

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

In re: Nick Downer, Funeral Director and Embalmer Petition No. 940810-30-008

CONSENT ORDER

WHEREAS, Nick Downer of Norwalk, Connecticut (hereinafter "respondent") has been issued license number 001615 to practice as a funeral director and embalmer by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 385 of the Connecticut General Statutes, as amended; and,

WHEREAS, the Department alleges that:

1. Respondent was responsible for custody and control of William McAllister who passed away on December 28, 1993;
2. By agreement between Mary McAllister and respondent, Mr. McAllister's burial was postponed due to inclement weather;
3. Adequate contact with Mary McAllister was not maintained regarding the burial date for her husband which resulted in his burial without her notice; and,
4. The above described facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes Section 20-227.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations but, while admitting no guilt or wrongdoing, agrees that for purposes of avoiding a formal hearing or any future proceedings before the Connecticut Board of Examiners of Embalmers and Funeral Directors (hereinafter "the Board") the above allegations in this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §19a-9, §19a-14, and §20-209a of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-227 of the Connecticut General Statutes, as amended, respondent hereby stipulates and agrees to the following:

1. That he shall comply with all state and federal statutes and regulations applicable to his licensure.
2. That he understands that this Consent Order is a matter of public record.
3. That respondent's license number 001615 shall be reprimanded.
4. That respondent shall pay a civil penalty of one thousand dollars (\$1,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut". Said civil penalty shall be payable at the time this Consent Order is presented to the Board.
5. That this Consent Order is effective on the first day of the month immediately following the date said order is accepted and ordered by the Board.
6. That the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which his compliance with §20-227 of the General Statutes of Connecticut, as amended, is at issue.
7. That this Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, that this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
8. That this Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the the Department at any time prior to its being executed by the last signatory.

9. That respondent permits a representative of the Public Health Hearing Office of the Division of Medical Quality Assurance of the Department to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether an executed Consent Order is approved or accepted.
10. That respondent has the right to consult with an attorney prior to signing this document.

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I, Nick Downer, Funeral Director and Embalmer, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Nick Downer
Nick Downer, Funeral Director and Embalmer

Subscribed and sworn to before me this 15th day of January, 1996.

[Signature]
Notary Public or person authorized
by law to administer an oath or
affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 25th day of January, 1996, it is hereby accepted.

[Signature]
Stanley K. Peck, Director
Division of Medical Quality Assurance

The above Consent Order having been presented to the duly appointed agent of the Connecticut Board of Examiners of Embalmers and Funeral Directors on the 22 day of February, 1996, it is hereby ordered and accepted.

Celia Piny
Connecticut Board of Examiners of Embalmers and Funeral Directors