

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES**

In re: Byles McDougal Funeral Home

Petition No. 991027-056-010

CONSENT ORDER

WHEREAS, Byles McDougal Funeral Home of New London (hereinafter "respondent") has been issued inspection certificate number 000139 to conduct business as a funeral home by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 385 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. During July 1999, the family of decedent Ken Lee contacted the Byles McDougal Funeral Home, New London, Connecticut, to make funeral arrangements for the decedent.
2. Members of the Lee family met with the staff at the funeral home to make the arrangements.
3. The Byles McDougal Funeral Home failed to provide the family with a vault price list, a casket price list, or an itemized funeral purchase agreement. These disclosures are required by 16 CFR Part 543.
4. The family requested a specific time period for calling hours. Respondent opened the funeral home late for the afternoon session.
5. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-227.

WHEREAS, respondent, in consideration of this Consent Order has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before the Connecticut Board of Examiners of Embalmers and Funeral Directors (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10 and 19a-14 and 20-227 of the General Statutes of Connecticut.

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

1. Respondent waives its right to a hearing on the merits of this matter.
2. Respondent's inspection certificate number 000139 to conduct business as a funeral home in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of one thousand dollars (\$1,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.
4. Respondent's inspection certificate shall be placed on probation for a period of one year under the following terms and conditions:
 - a. Respondent shall immediately submit to Bonnie Pinkerton at the Department of Public Health a copy of its current casket price list, outer burial container price list, and general price list, and shall subsequently revise them to conform to all applicable federal and state statutes and regulations if the Department finds that they do not so comply.
 - b. Respondent shall in all future transactions give each customer a copy of the approved casket price list, outer burial container price list, and general price list, at the time that the customer inquires about respondent's funeral services, and shall

obtain from each such customer a signature on a separate form, approved by the Department, that said customer has received each of the aforesaid price lists.

- c. Respondent shall keep each aforesaid signed form on file for three years.
- d. Respondent shall obtain at his own expense, the services of an embalmer, pre-approved by the Department (hereinafter "supervisor"), to conduct a bi-monthly random review of all customer files opened in the previous month and any other necessary records, in order to ensure compliance with paragraphs 4.a., 4.b., and 4.c.

The monitor shall file a report of his findings with the Department.

5. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

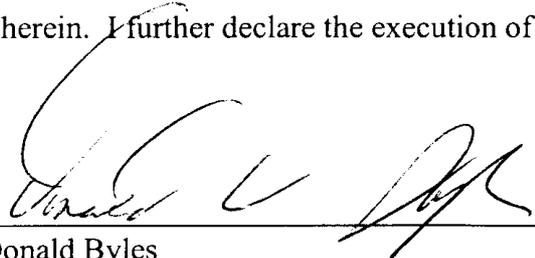
- 6. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
- 7. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
- 8. Respondent shall pay all costs necessary to comply with this Consent Order.
- 9. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
 - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.

- c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 9.a. above to demonstrate to the satisfaction of the Department that it has complied with the terms of this Consent Order or, in the alternative, that it has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, it shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.
 - e. Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
10. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from operating as a funeral service business, upon request by the Department, with notice to the Board for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's inspection certificate. In any such summary action, respondent stipulates that its failure to cooperate with the Department's investigation shall constitute an admission that its conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).
11. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of its inspection certificate before the Board.

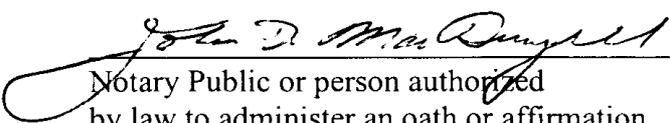
12. In the event respondent is not employed as a funeral service business for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order.
13. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
14. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.
15. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which his compliance with this Consent Order or with §20-227 of the General Statutes of Connecticut, as amended, is at issue.
16. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
17. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that it may have under the laws of the State of Connecticut or of the United States.
18. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

19. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted.
20. Respondent has the right to consult with an attorney prior to signing this document.

I, Donald Byles, President of Byles McDougall Funeral; Home, have read the above Consent Order, and I affirm that I am fully authorized and empowered to bind said funeral home. I hereby stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.


Donald Byles

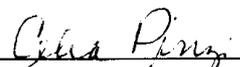
Subscribed and sworn to before me this 1st day of October 2001.


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

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 25th day of October 2001, it is hereby accepted.


Debra Turcotte, Director
Division of Health Systems Regulation

The above Consent Order having been presented to the duly appointed agent of the Board on the 13 day of November 2001, it is hereby ordered and accepted.


Connecticut Board of Examiners of Embalmers
and Funeral Directors

EMS/Bylesk/CO



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

March 7, 2003

Donald Byles
Byles-MacDougall Funeral Home
99 Huntington Street
New London, CT 06320-6617

Re: Consent Order
Petition No. 991027-056-010
Certificate No. 000139

Dear Mr. Byles:

Please accept this letter as notice that the terms of the above-referenced Consent Order have been satisfied, effective 12/1/02. Notice of such shall be sent to the Department's Licensure and Registration section.

Please be certain to retain a copy of this letter.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RNC
Division of Health Systems Regulation

cc: J. Filippone



Phone: (860) 509-7400
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