

STATE OF CONNECTICUT
DEPARTMENT OF HEALTH SERVICES

John Iacobucci, Embalmer
License No. 2169
745 Wintergreen Avenue
Hamden, CT 06514

Petition No. 930127-30-002

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND:

On March 8, 1993, the Department of Health Services ("Department") presented the Connecticut Board of Examiners for Embalmers and Funeral Directors ("Board") with a Motion for Summary Suspension against John Iacobucci, Embalmer ("Mr. Iacobucci" or "Respondent"), dated March 5, 1993. (Department Exhibit 1). The Motion for Summary Suspension was based on a Statement of Charges against Mr. Iacobucci, affidavits, and the Department's information and belief that the continued practice of Mr. Iacobucci represented a clear and immediate danger to the public health and safety. (Department Exhibit 1). The Statement of Charges alleged in three (3) counts that Mr. Iacobucci violated Connecticut General Statutes §20-227, and Regulations of Connecticut State Agencies §20-211-29.

In related matters on March 8, 1993, the Department presented the Board with a Motion for Summary Suspension against Perkins Funeral Home ("Home"), and a Statement of Charges against James Perkins ("Mr. Perkins"). (Department Exhibits 3 and 4). The Memorandum of Decision for the Home is a separate document captioned as Perkins Funeral Home, Inspection Certificate No.

Rec'd
6/29/93
J.B.
John Morris

489, c/o John Iacobucci, 745 Wintergreen Avenue, Hamden, CT 06514; Petition No. 930127-56-001. The Memorandum of Decision for Mr. Perkins is a separate document captioned as James Perkins, 290 Bellevue Road, New Haven, CT 06511; Petition No. 930127-00-002.

Pursuant to the authority of Connecticut General Statutes §4-182c and §19a-17, on March 8, 1993, the Board ordered that License No. 2169 of Mr. Iacobucci be summarily suspended pending the Board's final determination of the allegations contained in the Statement of Charges. The Board set the hearing date for March 19, 1993. (Department Exhibit 1).

On March 10, 1993, Mr. Iacobucci accepted personal service of the Motion for Summary Suspension, Statement of Charges, Notice of Hearing, Summary Suspension Order, and accompanying affidavits. (Department Exhibit 1). The Respondent filed a response to the Statement of Charges in an Answer dated March 26, 1993. (Respondent Exhibit A).

Mr. Iacobucci requested a continuance of the original hearing date, as well as the subsequent hearing dates set by the Board of March 26, 1993, and April 1, 1993. The Board granted these continuances.

The Board held an administrative hearing on April 19, 1993 to adjudicate the related cases of Mr. Iacobucci, the Home, and Mr. Perkins. Both the Department and the Respondent presented evidence and conducted cross-examination of witnesses.

All members of the Board involved in this decision attest that they have either heard the case or read the record in its entirety. The decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

FINDINGS OF FACT:

1. At all times referenced in the Statement of Charges, the Respondent was the holder of Connecticut Embalmer License No. 002169. (Respondent Exhibit A; Department Exhibit 1).

2. In November, 1991, Mr. Iacobucci signed a three (3) year lease agreement between Greater New Haven Funeral Services, Inc. and Perkins Funeral Home. (Department Exhibit 8). Mr. Iacobucci signed as the principal officer of the lessee Greater New Haven Funeral Services, Inc.; Rev. Bosie Kimber signed as Manager of the lessor Home. (Department Exhibit 8). The lease agreement permitted Mr. Iacobucci to operate a funeral home business utilizing the location and equipment of the Home. (Department Exhibit 8).

3. Following the signing of this lease agreement, Mr. Iacobucci intended to be the licensee of record for the Home. (Transcript 4/19/93 p. 52).

4. Up until February 5, 1993, the Respondent was the owner of the Home, which held Funeral Service Inspection Certificate No. 489. (Respondent Exhibit A; Department Exhibit 1).

5. With Regard to the First Count:

In the First Count, the Department alleged that Mr. Iacobucci violated Connecticut General Statutes §20-227, including but not limited to §20-227(4), §20-227(5), §20-227(6), or §20-227(7), because of the conduct described below:

6. In Paragraph 3 of the First Count, the Department alleged that at all times referenced in the Statement of Charges, Mr. Iacobucci employed, authorized to be agents, or appeared to authorize as agents, Mr. Perkins and/or Ms. Leal. Mr. Iacobucci admitted that he authorized Ms. Leal to act as his agent. (Respondent Exhibit A). Mr. Iacobucci never authorized Mr. Perkins to do any work that required an embalming or funeral director's license. (Transcript 4/19/93 pp. 132-133). Mr. Iacobucci did not give his consent to Mr. Perkins's work at the Home. (Transcript 4/19/93 p. 162). The Board finds that Mr. Iacobucci did not authorize Mr. Perkins to act as his agent.

7. In Paragraph 4 of the First Count, the Department alleged that Mr. Iacobucci knew, or should have known, that at all times referenced in the Statement of Charges, neither Mr. Perkins nor Ms. Leal were authorized to practice as a funeral director under Connecticut General Statutes §20-207, et seq. The Respondent admitted this in his Answer. (Respondent Exhibit A).

8. In Paragraph 5 of the First Count, the Department alleged that Mr. Iacobucci knew, or should have known, that Mr. Perkins and/or Ms. Leal were representing themselves to be manager, employees, and/or agents of the Home. The Respondent admitted that he knew Ms. Leal was representing herself to be an employee and/or agent of the Home. (Respondent Exhibit A). The Respondent denied that he knew Mr. Perkins was representing himself to be an employee and/or agent of the Home until shortly before the events leading up to the Respondent's cessation of all ties with the Home on February 5, 1993. (Respondent Exhibit A).

9. Mr. Iacobucci testified that at the beginning of his formal relationship with Mr. Perkins, Mr. Perkins was not involved with activities at the Home. However, after awhile, Mr. Iacobucci began getting the sense that Mr. Perkins was back in the business. Mr. Iacobucci tried to confront him repeatedly without success. (Transcript 4/19/93 p. 111). The Board finds

that Mr. Iacobucci should have known that Mr. Perkins was representing himself to be a manager, employee, or agent of the Home.

10. In Paragraph 6 of the First Count, the Department alleged that on January 18, 1993, and subsequent thereto, Mr. Perkins and/or Ms. Leal (a) removed decedent Thelma Bouie; (b) transported Ms. Bouie to the Home; (c) made funeral arrangements; (d) provided a statement of goods and services to a person purchasing funeral services; (e) supervised or directed a funeral; (f) supervised or directed the interment of a casket; and/or (g) supervised or directed the disinterment of a casket.

11. Thelma Bouie died on January 18, 1993; Mr. Perkins removed Ms. Bouie's body from her home on that date. (Transcript 4/19/93, pp. 25-26). Ms. Bouie's family members met with Ms. Leal at the Home that evening and began discussing funeral arrangements, including costs, burial site location, vaults, caskets, advertising, and flowers. (Transcript 4/19/93 pp. 27-28).

12. Mr. Perkins walked into the office at the Home while Ms. Leal was meeting with Ms. Bouie's family members. Mr. Perkins asked how Ms. Leal was treating them. Mr. Perkins also told Ms. Bouie's family members to let him know if Ms. Leal gave them any trouble. Based on Mr. Perkins's behavior, Ms. Bouie's

son, Rondall Roach, assumed Mr. Perkins was the manager of the Home. (Transcript 4/19/93 pp.28-29).

13. Ms. Leal finalized all arrangements with the family on January 20, 1993. (Transcript 4/19/93 p. 43). Ms. Leal prepared the Statement of Funeral Goods and Services Selected signed by Ms. Bouie's daughter, Carmen Roach. (Transcript 4/19/93 p. 214; Department Exhibit 1).

14. Ms. Bouie's family dealt with Ms. Leal all along regarding the financial arrangements for the funeral and, to a point, with respect to the funeral itself. (Transcript 4/19/93 p. 28).

15. Ms. Bouie's funeral took place on January 22, 1993; Mr. Perkins and Ms. Leal were both present. (Transcript 4/19/93 p. 29). Mr. Perkins appeared to be in charge of the funeral. (Transcript 4/19/93 p. 29).

16. Mr. Perkins transported Ms. Bouie's family members to the Home for services. (Transcript 4/19/93 p. 30). After the service at the Home, the family processed to Beaverdale Cemetery. Mr. Perkins decided that his employees would serve as pallbearers, although there was a prior agreement that family members would be pallbearers. (Transcript 4/19/93 p.30).

17. Mr. Perkins's employees transported Ms. Bouie's casket to the grave site. After the brief service, Mr. Roach stayed to

see Ms. Bouie's casket interred. Mr. Perkins told Mr. Roach they had to go. (Transcript 4/19/93 pp. 30-31). When Mr. Perkins realized that Mr. Roach intended to stay, Mr. Perkins spoke to an employee of the cemetery, and Ms. Bouie's body was immediately interred. (Transcript 4/19/93 p.31).

18. As Mr. Roach was leaving the cemetery, he noticed that the hearse had stayed behind. He thought this was strange and went back to the cemetery. (Transcript 4/19/93 pp. 32-33). Mr. Roach went back to his mother's grave site and discovered that his mother's casket was gone. He questioned one of the cemetery employees, who informed him "they took it." (Transcript 4/19/93 p. 33).

19. Mr. Roach returned to the Home and located Ms. Bouie's casket there. One of Mr. Perkins's employees told him that they were missing a top for the vault and were unable to bury Ms. Bouie without it. (Transcript 4/19/93 pp. 33-35).

20. With Regard to the Second Count:

In the Second Count, the Department alleged that Mr. Iacobucci violated Connecticut General Statutes §20-227, including but not limited to §20-227(4), §20-227(5), §20-227(6), or §20-227(7), because the 1993-94 New Haven Yellow Pages lists Mr. Perkins as "Funeral Director, Owner" of Perkins Funeral Home.

21. Page 516 of the 1993-94 New Haven Yellow Pages telephone directory, published by the Southern New England Telephone Company, contains an advertisement for Perkins Funeral Home. This advertisement identifies James A. Perkins as "Funeral Director, Owner" of the Home. (Department Exhibit 1). Mr. Iacobucci testified that he had no role in the placement of this advertisement for the Home. (Transcript 4/19/93 pp. 134, 136-137). When questioned by Mr. Iacobucci, Mr. Perkins, Rev. Kimber, and Ms. Leal all denied knowledge of this advertisement. (Transcript 4/19/93 pp. 134-136). Mr. Iacobucci admitted that he should have been more diligent and vigilant in supervising the Home employees, to prevent the advertisement from appearing. (Transcript 4/19/93 p. 137).

22. With Regard to the Third Count:

In the Third Count, the Department alleged that Mr. Iacobucci violated Regulations of Connecticut State Agencies §20-211-29 and Connecticut General Statutes §20-227, including but not limited to §20-227(4), §20-227(5), §20-227(6), or §20-227(7), because the Home maintained a sign identifying the premises, without having the name of the licensee of record in a conspicuous place easily visible to the public.

23. When the Department conducted its annual inspection of the Home on December 2, 1991, there was no posting of Mr. Iacobucci's name anywhere on the facility. (Transcript 4/19/93

p. 49). Mr. Iacobucci signed the inspection report on that date after receiving notification from Gary Griffin, the Department's inspector, regarding the need for the sign. (Transcript 4/19/93 p. 138).

24. According to Mr. Iacobucci's lease agreement with the Home, he bore the sole responsibility and expense for making improvements to the Home's property. (Transcript 4/19/93 p. 169). Mr. Iacobucci repeatedly asked Mr. Kimber to acquire a sign, but no sign was ever installed. (Transcript 4/19/93 pp. 138-141). Mr. Iacobucci admitted that he was negligent in signing the Home's renewal license on June 19, 1992 without the sign being in place. (Transcript 4/19/93 p. 155).

DISCUSSION AND CONCLUSIONS OF LAW:

Connecticut General Statutes §20-227 provides in pertinent part:

The department of health services may refuse to grant a license or inspection certificate or the board may take any of the actions set forth in section 19a-17 against a licensee, registrant or holder of an inspection certificate if it finds the existence of any of the following grounds: ... (2) violation of the statutes or regulations of said department relative to the business of embalming or funeral directing in this state; ... (4) incompetency, negligence or misconduct in the carrying on of such business or profession; (5) violation of or noncompliance with the provisions of this chapter or the rules established hereunder; (6) loaning, borrowing or using a license or inspection certificate of another, or knowingly aiding or abetting in any way the granting of an improper license or inspection

certificate; (7) aiding or abetting the practice of embalming or funeral directing by an unlicensed person....

The Department sustained its burden of proof as to all paragraphs of the First Count. As set forth in the Findings of Fact, Mr. Roach provided credible testimony that Mr. Perkins and Ms. Leal performed numerous services of a funeral director with respect to Mr. Roach's mother, Ms. Bouie. The evidence clearly indicated that Mr. Iacobucci should have known the extent of Mr. Perkins's and Ms. Leal's involvement at the Home. The Respondent's conduct represented incompetency, negligence, and misconduct. The Board finds that Mr. Iacobucci violated Connecticut General Statutes §20-227(4), §20-227(5), §20-227(6), and §20-227(7).

The Department sustained its burden of proof as to the Second Count. The appearance of the Home's advertisement in the current New Haven Yellow Pages directory constitutes negligence by Mr. Iacobucci. The Board finds that the Respondent violated Connecticut General Statutes §20-227(4).

The Department sustained its burden of proof as to the Third Count. Mr. Iacobucci testified that he never acquired the requisite sign identifying him as licensee of record for the Home. Although he tried unsuccessfully to delegate this responsibility to Rev. Kimber, Mr. Iacobucci admitted his own negligence in this matter. Mr. Iacobucci's behavior also

represented misconduct. The Board finds that the Respondent violated Connecticut General Statutes §20-227(4).

ORDER:

Pursuant to the authority vested in it by Connecticut General Statutes §19a-17, the Board orders the following in this case against John Iacobucci, Embalmer, Petition No. 930127-30-002:

1. Mr. Iacobucci's summary suspension is hereby lifted due to the fact that his continued practice no longer represents a clear and immediate danger to the public health and safety.
2. Mr. Iacobucci's embalmer license is hereby suspended for one (1) year, such suspension to be stayed after the initial four (4) month period.
3. The Board places the following condition on Mr. Iacobucci's suspension:
 - a. The Department shall retain Mr. Iacobucci's license through the course of his suspension. Once Mr. Iacobucci's suspension is lifted, the Department will return his license if he has complied with all conditions of this decision.

4. Mr. Iacobucci will be on probation for eight (8) months following the four (4) month suspension.

5. The Board places the following conditions on Mr. Iacobucci's probation:
 - a. Mr. Iacobucci shall comply with all applicable state and federal statutes and regulations for licensed practice as a Connecticut embalmer or funeral director;

 - b. The Department shall monitor Mr. Iacobucci's practice as a Connecticut embalmer or funeral director;

 - c. During each month of Mr. Iacobucci's eight (8) month probation, Peter Torello, Embalmer, his current supervisor, shall provide the Board with a notarized statement as to Mr. Iacobucci's responsibilities at the Torello Funeral Home; and

 - d. Each notarized statement shall be received within fifteen (15) days of the last day of each month of probation.

6. Mr. Iacobucci shall be assessed a civil penalty of one hundred dollars (\$100.00) for each of three (3) counts, for a total penalty of three hundred dollars (\$300.00). The three hundred dollar (\$300.00) penalty shall be paid by certified check, payable to Treasurer, State of Connecticut, sent to the Public Health Hearing Office, State of Connecticut Department of Health Services, 150 Washington Street, Hartford, CT 06106, and due by the end of Mr. Iacobucci's probationary period. The certified check shall include the Department petition number on its face for identification purposes.

7. This Order becomes effective upon the signature of the Board chairperson.

Connecticut Board of Examiners for
Embalmers and Funeral Directors

6/17/93

DATE

Morton L Weinstein

by: Morton L. Weinstein, Chairperson



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES

Rec'd
10-19-93

14 October 1993

John Iacobucci
745 Wintergreen Avenue
Hamden, CT 0651

Re: Petition No. 930127-30-002

Dear Mr. Iacobucci:

Your eligibility for reinstatement from suspension to probation has been reviewed and your license is being returned to you. This Department's Licensure and Renewal Section will be notified to change your licensure status from suspension to probation effective October 17, 1993.

Renewal of your license is required, by law, annually during the month of your birth following the date of this letter. If your license is not renewed within ninety (90) days of the due date, it will become automatically void. This means future reinstatement will require re-application.

State law requires you to notify this office within (30) days of ANY change in address whether in or out of state. Should you have any questions regarding this process contact this Department at 566-4967.

In accordance with the Memorandum of Decision you are on probation from October 17, 1993 to May 17, 1994 and required to to be supervised by Peter Torello and cause Mr. Torello to provide monthly notarized reports to this Department of your responsibilities at the Torello Funeral Home, including a statement of your compliance with said Order. The first supervisor report must be submitted to my attention at the address listed below on or before November 15, 1993:

Department of Public Health and Addiction Services
Public Health Hearing Office
150 Washington Street
Hartford, CT 06105

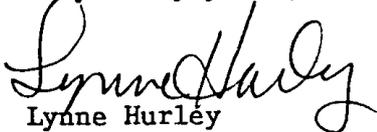
Please be advised that if we do not receive the above required report within the specified time frame, or you fail to comply with any portion of the Memorandum of Decision your case may be referred to our legal section for possible action against your license.

Phone: 566-4663
TDD: (203) 566-1279
150 Washington Street • Hartford, CT 06106
An Equal Opportunity Employer

John Iacobucci
14 October 1993
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Thank you for your anticipated cooperation.

Very truly yours,



Lynne Hurlé
Investigator
Public Health Hearing Office

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9/93

cc: Michael Perzin, Esquire