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FILED WITH THE BOARD
OF MORTUARY SCIENCE
ON August 29, 1997

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MORTUARY SCIENCE

IN THE MATTER OF THE SUSPENSION)
OR REVOCATION OF THE LICENSES)
AND REGISTRATION OF:)
)
CAROLYN M. WHIGHAM)
LICENSE NO. JP3888)
)
TERRY FORT)
LICENSE NO. JP4112)
)
KYLE LEDFORD)
LICENSE NO. JP4193)
)
AND THE WHIGHAM FUNERAL)
HOME, INC.)
REGISTRATION NO. JB00304)
)
TO PRACTICE MORTUARY SCIENCE AND)
TO OPERATE A REGISTERED MORTUARY)
IN THE STATE OF NEW JERSEY)

Administrative Action
CONSENT ORDER

This matter came before the Board of Mortuary Science (the "Board") upon information received pertaining to respondents' alleged violations of certain administrative regulations promulgated by the Department of Human Services governing the receipt of monies by licensees of the Board from County Welfare Agencies in relation to publicly subsidized funerals and burials.

Respondent Carolyn M. Whigham, is the Manager of the respondent corporate registrant, the Whigham Funeral Home, Inc. (hereinafter "respondent Funeral Home"). Respondents Terry S. Fort

and Kyle Ledford were or are employees of respondent Funeral Home, although respondent Fort and respondent Ledford were not employed by respondent Funeral Home at all times pertinent to the matter described herein.

The regulations alleged to have been violated provide that eligible persons may receive public assistance in the form of funeral and burial monies at county expense. These monies may be received pursuant to the Supplemental Security Income (S.S.I.) and Medicaid programs. See, N.J.A.C. 10:83-1.3. Such monies may also be received pursuant to the Aid to Families with Dependent Children (AFDC) program. N.J.A.C. 10:81-7.21. Similarly, public monies may be received by eligible persons pursuant to the General Public Assistance program. N.J.A.C. 10:85-4.8. Regardless of the public assistance program implicated in a given instance, the above-cited regulations establish identical eligibility criteria and conditions. The maximum allowance for which county welfare agencies will reimburse Board licensees for funeral expenses is \$1,970. The maximum allowance which a cemetery may receive from county welfare agencies is \$460. The total maximum allowances for funerals and burials subsidized at public expense is \$2,430.¹

¹ Since the alleged violations which are the subject of this Order, the above regulations have been superseded by the provisions of the statute known as "Work First New Jersey" ("WFNJ") and the provisions of subchapter 8 of the regulations adopted pursuant to the WFNJ statute. See N.J.A.C. 10:90-8.1 et seq. The new regulation permits funeral providers to accept contributions from next of kin and interested persons not to exceed \$1,570, provided that said monies are not derived from the decedent's estate or insurance proceeds. Under prior regulations, contributions from next of kin and interested persons, regardless of their source, were required to be forwarded to the County Welfare Agencies to

The above-referenced regulations provide that the payments made by county welfare agencies for the funeral and burial allowances described in the preceding paragraph are to be reduced by the combined available resources of the decedent and the sum of all contributions from next of kin and other interested parties. Said resources and contributions are defined to include both cash and life insurance.

The investigation conducted by the Attorney General and the Board concerned whether respondents caused, allowed or acquiesced in the violation of the above regulatory scheme.

Respondents, desiring to resolve this matter without formal proceedings, and to avoid protracted and expensive litigation, and without making any admissions regarding the conduct described herein; and it appearing that respondents have read the terms of the within Order and understand its meaning and effect and consent to be bound by same; and it further appearing that the within Order adequately protects the public health, safety and welfare, and it therefore appearing that good cause exists for the entry of the within Order,

IT IS THEREFORE, ON THIS 29th DAY OF AUGUST, 1997,

ORDERED AND AGREED:

1. Carolyn M. Whigham agrees to voluntarily surrender her license to practice mortuary science in the State of New Jersey on the effective date of this Order. Respondent Whigham agrees not to

off-set the cost of funerals and burials subsidized at the countys' expense.

perform any activities at the Funeral Home which may be performed only by licensees of the Board. Such activities include the embalming of remains of deceased persons and the making of funeral arrangements with families of decedents. The Whigham Funeral Home will retain as manager a licensee approved by the Board.

2. Respondent Whigham will continue to retain her ownership in the respondent Funeral Home and to receive compensation therefrom pending the sale of respondent Funeral Home. The right of respondent Whigham to sell respondent Funeral Home to a third party is presently the subject matter of proceedings in the Superior Court. Should the Court grant respondent Whigham's request to sell the Funeral Home, she agrees to immediately undertake to effect such sale and to employ her best efforts to effect such a sale within the six (6) month period following the determination of the Court. Upon said sale, respondent Whigham will be permitted to act without compensation as an advisor to the purchaser of respondent Funeral Home and the new corporate registrant for a period not to exceed sixty (60) days. During this sixty (60) day period, respondent Whigham agrees not to engage in any activities for which a license to practice mortuary science is required. Upon the sale of respondent Funeral Home, respondent Whigham will not have any ownership interest in, or employment with, any registered mortuary in the State of New Jersey.

3(a). Respondent Whigham Funeral Home, Inc. will pay a civil penalty and the cost of investigation in the amount of \$59,347.69. This sum shall be paid in six (6) equal monthly installments by a

certified check made payable to the State Board of Mortuary Science. The first of such payments will be made no later than the effective date of this Consent Order.

3(b). Restitution in the amount of \$44,164 will be made by respondent Funeral Home to the County of Essex. This sum shall be paid in six (6) equal monthly installments by a certified check made payable to the "County of Essex". Said checks shall be delivered to the Executive Director of the Board, with the first of such checks to be delivered no later than the effective date of this Consent Order.

3(c). In the event that the sale of the respondent Funeral Home shall take place at any time prior to the completion of the installment payments referred to in paragraphs 3(a) and 3(b) herein, and the Superior Court releases a portion of the sale proceeds to respondent Whigham, then to the extent that the funds released to respondent Whigham are equal to or exceed the balance of the scheduled installment payments remaining as provided for in paragraphs 3(a) and 3(b) above, any balance then remaining of the scheduled payments shall be paid in full within ten (10) days after the release of a sufficient amount of sale proceeds to respondent Whigham. If the Court does not order the distribution to respondent Whigham of sale proceeds in an amount sufficient to immediately thereafter pay the balance of the scheduled installment payments then unpaid and due under paragraphs 3(a) and 3(b) herein, any balance then remaining of the scheduled installment payments

provided for in paragraphs 3(a) and 3(b) above will be paid by the corporate registrant, i.e., the respondent Funeral Home.

4. Respondent Whigham agrees to advise the Board as soon as any closing date for the sale of respondent Funeral Home is established with reasonable certainty.

5. The license of respondent Terry Fort to practice mortuary science in the State of New Jersey will be suspended for a period of six (6) years, three (3) years of which will be an active suspension, and the remaining three (3) years of which will be served as a period of probation. Such suspension will be effective as of the date of the entry of this Consent Order. Respondent Fort may, however, apply to the Board for reinstatement of her license after the expiration of eighteen (18) months of her active suspension. The Board will entertain an application for reinstatement and permit respondent Fort and her attorney to personally appear in support of said application. At that time, respondent Fort shall demonstrate her compliance with the terms of this Order. The Board may, in its discretion, grant any relief from the terms of this Order as it deems appropriate.

6. The license of Kyle Ledford to practice mortuary science in the State of New Jersey will be suspended for a period of one (1) year, which suspension will be stayed and served as a period of probation. Said stayed suspension and period of probation shall commence as of the effective date of this Consent Order.

7. Respondents Fort and Ledford agree to comply with all of the regulations governing the furnishing of funerals at public

expense to persons who may be eligible therefor pursuant to
N.J.A.C. 10:90-8.2.

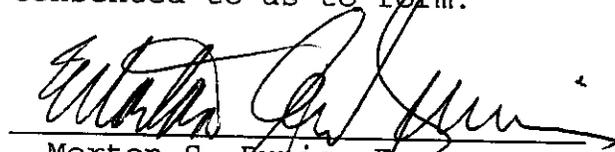
NEW JERSEY STATE BOARD
OF MORTUARY SCIENCE

By: Donald Codey
Donald Codey, President

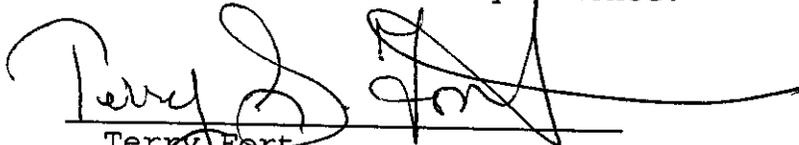
I have read the above Order and I agree to be bound by its terms. I consent to the entry of this Order by the State Board of Mortuary Science.

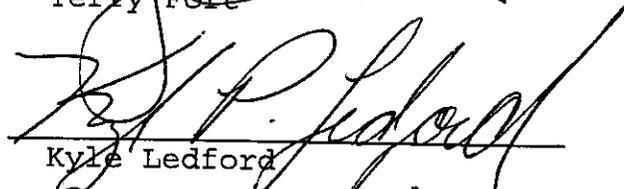

Carolyn M. Whigham

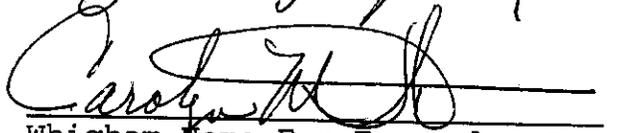
Consented to as to form.


Morton S. Eunis, Esq.
Attorney for Carolyn M. Whigham

I have read the above Order and I agree to be bound by its terms. I consent to the entry of this Order by the State Board of Mortuary Science.


Terry Fort


Kyle Ledford


Whigham Home For Funerals, Inc.
By: Carolyn M. Whigham, President

Consented as to form.


Robert Kipness, Esq.
Attorney for Whigham Home for Funerals, Inc.,
Terry Fort and Kyle Ledford