

**STATE OF CONNECTICUT  
CONNECTICUT BOARD OF EXAMINERS FOR EMBALMERS AND FUNERAL  
DIRECTORS**

Kevin Riley, Embalmer

Petition No. 2006-0427-030-006

**MEMORANDUM OF DECISION  
*Procedural Background***

On January 9, 2007, the Department of Public Health (“the Department”) presented the Connecticut Board of Examiners for Embalmers and Funeral Directors (“Board”) with a Statement of Charges and a Motion for Summary Suspension brought against Kevin Riley, (“respondent”), who holds Connecticut embalmer license number 2251. The Motion for Summary Suspension was based on the Statement of Charges, Affidavits, an Investigative Report and other related documents, and the Department’s information and belief that Kevin Riley’s continued practice as an embalmer presented a clear and immediate danger to the public health and safety. The Statement of Charges alleges that respondent violated the General Statutes of Connecticut (“the Statutes”) and the Regulations of Connecticut State Agencies (“the Regulations”). On January 11, 2007, respondent filed a Motion to Dismiss the Department’s Motion for Summary Suspension, which the Board granted on January 18, 2007. Tr. 2/8/07, pp. 26, 29.

On January 18, 2007, the Department sent the Notice of Hearing to respondent via certified mail, return receipt requested. Joint Exh. 4. The Notice of Hearing directed respondent to appear before the Board for a hearing on the allegations contained in the Statement of Charges.

On January 25, 2007, respondent filed a Motion to Dismiss the Statement of Charges because respondent was not offered an opportunity to attend a compliance conference prior to the filing of the Statement of Charges.

On February 1, 2007, respondent filed a Motion for a More Definite and Detailed Statement, to which the Department filed an Objection on February 6, 2007.

On February 2, 2007, the Board denied respondent’s Motion to Dismiss, dated January 25, 2007.

On February 5, 2007, respondent filed an Answer to the Statement of Charges.

On February 7, 2007, respondent filed a second Motion to Dismiss the Statement of Charges filed against him for the conduct of Hartford Trade Services and Coventry Funeral Home, or their agents or employees.

On February 8, 2007, the Board heard arguments on respondent's Motion for a More Definite and Detailed Statement.

On February 16, 2007, the Board granted in part, and denied in part, respondent's Motion for a More Definite and Detailed Statement.

On March 1, 2007, the Board denied respondent's Motion to Dismiss, and the Department filed a Motion to Amend the Statement of Charges and an "Amended Statement of Charges" ("the Charges"). Joint Exh. 15.

On March 13, 2007, respondent filed an Answer to the Charges and a Special Defense. Joint Exh. 18.

The Board held seven days of hearings on February 8, March 15, March 29, May 1, May 22, June 12, and July 19, 2007 to adjudicate respondent's case. Attorneys John F. Droney and Jeffrey Mirman, represented respondent. Attorneys Diane Wilan and Ellen Shanley represented the Department.

The Board conducted the hearing in accordance with Chapter 54 of the Statutes and the Regulations of Connecticut State Agencies ("the Regulations") §19a-9a-1 *et seq.* Both the Department and respondent had the opportunity to present evidence, conduct cross-examination, and provide argument on all issues.

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

### *Allegations*

1. In paragraphs 1, 7, 12, 15, 18, 21, 25, 29, 35, 39, 42, 45, 48, 51, 57, 73, 77, 89, 100, 109, and 128 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 2251.

2. In paragraphs 2, 8, 12, 15, 18, 21, 25, 29, 35, 39, 42, 45, 48, 51, 57, 73, 77, 89, 100 and 109 of the Charges, the Department alleges that at all times referenced herein, respondent has been the owner and/or manager of Hartford Trade Service, East Hartford, Connecticut (“Hartford Trade”) and/or Coventry Funeral Home, Coventry, Connecticut (“Coventry Funeral”).
3. In paragraphs 3, 9, 12, 15, 18, 21, 25, 29, 35, 39, 42, 45, 48, 51, 57, 73, 77, 89, 100 and 109 of the Charges, the Department alleges that Hartford Trade and/or Coventry Funeral are funeral service businesses holding inspection certificates 467 and 483, respectively.

***Count One***

4. In paragraph 4 of the Charges, the Department alleges that during 2005-2006, unlicensed person(s) at Hartford Trade and/or Coventry Funeral embalmed human remains, in violation of §20-212 of the Statutes.
5. In paragraph 5 of the Charges, the Department alleges that during 2005-2006, unlicensed person(s) at Hartford Trade and/or Coventry Funeral performed licensed activities, including offering to make funeral arrangements.
6. In paragraph 6 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶4 is a violation of §20-212, §20-227(4), and/or §20-227(7) of the Statutes, and the conduct described in ¶5 is also a violation of §20-212, §20-227(4), and/or §20-227(7) of the Statutes);
  - b. §20-227(4);
  - c. §20-227(5); and/or,
  - d. §20-227(7).

***Count Two***

7. In paragraph 10 of the Charges, the Department alleges that during 2005-2006, Hartford Trade exceeded the number of apprentice embalmers permitted to work as apprentice embalmers at the Hartford Trade.
8. In paragraph 11 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶10 is a violation of §20-224(a) and/or §20-227 of the Statutes);
  - b. §20-227(4);
  - c. §20-227(5); and/or,
  - d. §20-227(7).

***Count Three***

9. In paragraph 13 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral offered, sold, and/or delivered goods and services that were not listed on their respective general price lists, including but not limited to:
  - a. refrigeration;
  - b. retrieval of cremains;
  - c. urns;
  - d. sanitary care and pouching;
  - e. use of pall bearers;
  - f. transfers to crematory;
  - g. trips to domicile and probate court;
  - h. office work; and/or
  - i. research.
  
10. In paragraph 14 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶13 is a violation of §20-230a and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Four***

11. In paragraph 16 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral represented to various families of deceased individuals and probate courts that they delivered or provided goods and/or services that, in fact, were not supplied, including but not limited to:
  - a. use of hearse(s);
  - b. use of sedan(s);
  - c. certified death certificate(s);
  - d. refrigeration of human remains; and/or,
  - e. embalming.

12. In paragraph 17 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶16 is a violation of §20-230b and/or §20-227(4) of the Statutes; and/or is a violation of §20-211-34 of the Regulations of Connecticut State Agencies “the Regulations”);
  - b. §20-227(4); and/or
  - c. §20-227(5).

***Count Five***

13. In paragraph 19 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral improperly billed for the delivery of goods and/or services that, in fact, were not supplied, including but not limited to:
  - a. use of hearse(s);
  - b. use of sedan(s);
  - c. certified death certificate(s);
  - d. refrigeration of human remains; and/or,
  - e. embalming.
14. In paragraph 20 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶19 is a violation of §20-230b and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Six***

15. In paragraph 22 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral submitted to various governmental agencies, death certificates that were not accurate.
16. In paragraph 23 of the Charges, the Department alleges that during 2005-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral Home failed to amend death certificates within a reasonable timeframe.

17. In paragraph 24 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶22 is a violation of §7-45 and/or §20-227(4) of the Statutes; and, the conduct described in ¶23 is also a violation of §7-45 and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Seven***

18. In paragraph 26 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral failed to timely obtain Removal, Transit and Burial Permits for various human remains.
19. In paragraph 27 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral failed to timely file death certificates.
20. In paragraph 28 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶26 is a violation of 7-65 and/or 20-227(4) of the Statutes, and the conduct described in ¶27 is a violation of 7-62b and/or 20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Eight***

21. In paragraph 30 of the Charges, the Department alleges that during April 2006, Hartford Trade failed to maintain a current and accurate itemized price list of service(s) and good(s).
22. In paragraph 31 of the Charges, the Department alleges that during April 2006, Hartford Trade maintained multiple itemized price lists of service(s) and good(s), which contained different prices for the same items.

23. In paragraph 32 of the Charges, the Department alleges that during 2004-2006, respondents and/or agents for Hartford Trade:
  - a. failed to provide purchaser(s) seeking funeral services and merchandise with an itemized, written statement prior to rendering service(s) or providing merchandise, in violation of §20-230b of the Statutes;
  - b. failed to maintain a copy of an itemized, written statement prior to rendering service(s) or providing merchandise for funeral arrangements; and/or,
  - c. failed to provide the Department, upon request, with copies of itemized, written statements given prior to rendering service(s) or providing merchandise for funeral arrangements.
  
24. In paragraph 33 of the Charges, the Department alleges that during 2004-2006, agents for Hartford Trade failed to follow the published price lists when billing for merchandise and/or services, thereby charging fees in excess of the price list.
  
25. In paragraph 34 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶30 is a violation of §20-230a and/or §20-227(4) of the Statutes; the conduct described in ¶31 is a violation of §20-230a and/or §20-227(4) of the Statutes; the conduct described in ¶32a is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; the conduct described in ¶32b is a violation of §20-227(4) of the Statutes; the conduct described in ¶32c is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Nine***

26. In paragraph 36 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade:
  - a. improperly failed to provide the purchaser(s) of funeral services and merchandise with written statements itemizing the purchasers' selections, the prices of said selections, and/or delineation of cash advances, prior to the delivery of such services and merchandise, in violation of §20-230b of the Statutes; and/or
  - b. improperly failed to supply copies of the aforementioned written statements to the Department.
  
27. In paragraph 37 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade failed to follow the published price lists when billing for merchandise and/or services, thereby charging fees in excess of the price list.

28. In paragraph 38 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
- a. §20-227(2)(in that the conduct described in ¶36a is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; the conduct described in ¶36b is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; and the conduct described in ¶37 is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulation);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Ten***

29. In paragraph 40 of the Charges, the Department alleges that during 2004-2006, while Hartford Trade was under contract with the Connecticut Office of Chief Medical Examiner (hereinafter "OCME") to provide body service transportation, for a fee:
- a. respondent and/or agents for Hartford Trade misrepresented the need to pay for the transportation of a decedent's remains to Hartford Trade, to various families of decedents and/or probate courts; and/or,
  - b. respondent and/or agents for Hartford Trade billed the estates of decedents for transportation of decedents that was covered by such contract.
30. In paragraph 41 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
- a. §20-227(2)(in that the conduct described in ¶40a is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; and the conduct described in ¶40b if a violation of §20-230b and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Eleven***

31. In paragraphs 43 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade improperly charged various estates and/or families for alternative cremation containers. The cost of such alternative containers was included in the cash advance crematory fees.

32. In paragraph 44 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
- a. §20-227(2)(in that the conduct described in ¶43 is a violation of 20-230b and/or 20-227(4) of the Statutes and/or 20-211-34 and/or 20-211-35 of Regulations);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Twelve***

33. In paragraph 46 of the Charges, the Department alleges that during 2004-2006, respondent and/or agents for Hartford Trade improperly charged for funeral arrangements by separately billing additional fees for services that were included in the Basic Services of Funeral Director and Staff fee.
34. In paragraph 47 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
- a. §20-227(2)(in that the conduct described in ¶46 is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Thirteen***

35. In paragraph 49 of the Charges, the Department alleges that during 2006, Hartford Trade did not have a bathroom available for public use, in violation of §19-13-B106 of the Regulations.
36. In paragraph 50 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to §20-227(4).

***Count Fourteen***

37. In paragraph 52 of the Charges, the Department alleges that during 2004-2006, Hartford Trade was under contract with OCME to provide body service transportation, for a fee.
38. In paragraph 53 of the Charges, the Department alleges that said contract prohibited Hartford Trade and its agents from soliciting business while performing such service for OCME.

39. In paragraph 54 of the Charges, the Department alleges that during 2004-2006, while maintaining remains pending disposition, pursuant to said contract, respondent and/or agents of Hartford Trade improperly offered to make funeral service arrangements for decedents for whom Hartford Trade provided body transportation service under its contract with the OCME.
40. In paragraph 55 of the Charges, the Department alleges that during 2004-2006, while maintaining remains pending disposition, pursuant to said contract, respondent and/or agents of Hartford Trade sought administration and/or administered the estates of such decedents.
41. In paragraph 56 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶¶ 54 and 55 constitutes violations of 20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Fifteen***

42. In paragraph 58 of the Charges, the Department alleges that during the month of August 2006, J.D. died in Meriden, Connecticut.
43. In paragraph 59 of the Charges, the Department alleges that decedent J. D. was predeceased by her husband, who had been buried in a local cemetery.
44. In paragraph 60 of the Charges, the Department alleges that decedent was survived by her son.
45. In paragraph 61 of the Charges, the Department alleges that during the month of August 2006, Hartford Trade performed a removal of decedent from her home in Meriden, pursuant to a contract with OCME.
46. In paragraph 62 of the Charges, the Department alleges that on or about August 22, 2006, respondent applied to Meriden Probate Court (hereinafter "Probate Court"), as a Funeral Director, for custody of the decedent's remains, representing that the decedent left no surviving next of kin.
47. In paragraph 63 of the Charges, the Department alleges that on or about August 23, 2006, respondent applied to Probate Court for the temporary administration of decedent J. D.'s estate for the stated purpose of affording the decedent a "proper burial" after misrepresenting that decedent's only next of kin, her son, was in prison. Decedent's son was not in prison.

48. In paragraph 64 of the Charges, the Department alleges that on or about August 23, 2006, Probate Court awarded respondent custody and control of the body of the decedent for final disposition.
49. In paragraph 65 of the Charges, the Department alleges that on or about August 24, 2006, respondent applied for a cremation permit for decedent.
50. In paragraph 66 of the Charges, the Department alleges that on or about August 24, 2006, decedent J. D. was cremated, without any consultation with her son.
51. In paragraph 67 of the Charges, the Department alleges that subsequently, on or about August 28, 2006, Probate Court appointed respondent as Temporary Administrator “for the sole purpose of having a proper burial for [J.D.]”
52. In paragraph 68 of the Charges, the Department alleges that respondent failed to inform Probate Court of the August 24, 2006 cremation.
53. In paragraph 69 of the Charges, the Department alleges that the death certificate of decedent, which bears respondent’s name, incorrectly states that decedent J.D. was cremated on August 31, 2006.
54. In paragraph 70 of the Charges, the Department alleges that the death certificate was not corrected within a reasonable timeframe.
55. In paragraph 71 of the Charges, the Department alleges that despite the limited authority awarded by Probate Court to the Temporary Administrator, respondent, and/or his agents, disposed of personal property of the decedent and/or her surviving son, from decedent’s home and estate, including, but not limited to:
  - a. replacing the locks at decedent’s house;
  - b. delivering some of the contents of decedent’s home to Weston’s Antiques for sale;
  - c. multiple removals of a dumpster containing other contents and/or debris from decedent’s home.
56. In paragraph 72 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2) (in that the conduct described in ¶¶ 62, 63, 66, 68, and 71 constitutes violations of §20-227(4) of the Statutes, and the conduct described in ¶¶ 69 and 70 constitutes violations of §7-45, §7-62b(b), and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Sixteen***

57. In paragraph 74 of the Charges, the Department alleges that during 2004-2006, respondent and/or his agents improperly billed for “cash advance” items for funeral arrangements, by failing to bill the net amount paid for such items.
58. In paragraph 75 of the Charges, the Department alleges that during 2004-2006, respondent and/or his agents improperly charged additional fees for merchandise that was provided by the purveyor of cash advance items for funeral arrangements.
59. In paragraph 76 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2) (in that the conduct described in ¶¶ 74 and 75 constitutes violations of §20-230b and/or §20-227(4) of the Statutes and/or §§20-211-34 and/or §20-211-35 of the Regulations);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Seventeen***

60. In paragraph 78 of the Charges, the Department alleges that on or about July 27, 2005, S.S. died in Bridgeport, Connecticut.
61. In paragraph 79 of the Charges, the Department alleges that on or about July 27, 2005, Hartford Trade performed a removal of S. S. from her home, pursuant to a contract with OCME.
62. In paragraph 80 of the Charges, the Department alleges that from approximately July 27, 2005 to August 10, 2005, the human remains of S. S. were in the care of OCME, and physically housed with Hartford Trade.
63. In paragraph 81 of the Charges, the Department alleges that on or about August 10, 2005, an agent for Hartford Trade was granted custody and control of the decedent’s remains by the Bridgeport Probate Court for final disposition.
64. In paragraph 82 of the Charges, the Department alleges that Hartford Trade had custody and care of this decedent’s remains from August 10, 2005 until the burial, on or about September 9, 2005, totaling approximately 30 days. Hartford Trade improperly charged such decedent’s estate for 49 days of refrigerated storage of the decedent’s remains.
65. In paragraph 83 of the Charges, the Department alleges that Hartford Trade filed a death certificate for S. S. listing September 8, 2005, as the date of disposition.

66. In paragraph 84 of the Charges, the Department alleges that during 2005, respondent and/or his agents, failed to properly dispose of the human remains of decedent S. S. in violation of §7-64 of the Statutes.
67. In paragraph 85 of the Charges, the Department alleges that two different written statements of goods and services selected exist for the funeral arrangements of S. S. Said written statements are inconsistent, in that only one of the two statements indicate decedent was embalmed.
68. In paragraph 86 of the Charges, the Department alleges that the death certificate filed by Hartford Trade and one of the two statements of goods and services selected indicate that this decedent's body was not embalmed.
69. In paragraph 87 of the Charges, the Department alleges that the prices of goods and services on the two statements are inconsistent in that different prices are listed on each for transportation fees, pallbearers, and/or cooler fees.
70. In paragraph 88 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶¶ 82, 85, 86, and 87 constitutes violations of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; and the conduct described in ¶84 is a violation of §7-64 and/or §20-227(4) of the Statutes);
  - b. §20-227(4) and/or;
  - c. §20-227(5).

***Count Eighteen***

71. In paragraph 90 of the Charges, the Department alleges that on or about February 6, 2006, R. L. died in Wallingford, Connecticut.
72. In paragraph 91 of the Charges, the Department alleges that on or about February 6, 2006, Hartford Trade performed a removal of decedent R. L. from his home in Wallingford, pursuant to its contract with the OCME.
73. In paragraph 92 of the Charges, the Department alleges that on or about February 21, 2006, respondent applied to Wallingford Probate Court for custody and control of this decedent's remains.
74. In paragraph 93 of the Charges, the Department alleges that on or about February 22, 2006, Hartford Trade filed a death certificate for decedent indicating a cremation date of February 21, 2006. Decedent was cremated on or about March 1, 2006.

75. In paragraph 94 of the Charges, the Department alleges that on the death certificate for decedent was not timely corrected.
76. In paragraph 95 of the Charges, the Department alleges that Hartford Trade improperly charged such decedent's estate for refrigerated storage of decedent's remains while decedent was in the custody of OCME, and physically housed with Hartford Trade.
77. In paragraph 96 of the Charges, the Department alleges that Hartford Trade improperly charged such decedent's estate for refrigerated storage of decedent's remains for the period of February 1, 2006 – February 28, 2006.
78. In paragraph 97 of the Charges, the Department alleges that Hartford Trade's written statement of goods and services selected submitted to such decedent's estate included items not on its general price list, including but not limited to:
  - a. refrigeration;
  - b. transfer fee; and/or,
  - c. office work, research, paperwork, and/or trip to house and probate.
79. In paragraph 98 of the Charges, the Department alleges that Hartford Trade improperly charged decedent's estate an additional fee for an alternative cremation container. The cash advance crematory fee included the purchase of an alternative cremation container required for the cremation.
80. In paragraph 99 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that conduct described in ¶¶ 93 and 94 constitutes violations of §7-45, §7-62b(b), and/or §20-227(4) of the Statutes; the conduct described in ¶¶ 95 and 96 constitutes violations of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; the conduct described in ¶97 is a violation of §20-230a, §20-230b and/or §20-227(4) of the Statutes; and the conduct described in ¶98 is a violation of §20-230a, §20-230b, and/or §20-227(4) of the Statutes, and/or §20-211-34 and §20-211-35 of the Regulations);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Nineteen***

81. In paragraph 101 of the Charges, the Department alleges that on or about January 24, 2006, A.C. died in East Haven, Connecticut.

82. In paragraph 102 of the Charges, the Department alleges that on or about February 10, 2006, respondent and/or an agent for Hartford Trade filed a death certificate for this decedent, listing respondent as the custodian.
83. In paragraph 103 of the Charges, the Department alleges that such death certificate indicates that decedent was buried on or about February 10, 2006.
84. In paragraph 104 of the Charges, the Department alleges that such death certificate indicates that this decedent's body was not embalmed.
85. In paragraph 105 of the Charges, the Department alleges that Hartford Trade's written statement of goods and services selected for decedent's funeral arrangements, dated April 28, 2006, improperly lists a charge for embalming.
86. In paragraph 106 of the Charges, the Department alleges that the written statement of goods and services incorrectly indicates that refrigeration was required by "law, cemetery or crematory requirements."
87. In paragraph 107 of the Charges, the Department alleges that Hartford Trade's written statement of goods and services for decedent's funeral arrangements, dated April 28, 2006, includes items not listed on its general price list, including but not limited to:
  - a. refrigeration;
  - b. locksmith services and new locks;
  - c. pall bearers;
  - d. hearse and sedan;
  - e. service/utility vehicle.
88. In paragraph 108 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that conduct described in ¶105 is a violation of §20-230b and/or §20-227(4) of the Statutes, and/or §20-211-34 of the Regulations; the conduct described in ¶106 is a violation of §20-227(4) of the Statutes, and the conduct described in ¶107 is a violation of §20-230a and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Twenty***

89. In paragraph 110 of the Charges, the Department alleges on or about April 28, 2006, J. C. died in West Hartford, Connecticut.

90. In paragraph 111 of the Charges, the Department alleges that on or about April 28, 2006, respondent and/or agents of Hartford Trade performed a removal of decedent J. C. from his home in West Hartford pursuant to its contract with OCME.
91. In paragraph 112 of the Charges, the Department alleges that on or about May 25, 2006 an agent for Hartford Trade applied to the West Hartford Probate Court for custody and control of decedent's remains. West Hartford Probate Court awarded said agent custody and control on June 1, 2006.
92. In paragraph 113 of the Charges, the Department alleges that on or about June 1, 2006, respondent submitted an application to West Hartford Probate Court to become the temporary administrator of decedent's J. C.'s estate.
93. In paragraph 114 of the Charges, the Department alleges that J.C. B. was a first cousin of decedent J. C.
94. In paragraph 115 of the Charges, the Department alleges that on or about June 13, 2006, Ms. B. [*i.e.*, J. C. B.] contacted the Coventry Funeral Home in her capacity of next of kin. No employee at Coventry Funeral offered to discuss the funeral arrangements of decedent with Ms. B.
95. In paragraph 116 of the Charges, the Department alleges that the West Hartford Probate Court did not authorize respondent to provide and/or charge for funeral goods and services prior to the rendering of such goods and services.
96. In paragraph 117 of the Charges, the Department alleges that on or about June 15, 2006, Ms. B. attended the funeral Mass for decedent.
97. In paragraph 118 of the Charges, the Department alleges that on or about June 16, 2006, Ms. B. attended the graveside service for decedent.
98. In paragraph 119 of the Charges, the Department alleges that on or about June 16, 2006, Ms. B. contacted West Hartford Probate Court, making it aware of her relationship to decedent.
99. In paragraph 120 of the Charges, the Department alleges that on or about June 16, 2006, Ms. B. requested that respondent and/or his agent provide her with a price list of goods and services available and a final statement of goods and services selected.
100. In paragraph 121 of the Charges, the Department alleges that on or about June 27, 2006, Coventry Funeral, respondent and/or his agent submitted an itemized statement of goods and services selected to West Hartford Probate Court, requesting authorization to make payment for the funeral arrangements.

101. In paragraph 122 of the Charges, the Department alleges that during August 2006, Ms. B. received a copy of a general price list.
102. In paragraph 123 of the Charges, the Department alleges that Coventry Funeral improperly charged for refrigerated storage of decedent's remains when the decedent was in the custody of the OCME, and physically housed with Hartford Trade and/or Coventry Funeral.
103. In paragraph 124 of the Charges, the Department alleges that the Coventry Funeral's itemized statement of goods and services selected for decedent's funeral included items not on the general price list of Hartford Trade.
104. In paragraph 125 of the Charges, the Department alleges that Coventry Funeral's itemized statement of goods and services selected for such decedent improperly lists separate charges for services that were included in the non-declinable charge for the Basic Services of Funeral Director and Staff.
105. In paragraph 126 of the Charges, the Department alleges that such itemized statement for decedent J. C.'s funeral arrangements includes items not on the general price list, including but not limited to:
  - a. dumpster fee;
  - b. probate fee;
  - c. refrigeration;
  - d. office work, life insurance;
  - e. research, probate hearing;
  - f. use of hearse;
  - g. use of limousine;
  - h. use of sedan; and/or,
  - i. use of service/utility vehicle.
106. In paragraph 127 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2)(in that the conduct described in ¶115 is a violation of §20-227(4) of the Statutes; the conduct described in ¶¶ 122, 123, 124, and 125 constitutes violations of §20-230b and/or §20-227(4) of the Statutes, and/or §20-211-34 of the Regulations; and the conduct described in ¶126 is a violation of §20-230a and/or §20-227(4) of the Statutes);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Count Twenty-One***

107. In paragraph 129 of the Charges, the Department alleges that on or about October 18, 2005, H. G. died in Columbia, Connecticut.
108. In paragraph 130 of the Charges, the Department alleges that on or about October 18, 2005, respondent and/or agents of Hartford Trade performed a removal of decedent H. G. from her home in Columbia pursuant to its contract with OCME.
109. In paragraph 131 of the Charges, the Department alleges that subsequently, the human remains of such decedent were in the care of OCME, and physically housed with Hartford Trade.
110. In paragraph 132 of the Charges, the Department alleges that Hartford Trade improperly charged such decedent's estate for refrigerated storage of decedent's remains while said remains were in the custody of OCME.
111. In paragraph 133 of the Charges, the Department alleges that Hartford Trade's written statement of goods and services selected, submitted to such decedent's estate, included items not on its general price list, including but not limited to:
  - a. refrigeration;
  - b. sanitary care;
  - c. retrieval of cremains;
  - d. urn; and/or
  - e. various research, travel, meetings, paperwork, and/or arrangements.
112. In paragraph 134 of the Charges, the Department alleges that Hartford Trade improperly charged decedent's estate an additional fee for an alternative cremation container required for the cremation. The cash advance crematory fee included the purchase of an alternative cremation container required for cremation.
113. In paragraph 135 of the Charges, the Department alleges that Hartford Trade improperly billed such decedent's estate for transportation of decedent's remains that was covered by its contract with OCME to provide body service transportation.
114. In paragraph 136 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-227 of the Statutes, including but not limited to:
  - a. §20-227(2) (in that the conduct described in ¶¶ 132 and 135 constitutes violations of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 of the Regulations; the conduct described in ¶133 is a violation of §20-230a and/or §20-227(4) of the Statutes; and, the conduct described in ¶134 is a violation of §20-230b and/or §20-227(4) of the Statutes and/or §20-211-34 and/or §20-211-35 of the Regulations);
  - b. §20-227(4); and/or,
  - c. §20-227(5).

***Findings of Fact***

1. Kevin Riley of Coventry, Connecticut (hereinafter "respondent") is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 2251. Joint Exh. 18.
2. Respondent has been the owner and/or manager of Hartford Trade, East Hartford, Connecticut and Coventry Funeral Service, Coventry, Connecticut. Joint Exh. 18.
3. Hartford Trade and Coventry Funeral are funeral service businesses holding inspection certificates 467 and 483, respectively. Joint Exhs. 17, 19.

***Count One***

4. During 2005-2006, unlicensed persons at Hartford Trade embalmed human remains. The respondent was aware that unlicensed persons were embalming human remains and, in fact, directed that practice. The Board finds that Mr. Riley's testimony that he was unaware of the practice because he had delegated supervisory responsibility to other "managers" is not credible. Joint Exh. 9; Resp. Exh. 9; Tr. 3/15/07, pp. 48-51, 75-78, 81-91, 102-110, 117-129, 142, 146, 155-158, 167, 171-175, 190, 192-193.
5. The evidence is insufficient to establish that during 2005-2006, unlicensed persons at Hartford Trade and/or Coventry Funeral offered to make funeral arrangements. Tr. 3/15/07, pp. 90, 102, 125-128, 138-140.

***Count Two***

6. During 2005-2006, Hartford Trade exceeded the number of apprentice embalmers permitted to work as apprentice embalmers at the Hartford Trade. Joint Exh. 9; Resp. Exh. 9.

***Count Three***

7. The evidence is insufficient to establish that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral offered, sold, and/or delivered goods and services that were required to be listed but were not, in fact, listed on their respective general price lists. Pet. Exh. 16; Tr. 3/15/07, p. 176; Tr. 3/29/07, pp. 31-34. To the extent that charges were asserted for items not on the price list, the items were not required to be on the price list.

***Count Four***

8. There is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral represented to families of deceased individuals for whom evidence was presented and/or to the probate court, that they delivered or provided goods and/or services that, in fact, were not supplied, except for decedent A. C.'s family, which was erroneously told that embalming services were provided. Pet. Exh. 45; Tr. 5/1/07, pp. 86-87; Tr. 6/12/07, pp. 32-33, 35, 43-45.

***Count Five***

9. There is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral improperly billed for the delivery of goods and/or services that, in fact, were not supplied, except for decedent A. C.'s family, which was billed for embalming services that were not provided. Pet. Exhs. 5, 20; Tr. 3/29/07, pp. 171-172, 204-211.

***Count Six***

10. During 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral submitted inaccurate death certificates for J. D., S. S., R. L., and A. C., that were not accurate to various governmental agencies. Pet. Exhs. 20, 41, 45, 47, 49; Tr. 5/1/07, p.105.
11. During 2005-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral failed to amend the death certificates of S. S., R. L., and A.C. within a reasonable timeframe. Pet. Exhs. 41, 45; Tr. 5/1/07, pp. 86-87; 105.

***Count Seven***

12. During 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral failed to timely obtain Removal, Transit and Burial Permits for human remains for E. E., A. D., S. S. and R. L., which should be within five days of decedents' death. However, as agents for the OCME, respondent's ability to obtain such permits on a timely basis was not within respondent's and/or his agents' control. Pet. Exhs. 48, 49, 51, 52, 55; Tr. 5/1/07, pp. 105-107; Tr. 5/22/07, pp. 27-34.
13. During 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral failed to file death certificates for E. E., A. D., S. S., and R. L. on a timely basis. However, as agents for the OCME, respondent's ability to file death certificates on a timely basis was not within respondent's and/or his agents' control. Pet. Exhs. 41, 47, 52, 55; Tr. 5/1/07, pp. 57-61, 105-107; Tr. 5/22/07, pp. 27-34.

***Count Eight***

14. There is insufficient evidence to establish that during April 2006, Hartford Trade failed to maintain a current and accurate itemized price list of services and goods. Pet. Exh. 16; Tr. 3/15/07, pp. 91, 126-127, 176-178; Tr. 3/29/07, pp. 31-34, 36.
15. There is insufficient evidence to establish that during April 2006, Hartford Trade maintained multiple itemized price lists of services and goods, which contained different prices for the same items. Pet. Exh. 16; Tr. 3/15/07, pp. 91, 126-127, 176-178; Tr. 3/29/07, pp. 31-34, 36.
16. Except as noted below in Paragraph 17 with respect to Probate cases, there is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade: (a) failed to provide purchasers seeking funeral services and merchandise with itemized, written statements prior to rendering services or providing merchandise; (b) failed to maintain copies of itemized, written statements prior to rendering services or providing merchandise for funeral arrangements; and/or (c) failed to provide the Department, upon request, with copies of itemized, written statements given to purchasers prior to rendering services or providing merchandise for funeral arrangements. Tr. 3/29/07, pp. 131-132, 137-138, 160-165, 169-170.
17. There were cases where Mr. Riley had both been appointed fiduciary of a decedent estate and provided embalming and/or funeral services through Hartford Trade or Coventry Funeral Home where Mr. Riley, as embalmer or funeral director, did not provide a prior written statement of goods and services to himself, as fiduciary of the decedent estate. The Board finds that it would be an unreasonable and unworkable interpretation of the statutes to require Mr. Riley to, in effect, bill himself, when the amount that would be paid by the decedent estate would be subject to subsequent probate court approval. Tr. 3/29/07, pp. 211-217.
18. There is insufficient evidence to establish that during 2004-2006, agents for Hartford Trade failed to follow the published price lists when billing for merchandise and/or services, thereby charging fees in excess of the price lists.

***Count Nine***

19. There is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade: (a) improperly failed to provide the purchasers of funeral services and merchandise with written statements itemizing the purchasers' selections, the prices of said selections, and/or delineation of cash advances, prior to the delivery of such services and merchandise; and/or (b) improperly failed to supply copies of such written statements to the Department. Pet. Exh. 16; Tr. 3/15/07, pp. 91, 126-127, 176-178; Tr. 3/29/07, pp. 31-34, 36; Tr. 6/12/07, pp. 135-136.

20. There is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade failed to follow the published price lists when billing for merchandise and/or services, thereby charging fees in excess of the price lists.

***Count Ten***

21. There is insufficient evidence to establish that during 2004-2006, while Hartford Trade was under contract with OCME to provide body service transportation for a fee that: (a) respondent and/or agents for Hartford Trade misrepresented to various families of decedents and/or probate courts the need to pay for the transportation of a decedent's remains to Hartford Trade; and/or (b) respondent and/or agents for Hartford Trade billed the estates of decedents for transportation of decedents that was covered by the OCME contract. Tr. 3/29/07, pp. 137-138.

***Count Eleven***

22. There is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade improperly charged various estates and/or families for alternative cremation containers, which was included in the cash advance crematory fees. Tr. 3/29/07, pp. 164-165.

***Count Twelve***

23. There is insufficient evidence to establish that during 2004-2006, respondent and/or agents for Hartford Trade improperly charged for funeral arrangements by separately billing additional fees for services that were included in the Basic Services of Funeral Director and Staff fees. Tr. 3/29/07, pp. 158-164.

***Count Thirteen***

24. There is insufficient evidence to establish that during 2006 that Hartford Trade did not have a bathroom for public use. Resp. Exhs. 3, 4, 7; Tr. 3/15/07, pp. 131-132, 144, 179-180.

***Count Fourteen***

25. During 2004-2006, Hartford Trade was under contract with OCME to provide body service transportation, for a fee. Pet. Exh. 33.
26. During 2004-2006, the OCME contract prohibited Hartford Trade and its agents from soliciting business while performing body transportation services for OCME. Pet. Exh. 33.

27. There is insufficient evidence to establish that during 2004-2006, while maintaining remains pending disposition, pursuant to its contract with OCME, respondent and/or its agents of Hartford Trade improperly offered to make funeral service arrangements for decedents for whom Hartford Trade provided body transportation service under its contract with OCME. Tr. 3/15/07, p. 197.
28. There is insufficient evidence to establish that during 2004-2006, while maintaining remains pending disposition, pursuant to its contract with OCME, respondent and and/or agents of Hartford Trade improperly sought administration and/or administered the estates of such decedents. Tr. 7/19/07, pp. 80-85. To the extent that the respondent sought to be appointed, and was appointed, fiduciary of decedent estates, such conduct is: (a) not improper, because it is not uncommon, and not unlawful, for a creditor of a decedent estate to be appointed estate fiduciary; and b) not forbidden by the terms of respondent's contract with OCME. Furthermore, respondent's action as estate fiduciary are outside the scope of practice of embalmers or funeral directors and not subject to discipline by this Board.

***Count Fifteen***

29. On August 11, 2006, J. D. died in Meriden, Connecticut. Pet. Exh. 20; Tr. 3/29/07, p. 196.
30. Decedent J. D. was predeceased by her husband, who was buried in a local cemetery. Tr. 3/29/07, p. 196.
31. Decedent was survived by her son. Tr. 3/29/07, p. 196.
32. During August 2006, Hartford Trade removed decedent from her home in Meriden, pursuant to a contract with OCME. Pet. Exh. 21; Tr. 3/29/07, pp. 196-197.
33. On or about August 22, 2006, respondent applied to the Meriden Probate Court as a Funeral Director, for custody of decedent's remains. Pet. Exh. 26; Tr. 3/29/07, p. 201.
34. There is insufficient evidence to establish that respondent advised the Probate Court that decedent left no surviving next of kin. Pet. Exhs. 27, 31; Tr. 3/29/07, p. 186.
35. On or about August 23, 2006, respondent applied to the Probate Court for the temporary administration of decedent J. D.'s estate for the stated purpose of affording the decedent a "proper burial." Respondent erroneously informed the Probate Court that decedent's only next of kin, her son, was in prison. Decedent's son was not in prison. Pet. Exh. 27; Tr. 3/29/07; p. 197. However, respondent's actions as fiduciary of J.D.'s decedent estate are outside the scope of the practice of embalming and funeral directing and are not subject to review or discipline by this Board.
36. On or about August 23, 2006, the Probate Court awarded respondent custody and control of the decedent J. D.'s body for final disposition. Pet. Exh. 31; Tr. 3/29/07, p. 175.

37. On or about August 24, 2006, respondent applied for a cremation permit for J. D. Pet. Exh. 22.
38. On or about August 24, 2006, decedent J. D. was cremated, without any consultation with her son. Pet. Exh. 22; Tr. 3/29/07, p. 204.
39. On or about August 28, 2006, the Probate Court appointed respondent as Temporary Administrator “for the sole purpose of having a proper burial for J. D.” Pet. Exh. 27.
40. There is insufficient evidence to establish that respondent failed to inform the Probate Court of the August 24, 2006 cremation. Pet. Exh. 32.
41. Decedent’s death certificate, which bears respondent’s name, incorrectly states that decedent J. D. was cremated on August 31, 2006. Pet. Exh. 20.
42. There is insufficient evidence to establish that the death certificate was not corrected within a reasonable timeframe. Tr. 3/29/07, pp. 210-211.
43. Any disposition of the property of J.D. or her surviving son that may have occurred without the approval of the probate court is outside the scope of practice of embalming and/or funeral directing and is not subject to review by this Board. **Count Sixteen.**  
There is insufficient evidence to establish that during 2004-2006, respondent and/or his agents improperly billed for “cash advance” items for funeral arrangements, by failing to bill the net amount paid for such items. Tr. 3/29/07, pp. 167-168.
45. There is insufficient evidence to establish that during 2004-2006, respondent and/or his agents improperly charged additional fees for merchandise that was provided by the purveyor of cash advance items for funeral arrangements. Tr. 3/29/07, pp. 167-168.

**Count Seventeen**

46. On or about July 27, 2005, S. S. died in Bridgeport, Connecticut. Pet. Exhs. 41, 42.
47. On or about July 27, 2005, Hartford Trade removed decedent’s body from her home. Pet. Exh. 42.
48. Hartford Trade removed decedent’s body pursuant to respondent’s contract with OCME. Tr. 5/1/07, pp. 75-76. Pursuant to direction from the OCME, respondent’s agents brought the human remains of SS to Hartford Trade for storage.
49. From approximately July 27, 2005 to August 10, 2005, the human remains of decedent were physically housed with Hartford Trade. Tr. 5/1/07, pp. 75-76.

50. On or about August 10, 2005, the Bridgeport Probate Court granted custody and control of the decedent S. S.'s body to an agent for Hartford Trade for final disposition. Pet. Exh. 42.
51. Hartford Trade had custody and care of decedent S. S.'s remains from August 10, 2005 until the burial, on or about September 9, 2005, for a total of approximately 30 days. Pet. Exh. 42.
52. There is insufficient evidence to establish that Hartford Trade improperly charged such decedent's estate for 49 days of refrigerated storage of decedent S. S.'s remains. The OCME was only liable to Hartford Trade pursuant to the contract for the cost of removal only. There is no evidence in the record that OCME paid for the cost of storage between July 27, 2005 and August 10, 2005, which payment, had it been made, would not have been authorized under the contract. Pet. Exhs. 41, 43; Tr. 5/1/07, pp. 80-81.
53. Hartford Trade filed a death certificate for S. S. listing September 8, 2005, as the date of disposition. Pet. Exh. 41.
54. There is insufficient evidence to establish that during 2005, respondent and/or its agents, failed to timely dispose of the human remains of decedent S. S. Pet. Exhs. 41, 42.
55. There is insufficient evidence to establish that there were two different written statements of goods and services for S. S.'s funeral arrangements. Pet. Exh. 43.
56. The death certificate filed by Hartford Trade and the statement of goods and services selected indicate that S. S.'s body was not embalmed. Pet. Exh. 41.
57. There is insufficient evidence to establish that there were two inconsistent statements of goods and services for S. S.'s funeral arrangements. Pet. Exh. 43.

***Count Eighteen***

58. On or about February 6, 2006, R. L. died in Wallingford, Connecticut. Pet. Exh. 47.
59. On or about February 6, 2006, Hartford Trade removed decedent R. L.'s body from his home in Wallingford, Connecticut, pursuant to its contract with the OCME. Pet. Exh. 48.
60. On or about February 21, 2006, respondent applied to the Wallingford Probate Court for custody and control of decedent R. L.'s remains. Pet. Exh. 49.
61. On or about February 22, 2006, Hartford Trade filed a death certificate for decedent R. L. indicating a cremation date of February 21, 2006. Decedent was cremated on or about March 1, 2006. Pet. Exhs. 47, 49.
62. Decedent's death certificate was not timely corrected. Tr. 5/1/07, p. 105.

63. There is insufficient evidence to establish that Hartford Trade improperly charged decedent R. L.'s estate for refrigerated storage of decedent R. L.'s remains while decedent R. L. was in the custody of OCME, and physically housed with Hartford Trade. The OCME was only liable to Hartford Trade pursuant to its contract for the cost of removal only. There is no evidence in the record that OCME paid for the cost of storage between February 6, 2006 and February 28, 2006. Pet. Exhs. 49, 50.
64. There is insufficient evidence to establish that Hartford Trade improperly charged decedent R. L.'s estate for refrigerated storage of decedent R. L.'s remains for the period of February 6, 2006 through February 28, 2006. Pet. Exhs. 49, 50.
65. Hartford Trade's written statement of goods and services selected submitted to decedent R. L.'s estate included items not on its general price list, including, but not limited to refrigeration; a transfer fee; and/or, office work, research, paperwork, and/or a trip to decedent's house and Probate Court. Pet. Exh. 50.
66. There is insufficient evidence to establish that Hartford Trade improperly charged decedent's estate an additional fee for an alternative cremation container. Pet. Exh. 50.

***Count Nineteen***

67. On or about January 24, 2006, A. C. died in East Haven, Connecticut. Pet. Exh. 45.
68. On or about February 10, 2006, respondent and/or an agent of Hartford Trade filed a death certificate for decedent A. C., listing respondent as the custodian. Pet. Exh. 45.
69. Such death certificate states that decedent A. C. was buried on or about February 10, 2006. Pet. Exh. 45.
70. Such death certificate states that decedent A. C.'s body was not embalmed. Pet. Exh. 45; Tr. 5/1/07, pp. 86-87.
71. Hartford Trade's written statement of goods and services selected for decedent A. C.'s funeral arrangements, dated April 28, 2006, improperly lists a charge for embalming. Pet. Exh. 45.
72. The written statement of goods and services for decedent A. C. incorrectly states that refrigeration was required by "law, cemetery or crematory requirements." Pet. Exh. 46.
73. There is insufficient evidence to establish that Hartford Trade's written statement of goods and services for decedent A. C.'s funeral arrangements, dated April 28, 2006, includes items not listed on its general price list. because to the extent that any such items were not on the general price list, they constitute services that are not routinely provide and are not required to be included on a general price list Pet. Exh. 16.

***Count Twenty***

74. On or about April 28, 2006, J. C. died in West Hartford, Connecticut. Pet. Exh. 36.
75. On or about April 28, 2006, respondent and/or agents of Hartford Trade removed decedent J. C.'s body from his home in West Hartford pursuant to Hartford Trade's contract with OCME. Pet. Exh. 35.
76. On or about May 25, 2006, an agent for Hartford Trade applied to the West Hartford Probate Court for custody and control of decedent J. C.'s remains, which was awarded on June 1, 2006. Pet. Exh. 36.
77. On or about June 1, 2006, respondent submitted an application to West Hartford Probate Court to become the temporary administrator of decedent J. C.'s estate. Pet. Exh. 36.
78. J. C. B. was a first cousin of decedent J. C. Pet. Exh. 37; Tr. 5/1/07, p. 23.
79. There is insufficient evidence that on or about June 13, 2006, Ms. B. [*i.e.*, J. C. B.] contacted the Coventry Funeral Home in her capacity as next of kin or that no Coventry Funeral Home employee offered to discuss decedent J. C.'s funeral arrangements with her.
80. The West Hartford Probate Court did not authorize respondent to provide and/or charge for funeral goods and services prior to the rendering of such goods and services. Pet. Exh. 37.
81. There is insufficient evidence to establish that on or about June 15, 2006, Ms. B. attended the funeral Mass for decedent.
82. There is insufficient evidence to establish that on or about June 16, 2006, Ms. B. attended the graveside service for decedent.
83. On or about June 16, 2006, Ms. B. contacted the West Hartford Probate Court and made it aware that she was related to decedent. Pet. Exh. 37.
84. There is insufficient evidence to establish that on or about June 16, 2006, Ms. B. requested respondent and/or his agent to provide her with a price list of available goods and services and a final statement of goods and services selected. In any event, the respondent had been appointed temporary administrator of decedent's estate, and the respondent, in his capacity as temporary administrator, was responsible for making arrangements, not Ms. B.
85. On or about June 27, 2006, Coventry Funeral, respondent and/or his agent submitted an itemized statement of goods and services selected to the West Hartford Probate Court, requesting authorization to make payment for the funeral arrangements. Pet. Exh. 40.

86. There is insufficient evidence to establish that during August 2006, Ms. B. received a copy of the general price list. Pet. Exh. 37.
87. There is insufficient evidence to establish that Coventry Funeral improperly charged for refrigerated storage of decedent J. C.'s remains when the decedent was in the custody of the OCME, and physically housed with Hartford Trade and/or Coventry Funeral.
88. Coventry Funeral's itemized statement of goods and services selected for decedent's funeral included items not on the general price list of Hartford Trade. Pet. Exhs. 15, 17, 40.
89. There is insufficient evidence to establish that Coventry Funeral's itemized statement of goods and services selected for decedent J. C. improperly lists separate charges for services that were included in the non-declinable charge for the Basic Services of Funeral Director and Staff. Tr. 5/1/07, pp. 49-52.
90. There is insufficient evidence to establish that the itemized statement for decedent J. C.'s funeral arrangements improperly includes items that were required to be included on the general price list, but which were not on the general price list.
  - a. dumpster fee;
  - b. probate fee;
  - c. refrigeration;
  - d. office work, life insurance;
  - e. research, probate hearing;
  - f. use of hearse;
  - g. use of limousine;
  - h. use of sedan; and/or,
  - i. use of service/utility vehicle.Pet. Exhs. 37, 40; Tr. 5/1/07, pp. 49-52.

***Count Twenty-One***

91. On or about October 18, 2005, H. G. died in Columbia, Connecticut. Pet. Exh. 5; Tr. 3/29/07, pp. 104-105.
92. On or about October 18, 2005, respondent and/or agents of Hartford Trade removed decedent H. G.'s body from her home in Columbia pursuant to its contract with OCME. Pet. Exhs. 2, 11; Tr. 3/29/05, p. 145.
93. The evidence is insufficient to establish that the human remains of decedent H. G. were in the care of OCME, and physically housed with Hartford Trade. Pet. Exh. 5; Tr. 3/29/07, p. 147.

94. The evidence is insufficient to establish that Hartford Trade improperly charged decedent H. G.'s estate for refrigerated storage of H. G.'s remains while her remains were in the custody of OCME. Tr. 3/29/07, pp. 147-154.
95. Hartford Trade's written statement of goods and services selected, submitted to decedent H. G.'s estate, included items not on its general price list, such as: (a) refrigeration; (b) sanitary care; (c) retrieval of cremains; (d) urn; and, (e) various research, travel, meetings, paperwork and/or arrangements. However, there is insufficient evidence to establish that any such failure was improper because to the extent that items were not on the general price list, they were not routine services and were not required to be included on the price list. Pet. Exh. 3; Tr. 3/29/07, pp. 158-160, 162-164.
96. The evidence is insufficient to establish that Hartford Trade improperly charged decedent H. G.'s estate an additional fee for an alternative cremation container required for the cremation. Tr. 3/29/07, pp. 164-165, 168.
97. The evidence is insufficient to establish that Hartford Trade improperly billed decedent H. G.'s estate for transportation of decedent H. G.'s remains that was covered by its contract with OCME to provide body service transportation. Tr. 3/29/07, p. 147.

#### ***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence.

*Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S. Ct. 999, *reh'g denied*, 451 U.S. 933 (1981); *Bender v. Clark*, 744 F. 2d 1424 (10th Cir. 1984); *Sea Island Broadcasting Corp. v. F.C.C.*, 627 F. 2d 240, 243 (D.C. Cir. 1980); all as cited in *Bridgeport Ambulance Service, Inc., v. Connecticut Dept. of Health Services*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

The Board relied on the training and experience of its members in making its findings of facts and conclusions of law. *Pet v. Department of Health Services*, 228 Conn. 651, 667 (1994).

The Department alleges that respondent's license is subject to disciplinary action pursuant to §20-227 of the Statutes which provides, in pertinent part:

[t]he . . . board may take any 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 or such business or profession; (5) violation of or noncompliance with the provisions of this chapter or the rules established hereunder; . . . (7) aiding or abetting the practice of embalming or funeral directing by an unlicensed person; . . .

In presenting its case, the Department relied on decedents' records that were obtained from respondent and/or various Probate Courts, where applicable, and the testimony of twelve witnesses, including seven of respondent's former and current employees, and Department investigator and expert witness, Edward Bergin.

With respect to the general allegations of the Charges, that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 2251 and has been the owner and/or manager of Hartford Trade, East Hartford, Connecticut and/or Coventry Funeral Service, Coventry, Connecticut; respondent admits these allegations. Respondent also admits that Hartford Trade and Coventry Funeral are funeral service businesses holding inspection certificates 467 and 483, respectively.

With respect to the allegations contained in Count One, the Department proved by a preponderance of the evidence that during 2005-2006, respondent aided and abetted the unlicensed practice of embalming, in violation of §§ 20-212<sup>1</sup> and 20-227(7) of the Statutes, but failed to establish that unlicensed persons were engaged in the practice of funeral directing, in violation of § 20-227(7).

Leah Gonzalez, former embalmer apprentice; Michaela Branch, licensed embalmer; Lori Richardson, former embalmer apprentice; Darlene Rau, licensed embalmer; Scott Masamery, former licensed embalmer/funeral director/manager at Hartford Trade; Kathryn Matthews, former embalmer apprentice; and, Sheri Blews, former embalmer apprentice and currently licensed embalmer and manager at Hartford Trade, all testified that during 2005-2006, there were unlicensed persons engaged in the practice of embalming at Hartford Trade and/or Coventry Funeral. Each of the witnesses consistently testified that Sheri Blews, Kathryn Matthews, Leah Gonzalez, Lauren Black, Lori Richardson, all of whom were unlicensed at the time, engaged in the practice of embalming. Some of the witnesses admitted that they also performed embalming tasks while they were unlicensed apprentices under the supervision of

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<sup>1</sup>This section provides:

No person, except a licensed embalmer, shall inject any fluid or substance into any dead human body, except that a registered student embalmer may, even if not in the presence of a licensed embalmer, make such injection or perform any other act under his instruction; and no person, . . . shall enter, engage in, carry on or manage for another the business of caring for preserving or disposing of dead human bodies until each person, . . . so engaged has obtained from the Department of Public Health . . .; nor shall any person be employed to remove a dead human body, except a licensed embalmer, a registered student embalmer, a licensed funeral director, . . .

Darlene Rau, until she left Hartford Trade, and later under Scott Masamery who replaced Ms. Rau. They also admitted that they conferred with Sheri Blews, who was also unlicensed, if they needed assistance or had questions when Scott Masamery or respondent was not available.

The Board further finds that the respondent, Mr. Riley, was aware that unlicensed individuals were improperly performing embalming services and that the respondent directed and approved of such practice. The Board credits the testimony of Darlene Rau and Scott Masamery that their authority as managers was limited, and further credits their testimony that the respondent, Mr. Riley, referred student embalmers and less experienced embalmers to Sheri Blews, an unlicensed person, for guidance on how to perform embalming services. The Board finds, however, that the Department did not sustain its burden of proof that respondent aided or abetted the unlicensed practice of funeral directing. Specifically, none of the witnesses testified that they made any funeral arrangements, and the Department did not offer any evidence to rebut their testimonies.

With respect to the allegations contained in Count Two, the Department met its burden of proof that during 2005-2006, respondent violated §20-224(a)<sup>2</sup> of the Statutes by employing more than two apprentice embalmers at any one time at the facility, without the approval of the Board.

It is undisputed that respondent employed more than two apprentice embalmers at a time by assigning two of the apprentices to the Hartford Trade facility, two others at Coventry Funeral, two more at DeLeon Funeral Home, and two more at the Southern Connecticut Funeral Home. The apprentices were working either under respondent's license or under the license of his former manager, Scott Masamery. However, since it was not clear at the time that respondent's practice of assigning student embalmers to different facilities at the same time was prohibited, respondent formally requested the Board's clarification of this issue. Resp. Exhs. 8, 10. Subsequently, the Board determined that a funeral home may not employ more than a total of two apprentice embalmers no matter how many locations it operates, without Board approval to do so. Resp. Exh. 12. Because respondent lacked notice of this interpretation, and because

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<sup>2</sup>This section provides:

The provisions of sections 20-217, 20-220 and 20-227 shall not prohibit the employment of assistants or of student, embalmers and student funeral directors as provided in this chapter, provided a licensed funeral service business may employ no more than two student embalmers at any one time, . . . without the approval of the Board of Examiners of Embalmers and Funeral Directors.

the respondent had specifically asked for an interpretation, the Board finds that these violations do not rise to a level that warrants disciplinary action.

With respect to the allegations contained in Count Three, the Department did not sustain its burden of proof that respondent and/or agents for Hartford Trade and/or Coventry Funeral offered, sold, and/or delivered goods and services that were not listed on their respective general price lists, including refrigeration, retrieval of cremains, urns, sanitary care and pouching, use of pallbearers, transfers to crematories, trips to their domiciles and Probate Court, office work and/or research, in violation of §§20-227(2), 20-227(4), 20-227(5), and/or 20-230a<sup>3</sup> of the Statutes.

The Board finds that items such as refrigeration and sanitary care and pouching, if offered, should be on the funeral home's general price list. Items such as the use of pallbearers, transfers to crematory, trips to domicile and probate court, office work and research which are generally not offered as goods and services provided by licensed embalmers, are not expected to be on the general price list. Although Hartford Trade is a licensed funeral home, it typically does not deal with the general public, and the services that respondent provides as the owner of Hartford Trade exceeded the scope of embalming services and funeral arrangements that licensed embalmers generally provide. Therefore, the Board finds no violation with respect to Hartford Trade. The Board also finds that while Coventry Funeral deals with the public, it is not required to list refrigeration, sanitary care and pouching on its general price lists. Thus, there is no violation of the Statutes with respect to Coventry Funeral.

With respect to the allegations contained in Count Four, the Department did not sustain its burden of proof, except with respect to decedent A. C., that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral represented to various families of deceased individuals and probate courts that they delivered or provided goods and/or services that, in fact, were not supplied, in violation of §§20-227(2), 20-227(4), 20-227(5), and/or

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<sup>3</sup> This section provides:

No licensed funeral director or licensed embalmer shall offer to sell services to arrange for or conduct funerals or offer to sell any merchandise used in connection with a funeral without first providing the purchaser of such services or merchandise with an itemized price list of all available services and merchandise and every such purchaser shall also be informed by such funeral director or embalmer, prior to entering into any sales agreement, of the right to select only such services or merchandise which the purchaser so desires.

20-230b<sup>4</sup> of the Statutes. These services concerned the use of hearses and sedans, the certification of death, refrigeration of remains, and embalming.

Michael Kroll, Superintendent of the Walnut Grove Cemetery and full-time crematorium operator, testified that his organization provided cremation services to respondent and/or his agents for Hartford Trade and Coventry Funeral. Specifically, Mr. Kroll testified that during the relevant timeframe, respondent delivered bodies to his crematorium for cremation that were contained in doeskin, regular caskets, cremation caskets, or in body bags on stretchers, and that the bodies were delivered sometimes in hearses, but more frequently in minivans. Tr. 6/12/07, pp. 32-33, 35, 43-45. Thus, Mr. Kroll's testimony rebutted the Department's allegations regarding respondent's transporting of bodies to the crematorium.

With respect to the allegations concerning whether death certificates were certified, remains were refrigerated, and embalming services were provided, the Department failed to establish by a preponderance of the evidence that respondent made any misrepresentations concerning whether these services were provided or failed to supply such goods and services, except with respect to decedent A. C., when respondent and/or agents for Hartford Trade and/or Coventry Funeral charged for embalming services that were not provided. However, the Board finds that this one incident does not establish that respondent engaged in a pattern or practice of intentional violations, and that this one incident does not warrant the imposition of discipline.

With respect to allegations contained in Count Five, for the reasons discussed above in Count Three, the Department failed to sustain its burden of proof that during 2004-2006, respondent's agent(s) improperly billed for the delivery of goods and/or services that, in fact, were not supplied, except for A. C.'s family that was improperly billed for embalming services that were not provided. However, the Board finds that this one incident is not symptomatic of a

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<sup>4</sup>This section provides:

No person engaged in the business of funeral directing and no licensed funeral director or licensed embalmer shall fail to provide the person making funeral arrangements or arranging for disposition of a dead human body, at the time funeral arrangements are completed and prior to the time of rendering service or providing merchandise, a written statement indicating to the extent then known: (1) [t]he price of the service that the person has selected and what is included therein; (2) the price of each supplemental item of service or merchandise requested; (3) the amount involved for each of the items for which the funeral firm will advance money as an accommodation to the family of the deceased; and (4) the methods of payment. No person engaged in the business of funeral directing and no licensed funeral director or licensed embalmer shall bill or cause to be billed any item that is referred to as a "cash advanced" item unless the net amount paid for such item by the funeral firm is the same as is billed by the funeral firm.

pattern or practice of intentional violations and that this one incident does not warrant the imposition of discipline.

With regard to the allegations contained in Count Six, the Department sustained its burden of proof that during 2004-2006, respondent and/or agents for Hartford Trade and/or Coventry Funeral submitted to various governmental agencies, death certificates that were not accurate, in violation of §§20-227(2), 20-227(4), 20-227(5) and 7-45<sup>5</sup> of the Statutes.

The Board finds that with respect to decedents J. D., S. S., R. L., and A. C., respondent filed death certificates with various governmental agencies with incorrect dates of disposition, and that amended death certificates for J. D., R. L., and H. G. were not filed on a timely basis. However, the Board does not find that such instances establish a pattern or practice of intentional violations.

With respect to the allegations contained in Count Seven, the Department sustained its burden of proof that respondent and/or agents for Hartford Trade and/or Coventry Funeral failed to obtain burial transit removal permits within five calendar days of various decedents' deaths (e.g., E. E., A. D., S. S., and R. L.) and failed to file death certificates no later than five days after the decedents' deaths, in violation of §§7-65<sup>6</sup>, and 7-62b<sup>7</sup>, respectively, of the Statutes. See,

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<sup>5</sup> This section provides that: "[e]ach person making any certificate of . . . death . . . shall cause the same to be typewritten or printed in a legible manner as to all material information or facts required . . ."

<sup>6</sup> This section provides:

The embalmer or funeral director licensed by the department, . . . who assumes custody of a dead body shall obtain a burial transit removal permit from the registrar of the town in which the death occurred not later than five calendar days after death, and prior to final disposition or removal of the body from the state. The burial permit shall specify the place of burial or other place of interment and state that the death certificate and any other certificate required by law have been returned and recorded . . .

<sup>7</sup> This section provides:

A death certificate for each death which occurs in this state shall be completed in its entirety and filed with the registrar of vital statistics in the town in which the death occurred no later than five days after death if filing a paper certificate . . . in order to obtain a burial permit prior to final disposition. The death certificate shall be registered if properly filed. If the place of death is unknown but the body is found in this state, the death certificate shall be completed and filed in accordance with this section, provided the place where the body is found shall be shown as the place of death.

The funeral director or embalmer licensed by the department, . . . in charge of the burial of the deceased person shall complete the death certificate on a form provided by the department. Said certificate shall be filed by a licensed embalmer . . . in accordance with the provisions of this section, . . . The Social Security number of the deceased person shall be recorded on such certificate. Such licensed funeral director or licensed embalmer shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain a medical certification from the person responsible therefore, . . .

Findings of Fact, ¶¶ 12-13. However, the Board finds that the timely filing of death certificates or the obtaining of burial transit removal permits on a timely basis was not within respondent's and/or his agents' control. Therefore, such violations do not warrant disciplinary action.

With respect to the allegations contained in Count Eight, the Department failed to sustain its burden of proof that respondent and/or agents for Hartford Trade: (a) failed to maintain a current and accurate itemized price list of services and goods; (b) maintained multiple, itemized price lists with different prices for the same items; (c) failed to provide purchasers with itemized, written statements prior to rendering services or providing merchandise; (d) failed to maintain a copy of itemized, written statements and provide the Department, upon request, with copies of such statements given to purchasers; and/or (e) failed to follow the published price lists when billing for merchandise and/or services, in violation of §§20-227(2), 20-227(4), 20-227(5), 20-230a, and/or 20-230b of the Statutes, or 20-211-34 of the Regulations. *See*, Findings of Fact, ¶¶ 14-18. Moreover, with respect to those cases where Mr. Riley had been appointed fiduciary of the decedent estate, the Board finds that it would not be reasonable, and not consistent with the intent and purposes of the statutes, to interpret the statutes as requiring Mr. Riley, as owner/manager of Hartford Trade and Coventry Funeral Home, to provide a prior written statement of goods and services to himself, as fiduciary of the decedent estate. In all such cases the amount to be paid by the decedent estate to Hartford Trade or Coventry Funeral was subject to subsequent probate court review and approval.

With regard to the allegations contained in Count Nine, the Department failed to sustain its burden of proof that respondent and/or agents for Hartford Trade: (a) improperly failed to provide purchasers of funeral services and merchandise with written statements itemizing the purchasers' selections, the prices of such selections, and/or delineation of cash advances prior to the delivery of such services and merchandise; (b) improperly failed to supply copies of the aforementioned statements to the Department; (c) and/or failed to follow the published price lists when billing for merchandise and/or services, in violation of §§20-227(2), 20-227(4), 20-227(5), 20-230a, and/or 20-230b of the Statutes. *See*, Findings of Fact, ¶¶ 19-20.

With respect to the allegations contained in Count Ten, the Department failed to sustain its burden of proof that during 2004-2006, while Hartford Trade was under contract with OCME to provide body service transportation, for a fee, that respondent and/or agents for Hartford Trade: (a) misrepresented the need to pay for the transportation of a decedent's remains to

Hartford Trade; and/or (b) billed the estates of decedents for transportation of decedents that was covered by the contract with OCME, in violation of §§20-227(2), 20-227(4), 20-227(5), and/or 20-230b of the Statutes, and 20-211-34 of the Regulations. The Board finds that the OCME contract explicitly covers removals only; thus, there is no violation. *See*, Findings of Fact, ¶21.

With regard to the allegations contained in Count Eleven, the Department did not sustain its burden of proof that during 2004-2006, respondent and/or agents for Hartford Trade improperly charged decedents' estates and/or decedents' families for alternative cremation containers, in violation of §§ 20-227 (2), 20-227(4), 20-227(5), and/or 20-230b of the Statutes, and 20-211-34 and/or 20-211-35 of the Regulations.

With regard to the allegations contained in Count Twelve, the Department did not sustain its burden of proof that during 2004-2006, respondent and/or agents for Hartford Trade improperly charged for funeral arrangements by separating billing additional fees for services that were included in the Basic Services of Funeral Director and Staff fees, in violation of §§20-227(2), 20-227(4), 20-227(5), and/or 20-230b of the Statutes. The Board finds that the additional services and fees (*e.g.*, office work, research, and trips to the domicile and probate court) for which respondent charged the decedent's estate or the person making the funeral arrangements generally are *not* included in the Basic Services of Funeral Director/staff fees.

With respect to the allegations contained in Count Thirteen, the Department did not meet its burden of proof that Hartford Trade did not have a bathroom available for public use, in violation of §§19-13-B106<sup>8</sup> of the Regulations and 20-227 of the Statutes. The Board finds that the bathroom in question at the Hartford Trade facility was available to the public, although the public generally did not frequent this facility.

With regard to the allegations contained in Count Fourteen, the Department did not meet its burden of proof that during 2004-2006, respondent and/or agents of Hartford Trade, while maintaining remains pending disposition under the OCME contract, improperly offered to make funeral service arrangements for decedents and/or sought administration and/or administered the estates of such decedents; in violation of §§20-227(2), 20-227(4) and 20-227(5) of the Statutes. *See*, Findings of Fact, ¶¶ 25-28.

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<sup>8</sup> This section provides that: "[t]oilet and hand washing facilities accessible to the public and separated for each sex, shall be provided at new or extensively renovated public buildings, places of public assembly, . . ."

With respect to the allegations contained in Count Fifteen, the evidence establishes that when respondent was awarded custody and control of decedent J. D.'s remains by the Meriden Probate Court, he erroneously informed the Court that decedent J. D.'s son was in prison, and that respondent cremated decedent J. D.'s remains without any consultation with her son. The evidence also establishes that decedent's death certificate, which bears respondent's name, incorrectly states that decedent J. D. was cremated on August 31, 2006, when she was cremated on August 24, 2006. Based on the totality of the evidence, the proven violation, with respect to the erroneous date on the death certificate, does not rise to a level warranting discipline. Any disposition of property of J.D. or J.D.'s son without probate court authorization is outside the scope of embalming or funeral directing and not subject to review by this Board. . *See*, Findings of Fact, ¶¶ 29 -43.

With respect to the allegations contained in Count Sixteen, the Department did not sustain its burden of proof that during 2004-2006, respondent and/or his agents improperly billed for "cash advance" items for funeral arrangements, by failing to bill the net amount paid for such items and/or improperly charged additional fees for merchandise that was provided by the purveyor of cash advance items for funeral arrangements, in violation of §§ 20-227(2), (4), (5), and 20-230b of the Statutes, and 20-211-34 and 20-211-35 of the Regulations.

With regard to the allegations contained in Count Seventeen, the Department did not sustain its burden of proof that respondent improperly charged the decedent's estate for 49 days of refrigerated storage of decedent's remains; failed to timely dispose of S. S.'s remains; and failed to provide the person arranging for final disposition of decedent S. S.'s remains a written statement of the prices of goods and services, including transportation fees, pallbearers, and/or cooler fees, prior to the rendering of the service, in violation of §§7-64. 20-230b, and 20-227(2), (4), and (5) of the Statutes and 20-211-34 of the Regulations. Specifically, the Board finds that the 30 days that S. S.'s remains were in Hartford Trade's custody following Probate court authorization was not an unreasonable amount of time. The Board also finds that the Department failed to establish by a preponderance of the evidence that the prices of goods and services for S. S.'s funeral arrangements were inconsistent because there is only one statement of goods and services in the record. The Board further finds that OCME was only responsible for the costs of

removal pursuant to its contract with Hartford Trade and that the respondent did not improperly charge the estate for all 49 days that the decedent's remains were in storage. *See*, Findings of Fact, ¶¶ 46-57.

With regard to the allegations contained in Count Eighteen, the Department met its burden of proving that Hartford Trade performed a removal of decedent R. L. from his home pursuant to a contract with OCME; respondent filed an inaccurate death certificate for R. L. that was not timely corrected; and, that Hartford Trade's written statement of goods and services included items not on its general price list, including transfer fee and/or office work, research, paperwork, and/or trip to house and Probate Court. However, the Department did not establish by a preponderance of the evidence that respondent improperly charged R. L.'s estate for refrigerated storage of decedent R. L.'s remains for the period of February 6, 2006 through February 28, 2006, or that Hartford Trade improperly charged decedent's estate an additional fee for an alternative cremation container. Furthermore, to the extent that charges were made for items not on the price list, the charge was for items that are not required to be included on the general price list. The Board also finds that respondent's filing of the decedent's death certificate with the incorrect cremation date was a "technical violation" that does not warrant disciplinary action. *See*, Findings of Fact, ¶¶ 58-66.

With regard to the allegations contained in Count Nineteen, the Department established by a preponderance of the evidence that respondent and/or an agent of Hartford Trade erroneously charged the decedent's estate for embalming instead of sanitary care and pouching, and that respondent mistakenly included disclosure language about refrigeration in the wrong section of the written statement of goods and services. However, the Board finds that such violations are "technical," and, based on the totality of the evidence, do not warrant disciplinary action. *See*, Findings of Fact, ¶¶ 67-73.

With regard to the allegations contained in Count Twenty, the Department did not meet its burden of proof that respondent and/or agents for Hartford Trade and/or Coventry Funeral: (a) did not offer to discuss the funeral arrangements of J. C.'s next of kin; (b) failed to provide the next of kin with a listing of goods and services upon request; (c) provided goods and services for decedent J. C. without first providing an itemized price list of all available services and merchandise to the West Hartford Probate Court; and (d) improperly charged for refrigerated storage of decedent's remains. Furthermore, there is no requirement that prior approval of the probate court be obtained. The Department also failed to sustain its burden of proof that

Coventry Funeral's itemized statement of goods and services selected for decedent J. C. improperly lists separate charges for services that were included in the non-declinable charge for the Basic Services of Funeral Director and Staff; and that such written itemized statement for J. C.'s funeral arrangements includes items not on the general price list, including, but not limited to: (a) dumpster fee; (b) probate fee; (c) refrigeration; (d) office work, life insurance; (e) research, probate hearing; (f) use of hearse; (g) use of limousine; (h) use of sedan; and/or (i) use of service/utility vehicle, in violation of §§ 20-227(2), (4), (5), 20-230a, and 20-230b of the Statutes. Specifically, the Board finds that items such as dumpster fees, probate fees, and fees for refrigeration, office work, life insurance, research, and the probate hearing do not belong on an itemized price list, while items, such as the use of a hearse, limousine, sedan, and/or service/utility vehicle are on Coventry Funeral's itemized price list. Thus, no disciplinary action is warranted. *See*, Findings of Fact, ¶¶ 74-90.

With regard to the allegations contained in Count Twenty-One, the Department failed to establish by a preponderance of the evidence that respondent and/or agents for Hartford Trade improperly charged decedent H. G.'s estate for transportation, refrigerated storage of H. G.'s remains, or an alternative cremation container required for the cremation. The Department established by a preponderance of the evidence that Hartford Trade's statement of goods and services submitted to H. G.'s estate included items not on its general price list. However, to the extent that charges were asserted for items not on the price list, there is no requirement that the item be included on the price list. *See*, Findings of Fact, ¶¶ 91-97.

Based on the foregoing, the Board finds that respondent's license is subject to disciplinary action for the allegations contained in Count One, which the Department proved by a preponderance of the evidence. While the Board also finds that the Department proved by a preponderance of the evidence allegations contained in ¶¶ 10 and 11 in Count Six; ¶¶ 35, 38, and 41 in Count Fifteen; ¶ 56 in Count Seventeen; ¶¶ 61, 62, and 65 in Count Eighteen, ¶¶ 70-72 in Count Nineteen, ¶ 88 in Count Twenty; and, ¶ 95 in Count Twenty-One, the Board also finds that such violations consisted of "technical violations" and/or areas over which respondent had no control. Overall, the Board finds that such violations do not warrant disciplinary action. Accordingly, the Board concludes that there is sufficient basis upon which to issue the following order.

**Order**

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by §§ 19a-17 and 20-227 of the Statutes, the Board orders the following in the case of Kevin Riley, Petition number 2006-0427-030-006, who holds Connecticut embalmer license number 2251:

1. Respondent's license number 2251 to practice as an embalmer in the State of Connecticut is reprimanded.
2. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.

This Order is effective as of the date of signature.

Connecticut Board of Examiners for  
Embalmers and Funeral Directors

Dec-2, 2008  
Date

Celia Pinzi  
By: Celia Pinzi, Chairperson

**CERTIFICATION**

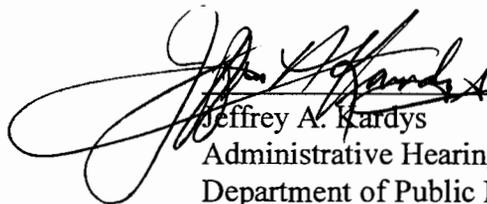
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 2nd day of December 2008, by certified mail, return receipt requested, to:

John F. Droney, Jr., Esq.  
Levy and Droney  
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74 Batterson Park Road  
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Certified Mail RRR #91-7108-2133-3932-0551-0201

and by Inter-Departmental Mail to:

Stanley K. Peck, Director  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
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Jeffrey A. Kardys  
Administrative Hearings Specialist/Board Liaison  
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