30-002008

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

May 2, 2007

Morton Weinstein, Michael Weinstein, Paul Weinstein, Embalmers
Weinstein Mortuary, Inc., Funeral Home
640 Farmington Ave
Hartford, CT 06105-2988

Re: Consent Orders
Petition No's: 2002-0319-030-010; 2002-0319-030-011; 2002-0319-030-012; 1999-0217-056-003
License No's: 000409; 001842; 001273 and 002008

Dear Morton Weinstein, Michael Weinstein, and Paul Weinstein:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective May 1, 2007.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your licenses related to the above-referenced Consent Orders.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Respectfully,

Olive Tronchin, HPA
Practitioner Licensing and Investigations Section

cc: Jennifer Filippone

Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
An Equal Opportunity Employer

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In re: Morton Weinstein, Embalmer
640 Farmington Avenue
Hartford, Connecticut 06105

Petition No. 2002-0319-030-010

CONSENT ORDER

WHEREAS, Morton Weinstein of Hartford (hereinafter "respondent") has been issued license number 002008 to practice embalming by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 385 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. Between January 1, 1993 and at least April 2002 respondent provided funeral goods and services to consumers in Connecticut. While providing these funeral services respondent:

    a. embalmed bodies without authorization from decedents' families and concealed embalmings by charging consumers for refrigeration and failing to certify on the Certificates of Death that the bodies were embalmed;

    b. failed to arrange to have religious rituals (hereinafter "the Tahara") performed by members of the Chevra Kadisha, but instead directed its employees to place shrouds over the bodies and then charged families for Tahara rituals;

    c. procured and provided consumers with outer burial containers of lesser grades and quality while charging the prices of higher grade outer burial containers;

    d. charged consumers extra fees for obtaining cash advance items;

    e. failed to list all of the outer burial containers available for purchase on the outer burial container price lists;

f. charged consumers more for outer burial containers than the prices listed on outer burial container price lists;

g. created multiple contemporaneous price lists with different prices for the same merchandise;

h. provided General Price Lists dated August 1, 2000 containing contradictory disclosure statements regarding charges for cash advance items;

i. failed to include the following on the General Price Lists:

(1) separate prices for direct cremations where the consumer provides the containers;

(2) flat fees for direct cremations;

(3) separate prices for immediate burials where the consumer provides the caskets;

(4) flat fees for immediate burials;

(5) flat fees for the costs of forwarding remains to other funeral services businesses; and/or,

(6) flat fees for the costs of receiving remains from other funeral services businesses;

j. failed to provide the following disclosure statement on the General Price Lists, "If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming we will explain why below;"

k. failed to include the following on the Outer Burial Price Lists: ". . . state, or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements;" and/or,

l. buried decedent G.H. in a metal casket, contrary to the religious beliefs of G.H. on or about November 28, 2001.

2. The above described facts, if true, constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-227, §20-230a and/or §20-230b, the Regulations of State Agencies, and/or federal statutes and regulations including, but not limited to:

   a. §20-227(2);
   b. §20-227(4);
   c. §20-230a;
   d. §20-230b(1);
   e. §20-230b(2);
   f. §20-230b(3);
   g. §20-211-34;
   h. §20-211-35; and/or,
   i. 16 C.F.R. §453.1-§453.9.

WHEREAS, respondent denies the allegations and has not admitted any wrongdoing.

WHEREAS, the parties enter into this Consent Order in a good faith effort to resolve all claims that have been or may have been asserted against respondent up to the effective date of this Consent Order and that are based upon any fact, matter or transaction that is set forth in the Statement of Charges and/or the Complaint filed by the State in this matter, without any admission of wrongdoing by respondent.

NOW THEREFORE, pursuant to §§ 19a-14, 19a-17 and 20-227 of the General Statutes of Connecticut, respondent and the Department hereby stipulate and agree to the following:

1. Respondent waives its right to a hearing on the merits of this matter.
2. Respondent shall pay a total civil penalty of twenty-two thousand, nine hundred and seventeen dollars ($22,917.00) by certified or cashier's checks payable to "Treasurer, State of Connecticut." The checks shall reference the Petition

Number on the face of the checks, and may be payable in two equal installments. The first installment shall be paid at the time the Board approves the Consent Order. The second installment shall be payable within fifteen (15) months from the forty-fifth day after entry of the Consent Order by the Board. Respondent agrees that its failure to make the foregoing payment(s) may constitute grounds for the Department to seek a summary suspension of its license before the Board.

3. Respondent's license shall be suspended for a period of thirty (30) days to commence on May 31, 2002 ~~July~~ 4/30/02. All three originals of respondent's license shall be provided to the Department within ten days of the effective date of the suspension.

4. Respondent's license shall be placed on probation for a period of five years under the following terms and conditions:

   a. Any employee who is a licensed embalmer or funeral director shall attend and/or participate in a Funeral Rule training program to be administered by the National Funeral Directors Association (hereinafter "NEDA") for a period of five (5) years from the effective date of the Consent Order. However, any such licensed employee for whom respondent provides a sworn affidavit to the Department attesting that such employee does not and will not engage in offering for sale, selling or other making of any funeral arrangements, shall not be required to attend and/or participate in said classes.

(1) All employees required to attend and/or participate in the NFDA administered Funeral Rule training sessions shall attend and/or participate in the sessions on an annual basis, which training sessions will utilize such training format materials to be decided by the NFDA.

(2) Within thirty (30) days from the effective date of the Consent Order, respondent will submit its Statement of Funeral Goods and Services, general price lists, casket price lists, and outer burial container price lists to the NFDA for review of the forms' compliance with the Funeral Rule.

b. Respondent shall provide documentary substantiation to the Department that it has complied with subdivisions (l) and (2) of subsection (a) of this section and submit those documents subject to NFDA review to the Department for review and approval of their utilization by respondent.

c. Respondent shall permit, for a period of five (5) years from the effective date of the Consent Order, representatives authorized by the Department to conduct unannounced inspections and periodic random reviews of respondent's premises and records of same including, but not limited to, access to current need files, preneed files, and funeral files for the purpose of ensuring compliance with the terms of the Consent Order.

d. Such representatives authorized by the Department, unless an employee of the Department, shall not include any current or former competitor or employee of respondent, and shall not be an individual who has a previous dispute with or filed a complaint against respondent before a State agency or adjudicatory body or entity, or family member of the foregoing persons. Said representatives shall be bound by a reasonable covenant not to compete with respondent with reasonable time and geographical limitations and shall also be bound by any and all statutory and regulatory restrictions and requirements applicable to any State of Connecticut employee in the same or similar circumstances. Any materials and/or copies obtained by said representatives shall be considered within the custody and control of the Department and said representatives shall place any such materials and/or copies in the possession of the Department and shall not maintain any such materials and/or copies in their personal possession except for the purpose of complying with the duties prescribed by the Department.

e. Respondent shall provide copies of all written consumer complaints to the Department along with a written explanation regarding respondent's efforts to process and resolve each such complaint.

f. Respondent's Statement of Goods and Services shall contain the following disclosure: "Any consumer complaints shall be forwarded to the Office of the Attorney General and the Department of Public Health."

g. Respondent shall retain copies of each of its general price lists, casket price lists, outer burial container price lists, worksheets for a period of five (5) years from their date of execution. Respondent shall retain Tahara certificates, if applicable, for a period of five (5) years from their date of execution. Respondent shall retain price lists for a period of five (5) years from their effective dates. Respondent shall retain documents other than price lists for a period of five (5) years from the date of the funeral for which the document was created and/or executed.

h. Respondent shall provide to the Department, via United States Mail and facsimile, a copy of each general price list, casket price list and outer burial container price list upon its effective date for the duration of the probationary period.

i. Respondent shall provide each consumer with an Acknowledgement of Disclosure/Disclaimer form which shall include at a minimum separate paragraphs stating the following:

(1) I was told that the law does not require embalming except in certain circumstances;

(2) Embalming was performed with my permission;

(3) I was told that I may supply my own casket/container in the case of immediate burial or cremation;

(4) I was provided with a general price list;

(5) I was provided with a casket price list;

(6) I was provided with an outer burial container price list;

(7) I was told that state law does not require the purchase of an outer burial container.

j. A consumer shall place his or her initials next to each applicable paragraph and sign and date the bottom of the Acknowledgement of Disclosure/Disclaimer form, if the form is accurate.

k. Respondent shall indicate in a written description on each Statement of Goods and Services executed with a consumer, which, if any, casket and/or outer burial container is purchased. The description shall correspond to the description on the price list or a specific numeric or alphabetic designation assigned on the price list to each item.

l. Respondent shall maintain, for no less than five (5) years, a file for each of its funeral purchasers. The file shall include a copy of the consumer's Statement of Goods and Services, respondent's worksheet, the general price lists, casket price lists and outer burial container price lists applicable and in effect upon the date of execution of the Statement of Goods and Services, and the Acknowledgement of Disclosure/Disclaimer form signed

and initialed by the consumer. The file shall also include Tahara certificates, if applicable.

m. Respondent shall include on each Statement of Funeral Goods and Services executed with any funeral purchaser the applicable price as stated on the price lists in effect at such time each service and each item of merchandise is purchased. When providing a discount on a specific service or item of merchandise, the respondent shall indicate on the face of the Statement of Funeral Goods and Services which specific service or item of merchandise was discounted and by how much. When providing an overall discount on the entire cost of the provision of funeral goods and services, respondent shall indicate on the face of the Statement of Funeral Goods and Services the specific services and items of merchandise purchased, the total charge for same and the total discount provided in dollars.

5. All correspondence is to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
Telephone (860) 509-7600
Facsimile (860) 509-7650

6. Respondent shall comply with all state and federal statutes and regulations applicable to its licensure.

7. Respondent shall pay all costs necessary for the respondent to comply with this Consent Order.

8. Unless otherwise provided by law, the Department may seek a hearing for the alleged violation of any condition of probation by executing the following procedures:

   a. The Department shall notify respondent in writing by first-class mail that the term(s) of probation of this Consent Order have been violated.

   b. Said notification shall include the facts or conduct which are alleged to constitute the violation(s).

   c. Respondent shall be given a reasonable opportunity, which shall not be less than fifteen (15) days, to demonstrate to the satisfaction of the Department that it has complied with the terms of probation or, in the alternative, that it has cured the violation in question.

   d. If respondent fails to show compliance or cure the violation to the satisfaction of the Department within such time, it shall be entitled to a hearing before the Board, which may make a determination of the disciplinary action to be taken, if any, in accordance with law.

   e. Evidence presented to the Board by the Department or the respondent in any such hearing shall be limited to the alleged violation(s) of the term(s)

of probation. This provision does not limit the respondent from offering, nor limit the Board from accepting, relevant character evidence of the respondent, or relevant evidence of the respondent's overall compliance with the terms of this Consent Order.

9. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.

10. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board and the Superior Court of the State of Connecticut.

11. Respondent agrees that this Consent Order is a public document.

12. In future actions against respondent brought before the Board, this Consent Order may be taken into consideration by the Board for the purpose of determining an appropriate disciplinary remedy, if any, provided that the Department will not assert to the Board that the allegations contained in this Consent Order are true or established.

13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.

14. 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, 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 it may have under the laws of the State of Connecticut or of the United States.

15. This Consent Order may be modified by mutual written agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

16. Respondent agrees to permit a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis of the Department's allegations herein to the Board for the purpose of seeking the Board's acceptance of the Consent Order.

17. Nothing in this Consent Order shall constitute a waiver on the part of respondent to raise privacy or confidentiality concerns or objections to the public release of information and/or documents obtained pursuant to said Order, or as otherwise provided by law.

18. No provision or restriction of this Consent Order shall be construed by the respondent in any manner so as to limit or constrain the State's authority to inspect, review or obtain documents or information as otherwise provided by law.

19. Any information obtained pursuant to any provision of this Consent Order shall be used only for legitimate State purposes including, but not limited to, the

Department ensuring compliance with said Order, investigation of complaints, any litigation and discovery attendant thereto.

20. This Consent Order resolves all claims that were brought or could have been brought by the Department of Public Health against the respondent based upon any violation of Chapters 368a, 385 and 735 of the General Statutes of Connecticut up to the date of entry of this Consent Order.

21. Once approved by the Board, this Consent Order is an order of the Board with all of the rights and obligations pertaining thereto and attendant thereon. Nothing contained herein shall be construed as limiting the Department or the Board's available legal remedies against respondent for violations of the Consent Order, including but not limited to the right to petition a court of competent jurisdiction to enforce the terms of this Consent Order. This Consent Order supersedes any prior agreement between the Department and respondent.

22. Respondent has the right to consult with an attorney prior to signing this document.

I, Morton Weinstein, 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.

Morton L Weinstein
Morton Weinstein

Subscribed and sworn to before me this 25th day of April 2002.

Michael Weinstein
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 26th day of April 2002, it is hereby accepted.

Debra J. Turcotte, Director
Division of Health Systems Regulation

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 30 day of April 2002, it is hereby ordered and accepted.

Celia Ryan, chairperson
Connecticut Board of Examiners of
Embalmers and Funeral Directors

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

June 11, 2002

Morton Weinstein, Embalmer
c/o Weinstein Mortuary, Inc.
640 Farmington Ave.
Hartford, CT 06105-2988

re: Consent Order
Petition No. 2002-0319-030-010
Thirty Day Suspension on License No. 002008

Dear Mr. Morton Weinstein:

Please be advised that the term of suspension on your license as an Embalmer is effective from 05/31/2002 to 06/30/2002. Notice of such will be sent to the Licensure and Registration section of the Department.

Pursuant to paragraph 3 of the above-referenced Consent Order, all three original copies of your license were obtained on 05/30/2002. A return of said license originals should occur on or about 06/30/2002.

Should you have any questions concerning your license suspension and/or probation, my direct phone number is (860) 509-7644, my direct fax number is (860) 509-8368, and my Internet e-mail address is richard.goldman@po.state.ct.us.

Sincerely,

Richard Goldman

Richard Goldman, Paralegal Specialist II
Division of Health Systems Regulation

c: J. Filippone, PHSM
Bonnie Pinkerton, RNC

Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
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