," with two telephone numbers handwritten underneath. The Respondent filled out the pre-need contract forms and agreed to provide funeral services for Decedents A and B at the time of their respective deaths.

10. The Board's investigator interviewed the owner of Lee, who stated that he did not give the Respondent permission to use Lee's pre-need contract forms and had no knowledge that the Respondent was using Lee's pre-need contract forms.

11. At the time that the Respondent and the complainant entered into the pre-need contracts for Decedent A and Decedent B, the Respondent was lawfully permitted to accept pre-need monies because he possessed an active establishment license. However, the Board had not seen or approved the Respondent's pre-need forms because he had previously reported to the Board that he did not accept pre-need business.⁴

³ Decedent A died on September 16, 2010 and Decedent B died on December 21, 2010.

⁴ During a telephone conversation with the Board's Deputy Director, the Respondent stated that he did not accept pre-need business. However, he later retracted that statement and on or about December 28, 2010, he submitted one pre-need contract for Client A in the amount of \$5,246, dated August 28, 2010, to the Board. The contract itself did not indicate whether it was pre-need or at-need. The Respondent represented that it was the only pre-need contract he had entered into in the State of Maryland. Further, it utilized a form that was not approved by the Board, and included an address that is unrelated to any

12. On or about January 3, 2011, the Board's investigator interviewed the complainant, who stated that she was dissatisfied with the preparation of Decedent A's body. Further, the complainant stated that she was dissatisfied because there was a long delay in receiving Decedent A's death certificate (the original contained several errors that had to be corrected), and because the Respondent was not present at Decedent A's funeral.

13. According to the complainant, an unknown female served as the funeral director on the Respondent's behalf, and she did not appear to be familiar with the route to the cemetery.

14. Further investigation by the Board revealed that the unknown female is a licensed mortician ("Mortician A") in the State of Maryland who was covering Decedent A's funeral for the Respondent. Mortician A stated that she was unaware that the Respondent no longer had an active establishment license.

15. The complainant stated that because of her dissatisfaction with her mother's funeral, she contacted the Respondent by letter at the address listed on the pre-need contract to request that Decedent B's pre-need money be transferred to another funeral establishment. The Respondent failed to respond to the complainant's letter.

16. Decedent B died on December 21, 2010. The complainant contacted another funeral home, Dunn & Sons ("Dunn"), in Washington, D.C to handle Decedent B's funeral arrangements.

funeral establishment with which the Respondent has been affiliated. The Respondent informed the Board that the money from that contract was given to an insurance agent to purchase a life insurance policy for funeral expenses for Client A.

17. As of January 3, 2011, despite repeated requests by the complainant and Dunn, the Respondent had transferred only \$2,000 of the \$5,990 that had been paid by the complainant pursuant to Decedent B's pre-need contract.

18. Ultimately, the Respondent paid the balance of the pre-need monies (\$3,990) to Dunn and Decedent B was buried.

19. However, the Respondent failed to transfer to Dunn the interest earned on the full amount (\$5990) of the pre-need contract.

20. The Board's investigator interviewed the Respondent on January 3, 2011. At that time, the Respondent admitted that he accepted \$11,980 from the complainant for two pre-need contracts for Decedents A and B, and deposited the full amount in his bank account. The Respondent further admitted that while the monies were in his possession, the full amount was not continuously available in his bank account.

21. The Respondent also stated that he told the complainant that he "[didn't] do pre-arrangements, but would personally hold [the money] for when she would need it."

22. In furtherance of its investigation, the Board issued a subpoena to Bank of America for the Respondent's checking account records (account #: XXXXXX2686). The account is in the name of "Mason Funeral Service DBA, Roger J. Mason, Sole Prop." and the monthly statements were mailed to an address in Bowie, Maryland.

23. A review of the Respondent's checking account records revealed the following:

- a. On March 8, 2008, the complainant issued two checks (#142 and #143) to the Respondent for \$5,990 each for Decedent A and Decedent B's pre-need contracts;
- b. On March 10, 2008, one check (#143) was deposited into the checking account. The other check (#142) was deposited into the same account on March 11, 2008.
- c. Before the deposits, the account had a negative balance in the amount of -\$343.65. After the deposits, the account had an ending balance of \$11,522.82.
- d. During March 2008, the account balance was as high as \$14,640.82 (on March 13, 2008) and as low -\$771.17 (on March 27, 2008).
- e. The average daily balance in the account never rose over \$11,980 (Decedent A and B's pre-need monies) until September 2, 2010, when the balance was \$11,985.
- f. On September 16, 2010, the date of Decedent A's death, the account balance was \$577.60. Therefore, had the complainant requested that Decedent A's pre-need funds be transferred to another funeral home, the funds would not have been available.
- g. On December 4, 2010, when the complainant requested the transfer of Decedent B's pre-need funds, the account balance was -\$804.57.
- h. The Respondent often carried a negative balance in his bank account during the time that he was in possession of Decedent A and B's pre-need monies.

- i. Decedent A and B's pre-need monies should have been secured in a federally-insured, interested-bearing account. However, the Respondent deposited the monies in a non-interest-bearing checking account.
- j. The Respondent's monthly banking statements for this bank account reflect expenditures for personal expenses such as recreation, alcohol, gasoline, groceries, dining, tuition, and airline tickets.

II. Practicing Without an Establishment License

24. The Board's review of the Respondent's bank records also revealed that despite no longer having an establishment license in the State of Maryland, the Respondent continued to operate his business in Maryland.

25. The Respondent wrote several checks to the State Health Department⁵ and the Division of Vital Records⁶ after the he represented that he closed his establishment and turned in his establishment license.

26. On or about March 12, 2011, the Board received information that the Respondent was holding a funeral at a Greater Hope Church on North Gilmore Street in Baltimore City.

27. In furtherance of the Board's investigation, the Board's investigator visited the funeral location and observed a sign on the hearse that read, "Roger J. Mason." In the funeral procession, there were three limousines and one hearse, all with Maryland

⁵ Check #7266 on September 25, 2008, Check #7500 on May 4, 2010; Check #7517 on June 2, 2010; Check# 7556 on July 13, 2010; Check #7583 on August 3, 2010.

⁶ Check #7265 on October 1, 2008; Check #7359 on August 19, 2009; Check# 7379 on October 12, 2009; Check #7402 on December 31, 2009; Check #7409 on January 13, 2010; Check #7503 on May 5, 2010; Check #7504 on May 8, 2010.

license plates. The Respondent was in attendance and no other licensee was observed to be in attendance.

28. During the funeral, the Respondent approached the Board's investigator, who was outside of the funeral location, and insisted that his mortician's license allows him to hold funerals in the State of Maryland. The Board's investigator informed him that his mortician's license gives him the privilege to work as a mortician at any Maryland establishment and to cover a Maryland funeral for any licensed Maryland establishment.

29. The Board's investigator obtained a funeral program for the deceased ("Decedent C"), which states "Professional Services Entrusted to: Mason Funeral Services 1-800-644-9317 Serving District of Columbia and Surrounding Areas." The telephone number is associated with Roger Mason.

30. When the Board's investigator called the telephone number, an operator answered by saying, "Funeral Service." Further questioning of the operator by the Board's investigator revealed that it was the answering service for Roger J. Mason Funeral Service and that it is located in Bowie, Maryland.

31. Further investigation revealed that Decedent C died at Mercy Medical Center (the "hospital") in Baltimore, Maryland. The remains were picked up by Richard Little, who signed the death certificate and listed the Respondent's home address.⁷

⁷ Mr. Little dropped the death certificate as he left the hospital with Decedent C's remains. It was found by hospital security. The hospital entered into their database "Richard Little Funeral Home" as the establishment that picked up the remains. There is no such entity. The hospital provided the Board with a copy of Decedent C's death certificate, which does not match the death certificate that the Respondent filed with the Department of Vital Records. The filed copy of the death certificate is identical, except that it is signed by the Respondent and lists his D.C. business information.

32. A search of Maryland Motor Vehicle Administration records revealed that Richard Little was born in 1987 and uses the Respondent's home address as his home address.

33. The Board asked the Respondent to provide contracts for Maryland funerals that he handled during the previous week. The Respondent provided Decedent C's contract and that of a fourth decedent ("Decedent D"). The contract the Respondent for Decedent D's funeral listed a D.C. funeral establishment.

34. According to Decedent D's daughter, Decedent D died in a Maryland hospital, arrangements were made at a Maryland funeral home, Roger Mason Funeral Service, and Decedent D's funeral was held at a Maryland church.

CONCLUSIONS OF LAW

Based on the foregoing investigative findings, the Board concludes that the public health, safety, and welfare imperatively requires emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is this 6th day of April 2011, by a majority of the Board:

ORDERED that the license issued to the Respondent to practice mortuary science in the State of Maryland under license number M01269 is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent is prohibited from practicing mortuary science the State of Maryland; and it is further

ORDERED that a post-deprivation hearing on the Summary Suspension has been scheduled for **Wednesday, April 13, 2011 at 2:00 p.m.** at the State Board of Morticians and Funeral Directors, 4201 Patterson Avenue, Baltimore, Maryland 21215; and be it further

ORDERED that the Respondent shall immediately return all licenses to the Board; and it is further

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

4/6/11
Date



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